STATUTES OF CALIFORNIA

FIFTY-FIRST SESSION OF THE LEGISLATURE,

1935.

Began on Monday, January seventh, and adjourned on Sunday, June sixteenth, nineteen hundred thirty-five

STATUTES OF CALIFORNIA

PASSED AT THE

FIFTY-FIRST SESSION OF THE LEGISLATURE

CHAPTER 1.

An act to legalize bonds heretofore issued and sold, or to be issued and sold, by municipalities where authority for such issuance has already been given by a vote of not less than two-thirds of the electors of such municipalities voting upon the question of incurring such indebtedness, and providing for a levy of taxes to pay the principal and interest of such bonds and declaring the urgency of said act.

[Approved by the Governor January 17, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Municipal bonds validated

SECTION 1. In all cases in which proceedings have been taken for the authorization and issuance of bonds of any municipality in this State and the proposition of issuing such bonds has been submitted to the qualified electors of the municipality at an election held for the purpose of voting thereon, and not less than two-thirds of the voters voting upon such proposition voted for the issuance of such bonds, the power to issue such bonds and all of the acts and proceedings leading up to and including the issuance and sale of such bonds if such bonds have heretofore been issued and sold, and all acts and proceedings heretofore taken if such bonds have not been issued and sold, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes. The bonds heretofore issued and sold are declared to be and shall be, in the actual form in which such bonds have been issued, the legal and binding obligations of the municipality issuing same, and bonds hereafter issued and sold are declared to be and shall be the legal and binding obligations of the municipality issuing same, and the full faith and credit of the municipality is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds.

Tax for payment.

SEC. 2. The legislative branch of such municipal corporation shall at the time of fixing the general tax levy and in the manner for such general tax levy provided, levy and collect annually each year until said bonds are paid, or until there shall be a sum in the treasury of said municipal corporation set apart for that purpose sufficient to meet all sums coming due for the principal and interest on such bonds, a tax suf-

ficient to pay the annual interest on such bonds and also such part of the principal thereof as shall become due before the time for fixing the next general tax levy; provided, however, that if the maturity of the indebtedness created by the issue of bonds be made to begin more than one year after the date of the issuance of such bonds, such tax shall be levied and collected at the time and in the manner aforesaid annually each year, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof on or before maturity. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes and shall be collected at the time and in the same manner as other municipal taxes are collected and be used for no other purpose than for the payment of said bonds and the accruing interest thereon.

Exceptions

SEC. 3. This act shall not operate to legalize any bonds of any municipality that have not, at the time of the passage of this act, been authorized by the vote of not less than two-thirds of the qualified electors of such municipality voting at any such election, or any bonds which have been sold for less than their par value, or any bonds which mature at a date more than forty years from the time of their issuance.

Urgency

SEC. 4. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such urgency: Cities in this State have taken proceedings to incur bonded indebtedness for proper city purposes. Furthermore, bonds have been voted for the construction of public buildings to replace public buildings destroyed by earthquake and the public business is now being carried on in temporary quarters which are entirely inadequate for that purpose. Large numbers of persons are unemployed and in dire need. Real or purported irregularities in such proceedings have or will delay the issuance of the bonds voted and will delay the cities in getting necessary funds. The immediate validation of such bonds will permit the sale thereof at once or in the near future and such public works will relieve unemployment and preserve the public peace, health and safety, and the construction of such public buildings will provide safe housing conditions for the public officials and employees and a safe repository for important public records.

CHAPTER 2.

An act making an appropriation for the mileage of members and officers of the Senate, the act to take effect immediately.

[Approved by the Governor January 21, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Out of any money in the State treasury not otherwise appropriated, the sum of two thousand five hundred dollars is hereby appropriated for mileage of members and officers of the Senate. Appropriation Senate mileage

SEC. 2. Inasmuch as this act provides an appropriation for the usual current expenses of the State, it shall under the provisions of section 1 of Article IV of the Constitution take effect immediately. Current expenses

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CHAPTER 3

An act making an appropriation for the mileage of members and officers of the Assembly, the act to take effect immediately.

[Approved by the Governor January 21, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Out of any money in the State treasury not otherwise appropriated, the sum of ten thousand dollars is hereby appropriated for the mileage of members and officers of the Assembly. Appropriation. Assembly mileage

SEC. 2. Inasmuch as this act provides an appropriation for the usual current expenses of the State it shall under the provisions of section 1 of Article IV of the Constitution take effect immediately. Current expenses

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CHAPTER 4

An act to amend section 2 of the "Los Angeles County Flood Control Act," approved June 12, 1915, relating to powers of the district, declaring the urgency hereof and providing that this act shall take effect immediately. Stats 1915, p 1502, amended. See Stats 1935, Ch 342

[Approved by the Governor January 28, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 2 of the "Los Angeles County Flood Control Act," is hereby amended to read as follows: Stats 1931, p 1657

SEC. 2. The objects and purposes of this act are to provide for the control and conservation of the flood, storm and other Purposes of act.

waste waters of said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining or causing to percolate into the soil within said district, or to save or conserve in any manner, all or any of such waters, and to protect from damage from such flood or storm waters, the harbors, waterways, public highways and property in said district.

Corporate powers.

Said Los Angeles County Flood Control District is hereby declared to be a body corporate and politic, and as such shall have power:

1. To have perpetual succession.

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

Acquisition of property.

4. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of real or personal property of every kind within or without the district necessary to the full exercise of its power.

5. To acquire or contract to acquire lands, rights of way, easements, privileges and property of every kind, and construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements acquired by it as herein authorized.

6. To have and exercise the right of eminent domain, and in the manner provided by law for the condemnation of private property for public use, to take any property necessary to carry out any of the objects or purposes of this act, whether such property be already devoted to the same use by any district or other public corporation or agency or otherwise, and may condemn any existing works or improvements in said district now used to control flood or storm waters, or to conserve such flood or storm waters or to protect any property in said district from damage from such flood or storm waters.

7. To incur indebtedness, and to issue bonds in the manner herein provided.

Federal loans.

7a. In addition to the powers given in the next preceding subsection, to borrow money from the United States of America, any agency or department thereof, or from any nonprofit corporation, organized under the laws of this State, to which the Reconstruction Finance Corporation, a corporation organized and existing under and by virtue of an act of Congress, entitled "Reconstruction Finance Corporation Act," or other agency, or department, of the United States government, has authorized, or shall hereafter authorize, a loan to enable such nonprofit corporation to lend money to said Los Angeles County Flood Control District, for any flood control work authorized under this act, and to repay the same, in annual installments, over a period of not to exceed twenty (20) years, with interest at a rate of not to exceed four and one-fourth per centum (4¼%) per annum, payable semian-

nually, and, without the necessity of an election when authorized by resolution of the board of supervisors, as evidences of such indebtedness, said district is hereby authorized to execute and deliver a note, or a series of notes, or bonds, or other evidences of indebtedness, signed by the chairman of the board of supervisors of said district, which notes, bonds, or other evidences of indebtedness, shall be negotiable instruments if so declared in said resolution of the board of supervisors providing for their issuance, and said notes, bonds, or other evidences of indebtedness, may have interest coupons attached to evidence interest payments, signed by the facsimile signature of said chairman of said board. All applications for such loans shall specify the particular flood control work or projects for which the funds will be expended, and when received, the money shall be deposited in a special fund, and shall be expended for those purposes only which are described and referred to in the applications. If a surplus remains after the completion of said work, such surplus shall be applied to the payment of the note, notes, bonds, or other evidences of indebtedness, executed as aforesaid, for the loan including interest coupons. The board of supervisors shall annually, levy a tax upon the taxable real property of said district, clearly sufficient to pay the interest and installments of principal, as the same shall become due and payable, under any loan made pursuant to the authority of this section, and to create and maintain a reserve fund to assure the prompt payment thereof, as may be provided by said resolution of the board of supervisors; provided, however, that the amount of taxes levied in any year, pursuant to the provisions of this subsection, shall, pro tanto, reduce the authority of the board of supervisors, during any such year, to levy taxes under section 14 of this act, but this proviso shall not be a limitation upon the power and duty to levy and collect taxes under this subsection.

Limitation on loans

Notwithstanding anything in this subsection 7a to the contrary, the total amount which said district may borrow under the authority of any or all of the provisions of this subsection is limited to and shall not exceed in the aggregate the sum of four million five hundred thousand dollars.

8 To cause taxes to be levied and collected for the purpose of paying any obligation of the district in the manner hereinafter provided.

9. To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in said district, or any of the officers thereof, by this act.

10. To grant or otherwise convey to counties, cities and counties, cities or towns easements for street and highway purposes, over, along, upon, in, through, across or under any real property owned by said Los Angeles County Flood Control District.

11. To remove, carry away and dispose of any rubbish, trash, debris or other inconvenient matter that may be dislodged, transported, conveyed or carried by means of, through, in, or

along the works and structures operated or maintained hereunder and deposited upon the property of said district or elsewhere.

12. To pay premiums on bonds of contractors required under any contract wherein the amount payable to the contractor exceeds five million dollars; provided, that the specifications in such cases shall specifically so provide and state that the bidder shall not include in his bids the cost of furnishing the required bonds.

Disposition of property

13. To lease, sell or dispose of any property (or any interest therein) acquired in fee otherwise than by condemnation, whenever in the judgment of said board of supervisors said property, or any interest therein or part thereof, is no longer required for the purposes of said district, or may be leased for any purpose without interfering with the use of the same for the purposes of said district, and to pay any compensation received therefor into the general fund of said district and use the same for the purposes of this act; provided, however, that nothing herein shall authorize the board of supervisors or other governing body of the district or any officer thereof to sell, lease or otherwise dispose of any water, water right, reservoir space or storage capacity or any interest or space therein, except as hereinafter provided by section 17 of this act.

Urgency.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall therefore go into effect immediately.

The facts constituting the necessity are as follows:

A disastrous forest fire occurred in November, 1933, completely denuding approximately seven square miles of the mountainous watershed above the towns of La Crescenta, Montrose and La Canada, in Los Angeles County, thereby permitting boulders, debris and dirt to wash down upon the populous communities lying below said watershed. The immediate construction of debris dams at the mouths of various canyons below said burned-over watershed and the construction of channels below said debris basins are necessary in order to protect the lives of persons living in said communities and to protect the homes and other property from destruction. The Seventy-third Congress of the United States adopted an act known as "H. R. 7599," appropriating $5,000,000 to be loaned by the Reconstruction Finance Corporation for the repair or reconstruction of flood control systems and other property damaged or destroyed by floods or other catastrophes in the year 1933 and in the months of January and February, 1934, and said corporation has indicated its willingness to loan a portion of said funds to the Los Angeles County Flood Control District for the construction of said debris basins and channels in said area, provided the said district is given the authority to borrow said funds and to repay the same over a

period of twenty years. Said act provides the only available means whereby funds may be procured immediately for said work.

CHAPTER 5.

An act to amend sections 38 and 48 of the "California Water District Act," approved June 13, 1913, relating to petitions for exclusion and inclusion of lands from and within water districts, to take effect immediately and declaring the urgency thereof.

Stats. 1913, p. 815, amended

[Approved by the Governor January 28, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 38 of the act cited in the title hereof is hereby amended to read as follows:

Stats. 1929, p. 1474

Sec. 38. The owner or owners in fee of one or more tracts of land which constitute a portion of a water district may jointly or severally file with the board of directors of the district a petition, praying that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded, and shall describe the boundaries thereof, and also the lands of such petitioner or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment-book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such a conveyance.

Petition for exclusion of lands.

SEC. 2. Section 48 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1929, p. 1478

Sec. 48. The holder or holders of title, or evidence of title, or a majority of holders of title, or evidence of title, of any tract or tracts of land may file in the office of the board of directors of any water district a petition praying that said tract or tracts of land be included within said districts; provided that if there is more than one holder of title or evidence of title of said land the petitioners must include the holders of title or evidence of title of at least one-half of the area of said land. If any petitioner is the owner of an undivided interest in said land, or any of it, he shall be deemed to be the owner of such proportion of the area of the land in which he has an interest as his interest bears to the whole of such land. Each signature to such petition shall be acknowledged or proved as provided by law for signatures to an instrument to entitle it to be recorded.

Petition for inclusion of lands

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health, and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and as such it shall take effect immediately. The following is a statement of the facts constituting such necessity: Continued dry years have made immediate action imperative in the various water districts in order to conserve the waters of the present rainy season in order to save not only extensive sections of crops, but also water for industrial and domestic purposes. An adequate supply of water for agricultural, domestic and industrial purposes is necessary for the public peace, health and safety of the communities affected in the State of California.

CHAPTER 6.

An act authorizing savings banks, commercial banks, insurance companies, personal finance companies, mortgage companies, mortgage insurance companies, building and loan associations, trust companies, or fiduciaries or fiduciary institutions, or agencies, public or private, to make in certain cases loans, or advances or credit, which are insured pursuant to the provisions of the National Housing Act, and to invest in, or purchase, insured mortgages and obligations of national mortgage associations or similar credit institutions, the act to take effect immediately.

[Approved by the Governor January 30, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Investment in first liens.

SECTION 1. It shall be lawful for savings banks, commercial banks, insurance companies, personal finance companies, mortgage companies, mortgage insurance companies, building and loan associations, or trust companies, to invest in, or purchase, with their funds or the moneys in their custody or possession, including but not being restricted to, all trust funds or funds the investment of which is regulated by law, such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate which have been accepted for insurance by the Federal Housing Administrator in accordance with the provisions of Title II of the National Housing Act.

Investment in mortgage association obligations.

SEC. 2. It shall be lawful for savings banks, commercial banks, insurance companies, personal finance companies, mortgage companies, mortgage insurance companies, building and loan associations, trust companies or fiduciaries or fiduciary institutions, or agencies, public or private, to invest in, or purchase, with their funds or the moneys in their custody or possession, including but not being restricted to, all trust funds, or funds the investment of which is regulated by

law, obligations of national mortgage associations or similar credit institutions now or hereafter organized in accordance with the provisions of Title III of the National Housing Act.

All bonds of national mortgage associations or other similar credit institutions now or hereafter organized in accordance with the provisions of Title III of the National Housing Act may be used as security for any depository bond or obligation wherein any kind of bonds or other securities are required or may by law be deposited as security. Bonds as security

SEC. 3. It shall be lawful for savings banks, commercial banks, insurance companies, personal finance companies, mortgage companies or mortgage insurance companies to make, invest in, or purchase loans or advances of credit insured pursuant to Title I of the National Housing Act. Investment in loans or advances of credit.

SEC. 4. It shall be lawful for savings banks, commercial banks, insurance companies, personal finance companies, mortgage companies, mortgage insurance companies, building and loan associations, or trust companies, to make such loans secured by real property or leasehold, as the Federal Housing Administrator insures, or makes a commitment to insure, pursuant to Title II of the National Housing Act, and to obtain such insurance. Authorized loans

SEC. 5. No law of this State, prescribing the nature, amount or form of security or requiring security upon which loans or investments may be made, or prescribing or limiting interest rates upon loans or advances of credit or prescribing or limiting the period for which loans or investments may be made, shall be deemed to apply to loans or investments made pursuant to the foregoing sections of this act. Laws not applicable

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution of the State of California, and as such it shall take effect immediately. The following is a statement of the facts constituting such necessity: Urgency

There are various statutory limitations upon loans and investments by the above mentioned investing institutions which restrict their ability fully to cooperate with or benefit from the national housing program. Similar limitations upon the lending powers of national banks have already been removed by act of Congress. The provisions of this act will enable such institutions so to cooperate and to benefit and thus greatly and rapidly further the restoration of favorable economic conditions.

It is therefore essential to the immediate preservation of the public peace, health and safety that each and every part of this act be enacted and be immediately effective.

CHAPTER 7.

See Stats. 1935, Ch. 348

An act relating to the relief of debtors and guarantors, and permitting postponement of foreclosures and sales under mortgages, deeds of trust, or contracts of purchase of real property, or postponement of forfeitures and terminations under such contracts of purchase, declaring the urgency thereof, and providing that it shall take effect immediately.

[Approved by the Governor January 31, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Necessity for act.

SECTION 1. A large proportion of the real property in this State is held subject to mortgage or deed of trust or under contract of purchase, and many owners and purchasers thereof are finding it extremely difficult or impossible, because of present economic conditions, to meet their obligations to retain their property. Prices for farm products are at present so low and unemployment in industry and business is so widespread, that farmers and wage earners, and those who do business with them, have as a class lost a considerable part of their income, and large numbers of such individuals have no income or scarcely enough for food and other necessities.

The value to the State of a large body of owners of land is inestimable, as such owners have a vital interest in the State and its welfare, and participate in governmental affairs to such an extent and in such a way that they constitute an essential factor in the political and economic life of the State.

If steps are not taken immediately to permit delay of foreclosures and sales under mortgages, deeds of trust, and contracts of purchase, and forfeitures and terminations under contracts of purchase, a large number of owners of real property will be forced to abandon their interests in their property.

Emergency

An emergency therefore exists, and it is necessary to provide for the permitting of delays of foreclosures and sales under mortgages, deeds of trust, and contracts of purchase, or of forfeitures and terminations under contracts of purchase. The following provisions are intended to permit such delays and to safeguard the interest of creditors who will be affected thereby.

Moratorium on sales, etc., under mortgages, deeds of trust, and contracts.

SEC. 2. Until thirty days from and after the effective date of this act, no sale shall be held (a) under any deed of trust upon real property, (b) under any power of sale conferred by a mortgage upon real property, or (c) under any decree of foreclosure of any mortgage or deed of trust upon real property; and no decree of foreclosure of a mortgage or deed of trust upon real property shall be entered, nor shall the interest of any purchaser under a contract of purchase of real property be foreclosed, terminated, or forfeited, and in the event the period of redemption upon any mortgage or trust deed on real estate heretofore foreclosed would expire within thirty days from and after the effective date of this act, the period

of such redemption is extended so as not to expire prior to thirty days from and after the effective date of this act.

Petition for order postponing sale Stats 1933, p 1669

SEC. 3. At any time within thirty days from and after the effective date of this act, or within thirty days from and after the recording of the notice of default under section 2924 of the Civil Code, but in any event not later than September 1, 1935, the trustor under any deed of trust upon real property, or the mortgagor under any mortgage upon real property conferring the power of sale, may file a petition in the superior court of the county in which such real property or the major portion thereof is situated, praying for an order postponing the sale of such real property under such deed of trust or under such power of sale conferred by such mortgage. A copy of such petition shall be served upon the trustee and the beneficiary under such deed of trust or upon the mortgagee under such mortgage, as the case may be, in the manner provided by law for the service of summons in a civil action, and a notice of pendency of such petition shall immediately be recorded in each county in which any of such real property is situated. Such notice of pendency shall state the name of the petitioner and the nature of the petition, and the book and page of the records of the county recorder in which the mortgage or deed of trust is recorded.

Hearing on petition

Upon application of the petitioner after service of such petition, or upon application of any other party in interest after the filing of the petition, a hearing shall be had thereon within twenty days after such application, upon such notice as the court prescribes. After the filing of such petition and the recording of the notice of pendency thereof as provided in this act, no sale shall be held under such deed of trust or under the power of sale conferred by such mortgage until the court makes its order in the matter. Upon such hearing the court may make its order, if it finds equitable grounds for relief, ordering that the sale shall not be held until on or after such date as the court considers just and equitable, but in no event beyond September 1, 1935. If the court orders the sale postponed it shall determine the reasonable value of the income from such property, or if the property has no income, then the reasonable rental value of such property, or if the property is unimproved, a reasonable sum to be paid by the trustor or mortgagor as determined by the court, and shall require the trustor or mortgagor to pay all or at least a reasonable part of such income, rental value, or sum so determined by the court, in or toward the payment of taxes, insurance, interest, or principal of the indebtedness at such times and in such manner determined to be just and equitable under the circumstances.

Minimum payments

In no event shall the court order the payment of a lesser sum than that necessary to pay (a) current taxes, (b) all delinquent taxes, except that such taxes may be paid in installments as may be provided by law, and (c) any insurance premiums required to be paid by the debtor under the contract

between the parties. The court must include in such order provisions requiring maintenance and repair, regulating the disposition of any income from the property, and such other provisions as it deems just and equitable for the protection of the security.

Postponement under foreclosure decree.

SEC. 4. In any decree hereafter rendered, prior to September 1, 1935, foreclosing a mortgage or deed of trust upon real property, the court may provide that the sale of the property shall not be held until on or after such date as the court considers just and equitable, but in no event later than September 1, 1935. If the court provides in such decree that the sale shall not be held until on or after such date as it shall fix, it shall determine the reasonable value of the income from such property, or if the property has no income, then the reasonable rental value of such property, or if the property is unimproved, a reasonable sum to be paid by the trustor or mortgagor as determined by the court, and shall require the trustor or mortgagor to pay all or at least a reasonable part of such income, rental value, or sum so determined by the court, in or toward the payment of taxes, insurance, interest, or principal of the indebtedness at such times and in such manner determined to be just and equitable under the circumstances.

Minimum payments

In no event shall the court order the payment of a lesser sum than that necessary to pay (a) current taxes, (b) all delinquent taxes, except that such taxes may be paid in installments as may be provided by law, and (c) any insurance premiums required to be paid by the debtor under the contract between the parties. The court must include in such order provisions requiring maintenance and repair, regulating the disposition of any income from the property, and such other provisions as it deems just and equitable for the protection of the security.

Extension of period of redemption

SEC. 4a. Where any mortgage or trust deed upon real property has been foreclosed and the period of redemption has not yet expired, the period of redemption may be extended for such additional time as the court may deem just and equitable, but in no event beyond September 1, 1935; provided that the mortgagor, trustor or owner in possession of said property shall, prior to the expiration of the period of redemption, apply to the superior court having jurisdiction of the matter, on not less than ten days' written notice to the mortgagee or trustee, or the attorney of either, as the case may be, for an order determining the reasonable value of the income on said property, or, if the property has no income, then the reasonable rental value of the property involved in such sale, and directing and requiring such mortgagor, trustor or owner in possession, to pay all or a reasonable part of such income or rental value, in or toward the payment of taxes, insurance, interest, mortgage or trust deed indebtedness at such times and in such manner as shall be fixed and determined and ordered by the court.

In no event shall the court order the payment of a lesser sum than that necessary to pay (a) current taxes, (b) all delinquent taxes, except that such taxes may be paid in installments as may be provided by law, and (c) any insurance premiums required to be paid by the debtor under the contract between the parties. Minimum payments

The court shall thereupon hear said application and after such hearing shall make and file its order directing the payment by such mortgagor, trustor or owner in possession, of such an amount at such times and in such manner as to the court shall, under all the circumstances, appear just and equitable. Provided that upon the service of the notice or demand aforesaid that the running of the period of redemption shall be tolled until the court shall make its order upon such application.

SEC. 5. The purchaser of any real property under any contract of purchase may at any time within thirty days after the effective date of this act, or at any time prior to the foreclosure, termination, or forfeiture of his interest under such contract, but in no event later than September 1, 1935, file a petition in the superior court of the county in which such real property, or the major portion thereof, is situated for an order postponing the foreclosure, termination, or forfeiture of his interest thereunder. A copy of such petition shall be served upon the vendor, and notice of pendency of such petition shall be recorded, and a hearing shall be held at the same time and in the same manner as is provided in section 3 of this act in respect to petitions in relation to sales under deeds of trust and mortgages conferring a power of sale. Petition by purchaser under contract

SEC. 6. Upon the petition of any party in interest prior to the time to which the postponement was made, and after notice and hearing as in the case of a petition for postponement, the court may alter or supplement its order or decree of postponement upon the presentation of evidence that the provisions of the order or decree require alteration or supplementing to make them just and reasonable. Hearing to alter decree

If the trustor, mortgagor or purchaser commits waste or defaults in any payment or act required by the order or decree of the court, the court may order that the sale, foreclosure, termination or forfeiture postponed by the original order or decree, proceed as provided by law if it finds after hearing upon such notice to the applicant or his attorney as it prescribes, that there has been such waste or such default, amounting to a material breach of the order or decree of postponement. Waste, etc.

SEC. 7. No suit or action shall be commenced against the guarantor of any note secured by a mortgage or deed of trust upon real property in any case while by virtue of any law no sale may be made under any power of sale contained in such mortgage or deed of trust, or while no sale may be made under the final decree of foreclosure rendered in an action to foreclose such mortgage. Guarantors

Limitation of actions extended

SEC. 8. Whenever the time within which an action may be commenced upon any obligation founded upon a written instrument secured by mortgage, deed of trust or contract of purchase of real property, would expire by virtue of section 337 of the Code of Civil Procedure during the period of postponement ordered pursuant to the provisions of this act, such time is hereby extended to the extent of such period of postponement.

Stats. 1935, Ch 614

Exemptions

SEC. 9. Nothing contained in this act shall apply to or be deemed to affect (a) any mortgage, deed of trust or contract of sale upon real property executed after the effective date of this act, or (b) any mortgage or deed of trust securing the payment of bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by public utilities subject to the provisions of the Public Utilities Act.

Definitions

SEC. 10. As used in this act:

(a) The terms "mortgagor," "mortgagee," "trustor," "trustee," "purchaser," "vendor," and "guarantor," shall include their personal representatives, assigns or successors in interest, and the singular shall include the plural.

(b) The term "trustee" shall also include the beneficiary of a deed of trust.

Waiver of benefits

SEC. 11. Nothing contained in this act precludes any trustor under a deed of trust or any mortgagor under a mortgage or any purchaser under a contract for the purchase of real property from executing and delivering at any time a grant deed to his beneficiary, mortgagee or vendor, as the case may be, and the execution and delivery of any such deed by any such trustor, mortgagor or purchaser shall constitute a waiver of the benefit of all the provisions of this act. The failure on the part of any trustor, mortgagor or purchaser to file a petition within the times specified in this act, shall be deemed a waiver of the benefit of the provisions of this act.

Sales in violation

SEC. 12. Any sale of real property under a deed of trust or mortgage made in violation of this act shall be voidable, except as against a bona fide purchaser or encumbrancer for value, at the instance of the record owner of such real property at the time of such sale; provided that any action to avoid such sale or any deed executed pursuant thereto must be brought within one year of the date of such sale.

Filing fees

SEC. 13. There shall be no filing fees for the filing of any document with the county clerk under the provisions of this act.

Constitutionality.

SEC. 14. If any feature or application of this act is finally determined by the courts to be unconstitutional, such feature or application shall no longer apply, but all other features and applications shall continue in full force and effect, it being the intent of the Legislature to make this act as effective as possible to relieve debtors in the manner herein provided.

SEC. 15. Whenever any petition under this act is to be or is being heard by the court, the interested parties may submit to the court, in writing, a composition of the indebtedness involved in the proceeding, or a compromise settlement of the proceeding, and the court shall have jurisdiction and may by its order confirm and approve such composition or settlement. Composition or settlement

SEC. 16. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution, and shall therefore take effect immediately. Urgency

The facts constituting the necessity are the dangers to the State and to the people involved in the unusually large number of foreclosures, sales, forfeitures and terminations which will result in the near future under mortgages, deeds of trust, and contracts of purchase of real property, because of defaults in payments by the owners or purchasers of such property. Such defaults are the result of exceptionally depressed economic conditions in this State, which have deprived a large proportion of the landowners and land purchasers of sufficient income to meet their obligations. The dangers in the situation are such as to threaten the maintenance of law and order, and to lead to the pauperization of many persons who have hitherto constituted an important part of the self-supporting and economically independent people of this State. This act will provide a means for delaying such sales, foreclosures, terminations, and forfeitures so as to permit landowners and land purchasers to find means of meeting their obligations, and at the same time will protect the interests of creditors. The dangers mentioned will thus be avoided.

CHAPTER 8.

An act relating to and providing for a moratorium with respect to forfeitures of State school lands as provided for in section 3513 of the Political Code, and declaring the urgency thereof, to take effect immediately.

[Approved by the Governor January 31, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. A moratorium is hereby declared with respect to the forfeiture of State school lands effective on the date of the approval of this act and terminating upon the thirty-first day of January, 1937; provided, however, that this act shall not be construed as otherwise modifying the provisions of section 3513 of the Political Code, and during the period of the moratorium herein declared, the obligations contained in outstanding certificates of purchase to pay interest shall not be affected by this act, and any and all penalties which Moratorium State school land forfeitures

Stats 1931, p. 1141.

have accrued, or which may accrue during the period of this moratorium herein declared, on account of failure to pay interest as provided for in section 3513 of the Political Code, shall not be affected by this act

Exceptions

SEC. 2. No person may claim the benefit of this moratorium who has allowed the county and local taxes to become delinquent and has not discharged said delinquency within sixty (60) days after the said taxes became delinquent.

Urgency.

SEC. 3. This act is hereby declared an urgency measure deemed necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and as such it shall take effect immediately. The facts constituting such necessity are as follows:

Extensions of time given by statutes of this State similar to this act will soon cease. The Legislature declares that an economic crisis and period of financial distress still exists in this State. It is necessary for this act to take effect immediately to prevent the loss of lands and homes by a large number of school land purchasers.

CHAPTER 9.

Stats 1925, p. 87, amended

An act to repeal section 11a of an act entitled "An act to aid commerce and navigation by authorizing certain improvements in and about Islais Creek and as a means thereof creating a reclamation district to be called and known as the 'Islais Creek Reclamation District,' fixing the boundaries thereof, providing for the management and control thereof, vesting certain powers therein, and authorizing a method for the reclamation of the lands of said district; and to aid and assist such works of reclamation granting to the City and County of San Francisco and its successors any title of the State in or to any public highways lying in said district with certain reservations; and dissolving any reclamation district wholly situate within the boundaries of said Islais Creek Reclamation District," approved April 6, 1925, relating to delinquent installments of assessments, and declaring the urgency thereof, and providing that this act shall take effect immediately.

[Approved by the Governor February 1, 1935 In effect immediately.]

The people of the State of California do enact as follows:

Stats 1933, p. 1247

SECTION 1. Section 11a of the act cited in the title hereof is hereby repealed.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure, deemed necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution of the State of California and

shall therefore take effect immediately. The facts constituting the necessity are as follows: It has been found necessary to immediately refund the bonds of the Islais creek reclamation district due to the decrease in revenues from taxation. The present bondholders refuse to accept any refunding bonds because of the fact that the penalties for delinquent installments of assessments levied under the provisions of the act cited in the title hereof have been reduced to an amount which is unsatisfactory, and therefore in order to immediately effect a plan to provide for the issuance of refunding bonds and to assure the present bondholders, it is necessary that this act take effect immediately.

CHAPTER 10.

An act for the relief of certain assessment districts, and for that purpose empowering counties to render financial aid to such districts and making available to such districts the provisions of Chapter 9 of the act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended, and to declare the urgency of this act, to take effect immediately.

[Approved by the Governor February 1, 1935 In effect immediately.]

The people of the State of California do enact as follows:

Assessment district relief
Stats 1907, p. 806
Stats 1925, p. 849.

SECTION 1. In all cases where bonds have heretofore been issued under the provisions of the Road District Improvement Act of 1907 and amendments thereof or the Acquisition and Improvement Act of 1925 and amendments thereof for the payment of the cost of any public improvement made, things done, rights acquired, or proceedings taken within the territorial limits of any county, or any incorporated city thereof, the board of supervisors of such county shall have the right and power to purchase or redeem, at a discount, such bonds and/or any interest coupons issued with such bonds, where the public improvements made, things done, rights acquired, or proceedings taken are of general county interest, use or benefit, or where the general county interest will be served and such county materially benefited by the purchase or redemption of such bonds or interest coupons. The purchase of bonds or coupons herein authorized may be carried out upon such terms and in such manner as said board of supervisors may deem most convenient subject only to the restrictions contained in this act.

Contribution or transfer of moneys

SEC. 2. In all cases where the purchase or redemption of bonds and/or coupons is authorized by this act, the board of supervisors of such county shall also have the right and power to contribute and/or transfer at any time, such amount of

money to the interest and sinking fund of such district or districts as in the judgment of said board of supervisors should be transferred to accomplish the objects and purposes of this act, provided that the amount so contributed or transferred for any district shall not exceed fifty per cent of the total face value of all outstanding and unpaid bonds of such district.

Source of moneys

SEC. 3. The moneys herein provided to be expended for the purchase or redemption of such bonds or interest coupons or to be transferred or contributed to the interest and sinking fund of any such district or districts may be paid out of the general fund of such county or any fund available or that may be made available for that purpose under any law of this State or from any fund which may be hereafter especially provided. Boards of supervisors are hereby authorized to raise and provide by general taxation such moneys as may in their opinion be necessary to carry out the purposes of this act, subject, however, to the provisions of section 20 of Article XI of the Constitution of the State of California. Bonds of such county may be issued and sold under the provisions of section 4088 of the Political Code or any other law of this State now or hereafter existing governing the issuance and sale of general county obligations, for the purpose of providing funds with which to purchase or redeem such bonds and/or coupons or make the contributions or transfers provided in this act to be made and for any other purpose for which funds may be expended under this act.

Stats. 1933, p. 864.

Resolution

SEC. 4. Before any moneys may be actually paid out in aid of any district by such board of supervisors for any of the purposes specified in this act, said board of supervisors shall by resolution duly adopted by four-fifths vote declare that public convenience and necessity demand and that the general county interest will be served and promoted by the expenditure of such county moneys, and every such resolution shall specify in detail the maximum amount to be expended or contributed for such district, the manner in which the same is to be used, a concise statement of the facts and circumstances showing the manner in which and the reason why the general county interest and welfare will be served and promoted by the expenditure to be made.

Acquisition and disposal.

SEC. 5. Bonds and/or coupons purchased or redeemed under the provisions of this act may be purchased or redeemed at not to exceed fifty per cent of the face value thereof and any bonds or coupons so purchased may be held as the property of such county to be placed for safe keeping with the treasurer of such county and presentment for payment thereof may be made from time to time by said county as directed by its board of supervisors, in the same manner as though said bonds or coupons were owned and held by a natural person. Said board of supervisors may, if it deems it advisable in its sole discretion, publicly cancel or destroy all or any portion of the bonds and/or coupons so purchased or redeemed. Said board of supervisors may retain all or any portion of said bonds and/or coupons as hereinbefore provided and in connection

with such bonds or coupons retained, may by ordinance forever waive any right or rights accruing to the county by reason of the ownership of said bonds or coupons. Boards of supervisors may reduce the rate of interest upon bonds retained and/or may reduce the face value of any bonds and/or coupons so retained and/or may forever waive the right of the county as owner of such bonds or coupons to require an annual levy upon the lands within said district to pay principal or interest on bonds due or past due at the date of the annual tax levy in such district.

In the event any right or rights acquired by the county under such bonds or coupons be waived or the interest rate or face value thereof reduced as above provided an appropriate notation of that fact shall be plainly stamped, printed or written across the face thereof.

Cancellations

SEC. 6. In the event that bonds or coupons so purchased or redeemed are canceled, discharged or destroyed by such board of supervisors, said board of supervisors shall have the right to order canceled from the tax records of such county, by appropriate resolution, all or any portion of the uncollected assessments or special assessment taxes, interest, penalties, or costs appertaining thereto, which have been levied for the payment of the bonds or coupons so canceled; provided, however, that any cancellations made as provided in this paragraph, in any district shall be made in such manner as to reduce the burden uniformly and proportionately upon all of the lands in such district.

Accrued moneys

SEC. 7. Any moneys accruing to any county as a result of or through the ownership of bonds or coupons purchased or redeemed under this act through the collection of principal or interest from district interest and sinking funds shall be deposited in the general fund of such county; provided, however, that in the event county bonds have been issued to provide funds with which to purchase or redeem district bonds and coupons then and in that event moneys accruing to such county in the cases above specified shall, so far as necessary, be set apart in the county treasury to be applied to payment of the principal and interest of the county bonds so issued.

Federal Bankruptcy Act.

SEC. 8. Whenever it is deemed necessary or advisable in furtherance of the purposes of this act, the officials or boards who have the power to levy the special assessments within any district or districts mentioned in this act, are hereby authorized and empowered to avail themselves, on behalf of such district or districts of all of the provisions, conditions and advantages of that certain act of Congress of the United States entitled "An act to establish a uniform system of bankruptcy throughout the United States," as approved July 1, 1898, and acts amendatory thereof and supplementary thereto and more particularly the provisions of Chapter 9 thereof providing for the emergency temporary aid of insolvent public debtors and to preserve the assets thereof and for other related purposes, approved May 24, 1934.

Purpose of act

Stats 1907, p 806
Stats 1925, p 849

SEC. 9. The purpose of this act is to provide a complete scheme whereby any financially distressed and delinquent or insolvent district or districts created under the provisions of the Acquisition and Improvement Act of 1925 and amendments thereof, or the Road District Improvement Act of 1907 and amendments thereof may be refunded or the bonded indebtedness thereof adjusted with the financial aid of the county in which the same may be situated and without the necessity or expense of destroying the structure or operation of such district, and without issuing refunding bonds or reassessing the same under any assessment refunding statute. Boards of supervisors are hereby vested with power and jurisdiction to do all and singular the things authorized by this act and to do such additional and incidental things as may be necessary and proper to give county financial aid in keeping with the purpose expressed in this section where such things and additional and incidental things as may be necessary and proper to give county financial aid in keeping with the purpose expressed in this section may be done without invading the vested rights of any property owner or bond holder of such district or districts. In addition to the expenditures expressly authorized in this act, boards of supervisors are empowered to provide from the sources hereinbefore mentioned for all necessary incidental, legal and other expense incurred in carrying out the provisions of this act.

Acts not affected

This act shall in no wise affect any other act or acts now existing or which may hereafter be passed covering the same subject nor apply to any proceedings thereunder but is intended to and does provide an alternative system for using the funds of any county to assist special assessment districts of the types covered by this act. This act and all of its provisions shall be liberally construed to the end that the purposes hereof may be made effective and if any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The Legislature hereby declares that it would have passed this act irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof be declared unconstitutional.

Construction

Urgency

SEC. 10. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into immediate effect.

The facts constituting the necessity are as follows:

During the fifteen years last past hundreds of districts have been organized throughout the State of California under the provisions of the Road District Improvement Act of 1907 and the Acquisition and Improvement Act of 1925. Many of these districts were created during times of great economic prosperity and high land values. In many of such districts, due to the optimism of the times, or other causes,

bonds for public improvements were issued in amounts in excess of the ability of the lands of such districts to bear the assessments necessary to pay the principal and interest on such bonds. Millions of dollars in assessed land valuation are located within districts created under these acts. Due to the present economic depression land values throughout the State have shrunk to the point where, in many cases, the total assessed valuation of all lands within a given district is less than the face value of the bonds outstanding in such district. Annual assessments upon individual parcels of land within these districts amount in many instances to more than the assessed value of such land.

Under present economic conditions property owners are unable to meet these high assessments and hundreds of such districts throughout the State have reached a point of hopeless delinquency.

Inasmuch as the property owners of these districts cannot, under the law, pay their county or municipal taxes without at the same time paying the district assessments many cities and counties are unable to collect large sums of money badly needed for the purposes of government.

Many hundreds of properties in these districts are being deeded to the State for delinquent taxes and assessments and unless the financial aid of the counties is immediately made available to assist these overburdened districts thousands of parcels of lands will be stricken from the tax rolls this year; thousands of property owners will lose their homes, millions of dollars in governmental revenue will be uncollectible and at the same time thousands of bondholders will be unable to realize any return upon their investments.

CHAPTER 11.

An act to add section 3888a to the Political Code, relating to the payment of taxes.

[Approved by the Governor February 1, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1 Section 3888a of the Political Code is hereby added to read as follows. New section

3888a. Any county warrant upon a general or special fund of the county may by resolution of the board of supervisors, passed by a four-fifths vote be received in the payment of taxes levied by the county issuing the warrants where the amount of the warrant is equal to or less than the amount of taxes due. Warrants in payment of taxes.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Urgency.

Article IV of the Constitution, and shall therefore go into immediate effect.

The facts constituting the necessity are as follows: Various counties of the State have registered warrants of their own issue outstanding in large amounts, and the merchants and the banks in those several communities are overloaded with such warrants and are unable to take up more of them, all of which tends to impair and threatens to continue to impair the credit of the counties of the State. The provisions of this act are calculated to tend to remedy this situation, wherefore it is necessary that this act take effect immediately.

CHAPTER 12.

An act authorizing the Division of Water Resources of the Department of Public Works to prosecute efforts to secure Federal aid and assistance in financing the construction of the Central Valley Project, as said project is authorized and defined in the Central Valley Project Act of 1933, making an appropriation therefor, and declaring the urgency thereof, and providing that this act shall take immediate effect.

[Approved by the Governor February 1, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Central Valley Project

SECTION 1. The Division of Water Resources of the Department of Public Works is hereby authorized to prosecute efforts to secure Federal aid and assistance in financing the construction of the Central Valley Project as said project is authorized and defined in the Central Valley Project Act of 1933 (Chapter 1042, Statutes 1933), including necessary surveys, plans, estimates, preliminary engineering and other preliminary expenses for the construction of said Central Valley Project.

Stats 1933, p 2643

Appropriation

SEC. 2. In addition to any sums heretofore appropriated for the use of the Division of Water Resources of the Department of Public Works, the sum of fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of the funds of the State treasury, not otherwise appropriated for defraying the expenses of carrying out the purposes and objects of this act, to be expended through and upon the authorization of the Division of Water Resources of the Department of Public Works. The State Controller is hereby authorized and directed to draw his warrants on the State treasury in payment of claims of the Division of Water Resources of the Department of Public Works of said expenses and the State Treasurer is hereby directed to pay said warrants. The Water Project Authority of the State of California shall return this appropriation, or so much thereof as may be used, with interest thereon at the rate of four per cent per annum, to the general

Return

fund in the State treasury from the proceeds of the first sale of revenue bonds issued for the construction of said project under the provisions of said Chapter 1042, Statutes of 1933, creating said Water Project Authority of the State of California.

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such necessity: Urgency

The Water Project Authority of the State of California, created in and by Chapter 1042 of the Statutes of 1933 and designated the Central Valley Project Act of 1933, has heretofore submitted to the Federal Public Works Administration, created by and functioning under the National Industrial Recovery Act, approved June 16, 1933 (Public No. 67, 73d Congress, H. R. 5755), an application for Federal aid and assistance in financing the construction of the Central Valley Project, as said project is authorized and defined in said Central Valley Project Act of 1933, and information at hand indicates that the Congress of the United States at its forthcoming session will have under consideration the matter of extending such financial aid and assistance, and in order to secure such Federal aid and assistance it is necessary that immediate steps be taken to further present the merits of said project to the appropriate Federal agencies; and it is further necessary, in order to secure such Federal aid and assistance, that contracts be obtained by the Water Project Authority with responsible public districts and State agencies for the purchase, sale and use of water and power, and it is necessary for the general welfare of the people of the State of California that said project be constructed as soon as possible, and said project can not be constructed at this time without such Federal aid and assistance; and it is further necessary to make immediate provisions for funds to defray the necessary expense preliminary to actual construction so that in the event of favorable action by the Congress of the United States construction of said project may proceed immediately and there are at present no funds available to defray the expense of an immediate prosecution of the objects and purposes aforesaid.

With adequate funds made immediately available, the Division of Water Resources of the Department of Public Works will be enabled to accomplish the above and foregoing objects and purposes continuously and uninterruptedly and without delay.

CHAPTER 13.

An act to validate bonds of school districts, high school districts and junior college districts of every kind and class, and providing for the levy of a tax to pay the same, and declaring the urgency of said act.

[Approved by the Governor February 1, 1935. In effect immediately.]

The people of the State of California do enact as follows:

School district bonds validated

SECTION 1. Where in any school district, high school district, or junior college district, of any kind or class, proceedings have been taken for the purpose of voting, issuing and selling bonds of such district for any purpose or purposes, all acts and proceedings of the officers of election and of the board of trustees, board of education, or other governing body of such district, and all acts and proceedings of the board of supervisors of the county within which such district is situated, leading up to and including the issuance of such bonds if they have been heretofore sold, and all such acts and proceedings heretofore had, although the bonds are not sold, are hereby legalized, ratified, confirmed and validated to all intents and purposes, and the power of such district and of the board of supervisors of the county in which such district is situated to issue such bonds is hereby ratified, confirmed and declared, and bonds heretofore sold are declared to be and shall be, in the form and manner in which such bonds have been actually issued and delivered, the legal and binding obligations of and against such district and bonds hereafter sold are declared to be and shall be legal and binding obligations of such district, and the full faith and credit of such district is hereby declared to be pledged for the prompt payment and redemption of the principal and interest of said bonds.

Taxes for payment

SEC. 2. For the purpose of paying interest on such bonds as it becomes due and the principal thereof at maturity, the assessors, treasurers, boards of supervisors and other officers of the respective counties shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds for the payment of the principal and interest of bonds of school districts, high school districts and junior college districts of every kind and class, respectively.

Exceptions

SEC. 3. This act shall not operate to legalize any bonds which have been sold for less than par, nor legalize any bonds the issuance of which has not received the assent of two-thirds of the qualified electors of such district voting at an election held for the purpose of determining whether such indebtedness should be incurred, nor to legalize any bonds which mature more than forty years from the time of their issuance.

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall take

effect immediately. The following is a statement of the facts constituting such necessity: Many school districts within the State of California are without sufficient money with which to purchase school lots, for building or purchasing one or more school buildings or making alterations or additions to same or restoring or rebuilding school buildings damaged, injured or destroyed by fire or other public calamity, for insuring school buildings, for supplying school buildings with furniture or necessary apparatus, for improving school grounds, for liquidating any indebtedness already incurred for said purposes or refunding any valid outstanding indebtedness of such district evidenced by bonds or warrants thereof. Many school districts have within the last two years voted bonds for raising money for such purposes and the proceedings in many of such bond elections were irregular but complying with all the provisions of this act, and by reason of such minor irregularities and defects in such proceedings, not jurisdictional, such bonds can not now be sold. The population of many of these districts has increased so rapidly that the present school facilities of such districts are unable to meet the needs of the great increase of pupils in such districts and it is necessary and urgent that such bonds and the proceedings thereunder be validated at an early date in order that said school buildings, lots, equipment and facilities may be purchased or built before the opening of the next school year which in many instances would be impossible if this act did not go into effect immediately but was required to await until ninety days after adjournment of this Legislature.

CHAPTER 14.

An act relating to rural relief or rehabilitation corporations or agencies, and authorizing persons holding State offices or employments to participate therein, declaring the urgency of this act and providing that it shall go into immediate effect

[Approved by the Governor February 1, 1935 In effect immediately]

The people of the State of California do enact as follows:

Participation in rural relief or rehabilitation corporations

SECTION 1. Any person who holds the office of relief administrator or of member of the relief commission, created by section 10 of Article XVI of the Constitution of the State of California, or who holds any other State office or who being an employee of the State is thereunto designated by the State officer, department, board or commission under whom he is employed, may participate in the organization, ownership, control, direction, management and operation of such rural relief or rehabilitation corporations or agencies as Federal law or the regulations of the Federal Emergency Relief Administrator or similar Federal body may authorize and

prescribe, and grants to the State by the Federal Government for such corporations or agencies shall be transmitted to the corporations or agencies and used and expended thereby in the manner authorized and prescribed by such Federal law and regulations. All expenses of organization, management and operation of such corporations or agencies shall be paid out of Federal grants to the State of California for such purposes.

Legal counsel

SEC. 2. Said corporations or the Relief Administrator may employ such legal counsel as they or it may deem necessary to carry out the objects of this act.

Urgency.

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health, and safety within the meaning of section 1 of Article IV of the Constitution, and shall accordingly go into immediate effect. The facts constituting such urgency are the following:

This act is intended to facilitate cooperation with the Federal Government in connection with a comprehensive program for rural relief and rehabilitation in the State of California and the United States. It is necessary to establish agencies in this State to provide credit facilities to carry out the purposes and to assist in the administration of this program. It is anticipated that the Federal Government will make substantial grants to be utilized through such agencies for such purposes. Immediate establishment and functioning of such agencies are essential to secure assistance as early as possible in accordance with Federal plans and policies, and until such agencies are established this State will be unable to participate in the benefits of such plans and policies. This act will place this State in a position to receive and enjoy such benefits without delay, and should therefore go into immediate effect.

CHAPTER 15.

An act in relation to and regulating the commencement and continuation of proceedings to enforce or foreclose the lien of special assessment bonds issued for public improvements, and declaring the urgency hereof, and providing that it shall take effect immediately.

[Approved by the Governor February 1, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Moratorium Special assessment bonds

SECTION 1. Subject to the provisions hereinafter mentioned, no proceeding at law or otherwise shall be commenced or continued by the holder of any special assessment bond issued for any public improvement in the State of California that constitutes a lien upon any real property described in said bond, to foreclose or enforce the lien thereof, until February 28, 1937.

After the expiration of thirty days from the date this act takes effect, this act shall not prohibit the commencement of any such proceeding in any case where any interest upon such bond is delinquent at the time any such proceeding is commenced.

SEC 2. This act shall not be deemed to authorize any such proceeding in any case where such proceeding would not be authorized if this act had not been adopted.

Limitation of actions extended

SEC. 3. The period of time within which any proceeding or action must be taken or filed to foreclose or enforce the lien of such special assessment bond pursuant to any law or laws is hereby extended for such period of time as such foreclosure or enforcement is prohibited according to the provisions of this act. The periods of time prescribed by sections 581, 581a, 581b and 583 of the Code of Civil Procedure are hereby extended in the case of any such proceedings affected by this act, for the period of time during which the foreclosure or enforcement of such lien is prohibited according to the provisions of this act.

Stats 1935, Ch 722
Stats 1933, pp 853, 1868.

Exceptions

SEC. 4. Anything to the contrary herein notwithstanding, this act shall not be deemed to prohibit the continuation of any such proceedings taken or instituted prior to the date that this act takes effect, if the commencement of any such proceeding after the date this act takes effect, would not be prohibited pursuant to the provisions of section 1 of this act, or if the said real property has, prior to the date this act takes effect, been sold for delinquency on, or a judgment entered foreclosing the lien of, such bond.

Acceptance of payments

SEC. 4a. Anything to the contrary in any other statute notwithstanding, the officer charged with the duty of receiving payment on account of such bond is, until the date mentioned in section 1 hereof, authorized to accept the payment of any interest and penalties for delinquencies in the payment thereof, and such bond without the payment of any installment or principal due or past due on such bond; provided that he has not received notice pursuant to any statute that an action or proceeding has been commenced to enforce the lien of such bond.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, with the meaning of section 1, Article IV of the Constitution of the State of California, and shall take effect immediately.

The following is a statement of the facts constituting such urgency: The peace, safety and welfare of the citizens of this State are dependent upon immediate relief from the payment of the principal or installments thereof due upon said special assessment bonds. Because of the present economic crisis, the owners of property upon which such special assessment bonds are a lien are unable to pay principal due thereon and unless foreclosure and enforcement of such bonds is delayed

where such principal or installments thereof are unpaid, such owners will lose their property and will cause great financial loss.

CHAPTER 16.

An act to validate contracts heretofore executed by county water districts with the United States and all proceedings relative thereto, including creation of improvement districts, and to provide for the levy and collection of taxes to pay any sums required by the terms of such contracts and to declare the urgency hereof.

[Approved by the Governor February 1, 1935 In effect immediately]

The people of the State of California do enact as follows:

Validation Stats 1913, p 1049

SECTION 1. Whenever proceedings have heretofore been taken by any district organized or existing under the County Water District Act of this State for the execution by the district of any contract with the United States for the construction of works, whether for irrigation, drainage, flood control, or for the development of electric or other power, or for the acquisition, purchase, extension, operation or maintenance of such works or for a water supply or for the assumption as principal or guarantor of indebtedness to the United States and the board of directors of such district has, by resolution, determined that the whole of the district will not be benefited by the accomplishment of the purpose of such contract and determined what portion of the district will be so benefited and by such resolution constituted such portion of such district as an improvement district of such county water district and the execution of such a contract has been approved and authorized by two-thirds of the votes cast at an election by the qualified electors residing within such improvement district and such contract has thereupon been executed on behalf of the district and the United States, then all acts and proceedings of the board of directors and officers of the district, of the State Engineer, the California Districts Securities Commission and all other public officers and bodies in connection therewith leading up to and including the creation of such improvement district and the execution of such contract, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes and the power of such district to execute, carry out, perform and observe such contract and every provision thereof is hereby ratified, confirmed and declared and such contract is hereby declared to be in all respects the legal and binding obligation of, against and in favor of such district, and the full faith and credit of the district is hereby pledged for the prompt payment of all sums required by the terms of such contract.

SEC. 2. For the purpose of paying all sums required by the terms of such contract as such sums become due, the board of directors of the county water district and other officers who are charged with duties in connection with the assessment, levy and collection of taxes for the district shall have the same powers and perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds for the payment of sums coming due under contracts of such districts with the United States at the times and in the manner set forth in the respective law or laws authorizing the execution of contracts with the United States by such districts for payment thereof. Levy and collection of taxes

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and it shall therefore go into immediate effect. Urgency.

The facts constituting the necessity are as follows: One or more contracts have been executed between county water district or districts and the United States providing for the construction by the United States of irrigation works which will require the expenditure of millions of dollars for labor and will lead to the early improvement of many thousands of acres of land in California, which land is now barren desert. It is anticipated that, on condition that such contract or contracts be determined to be valid, the United States will finance and construct such irrigation works in the immediate future. Such works are a part of a comprehensive plan made by the United States for the construction of irrigation works in California, upon a part of which works construction has actually been initiated. The early consummation of such entire plan is necessary as a part of efforts being made by the Nation and the State of California to cope with widespread depression and unemployment which endanger the existence of the State and Nation.

CHAPTER 17.

An act to authorize the execution of contracts between any irrigation district or districts and any county water district or districts organized under the laws of this State, each of which districts shall have executed with the United States a contract or contracts under the provisions of the Federal Reclamation Law for construction of works, acquisition, purchase, extension, operation or maintenance of such works or for a water supply or electric power rights or privileges or assumption as principal or guarantor of indebtedness to the United States, or for any of said purposes and which such districts shall propose to divert or carry water for use in such districts by means of a single main canal or system of works and providing certain pur-

poses for which such contracts between such districts may be executed, providing for the manner of authorization of such contracts and validating such contracts heretofore executed, declaring the urgency hereof and providing that this act shall go into immediate effect.

[Approved by the Governor February 1, 1935 In effect immediately]

The people of the State of California do enact as follows:

Contracts authorized

SECTION 1. Whenever any irrigation district or districts and any county water district or districts organized under the laws of this State shall each have executed with the United States a contract or contracts under the provisions of the Federal Reclamation Law for the construction of works, whether for irrigation, drainage, flood control, or for the development of electric or other power or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States, or for any of said purposes, and such districts shall propose to divert or carry water for use in such districts by means of a single main canal or system of works, then and in that event such irrigation district or districts and county water district or districts shall have the power to contract with each other for the purposes provided in this act, and shall have full power to carry out, perform and observe such contracts in accordance with the tenor and spirit thereof, and such contracts shall be liberally construed so as to effectuate the same according to their true intent and meaning.

Construction

Purposes

SEC. 2. In any such contract or contracts between such districts, whether executed before or after the execution of the above mentioned contract or contracts with the United States, such irrigation district or districts and county water district or districts are hereby authorized to contract among other things for the following purposes:

Use of water

(a) Compromising and settling as between themselves any controversy or controversies existing between them as to the extent or priority of their respective rights and claims to the use of water, and agreeing between themselves upon the limitation and definition of the areas within such districts respectively upon which such waters shall be beneficially used.

(b) Providing that applications theretofore filed by such districts respectively with the Division of Water Resources of this State shall be amended to conform to the provisions of such contract, and that permits and licenses be issued to them respectively in accordance therewith.

Power

(c) Compromising and settling any controversy or controversies existing between such districts as to power possibilities, power rights, power resources and power privileges, (hereinafter collectively styled power rights), upon any such canal or other water system, and for such purposes any of such districts may demise to another such district or districts

all of such power rights which such demising district may then have or thereafter obtain. Such lease may be made for any term not exceeding 99 years and may vest in the lessee district or districts the operation, management, development and control of such power rights and the use, sale and control of power produced therefrom and may provide for the payment of rentals and such other matters relevant to the leasing of such power rights as such districts may in their discretion deem advisable, not in conflict with the Constitution of this State nor contrary to the express terms of the statutes under which such districts are respectively organized and exist, nor acts amendatory thereof or supplementary thereto.

Use of energy

(d) Providing that when any such lease has been executed, the lessor district or districts may be required upon such terms as may be agreed to procure for the lessee district or districts contracts or applications for electrical energy signed by certain consumers in the lessor district or districts; and that the lessee district or districts shall serve electrical energy in the lessor district or districts upon such rates and under such terms and conditions as may be prescribed in such contract.

(e) Providing that the parties to such contract shall cooperate to obtain permits and licenses to appropriate water for power purposes and to construct power facilities from the Division of Water Resources of this State and/or Federal Power Commission or other Federal agency in such manner as may be prescribed in such contract.

(f) Providing for such other matters as may be authorized by law.

Execution of contracts

SEC. 3. The execution of any such contract may be authorized by resolution of the respective boards of directors of the contracting districts.

Contracts validated

SEC. 4. Any and all such contracts as have heretofore been executed by and between any such districts and all acts of boards of directors and other officers of such districts leading up to and including the execution of such contract or contracts, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and the power of such districts to execute, carry out, perform and observe such contracts and every provision thereof is hereby ratified, confirmed and declared valid and such contracts are hereby declared to be in all respects the legal and binding obligations of, against and in favor of each of such contracting districts.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and it shall therefore go into immediate effect.

The facts constituting the necessity are as follows:

The contracts herein authorized and validated are part of a comprehensive plan made by the United States for the construction of irrigation works in California, upon a part

of which works construction has actually been initiated. The early consummation of the entire plan is necessary as a part of efforts being made by the nation and this State to cope with widespread depression and unemployment The immediate operation of this act will further the early expenditure of large sums of money for labor for the improvement of many acres of land now barren, and so will contribute measurably to the bettering of such conditions.

CHAPTER 18.

An act making an appropriation to pay the cost of printing constitutional amendments and referendum measures for the 1933 and 1934 elections, declaring the urgency thereof, and providing that this act shall take effect immediately.

[Approved by the Governor February 1, 1935 In effect immediately]

The people of the State of California do enact as follows:

Appropriation Printing constitutional amendments, etc

SECTION 1. The sum of sixty-four thousand six hundred sixty-nine and seventy-seven hundredths ($64,669.77) is hereby appropriated to the Secretary of State out of any money in the State treasury, not otherwise appropriated, to pay the cost of printing constitutional amendments and referendum measures for 1933 and 1934 elections.

Current expenses

SEC. 2. Inasmuch as this act provides an appropriation for the usual current expenses of the State, it is hereby declared an urgency measure and shall, under the provision of section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 19.

An act making an appropriation to the emergency fund specified in item 201 of section 1 of an act entitled "An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of section 34 of Article IV of the Constitution of the State of California, approved and adopted by the people at the general election held November 7, 1922, declaring the urgency thereof, and providing that this act shall take effect immediately," approved May 11, 1933, for the purposes therein specified, and declaring the urgency thereof.

Stats 1933, p 814

[Approved by the Governor February 1, 1935 In effect immediately]

The people of the State of California do enact as follows:

Appropriation Emergency fund.

SECTION 1. Out of any moneys in the State treasury not otherwise appropriated, the sum of two hundred eighty

thousand dollars ($280,000), together with the unexpended balance of the moneys in the special emergency fund specified in Item 202 of section 1 of the act cited in the title hereof, is hereby appropriated to the emergency fund specified in Item 201 of section 1 of said act, to be expended as provided in said Item 201 of said section 1 of said act during the remainder of the eighty-sixth fiscal year.

Current expenses

SEC. 2. This act, inasmuch as it provides for an appropriation for the usual current expenses of the State, shall, under the provisions of section 1 of Article IV of the Constitution of this State, take effect immediately.

CHAPTER 20.

An act to provide for the formation, government, operation, and dissolution of pest abatement districts, for the assessment, levy, collection, and disbursement of taxes therein, to declare the urgency hereof, and to provide that this act take effect immediately.

[Approved by the Governor February 2, 1935. In effect immediately.]

The people of the State of California do enact as follows:

"Pest" defined

SECTION 1. As used in this act, the term "pest" includes any plant, animal, insect, fish, or other matter or material, not under human control, which is offensive to the senses or interferes with the comfortable enjoyment of life, and is not protected under any other provision of law. It is the purpose of this act to provide for the abatement of pests, and the provisions of this act shall be cumulative to any other provisions of law relating to the abatement of pests or nuisances.

Organization of district

SEC. 2. The organization of a pest abatement district may be initiated by a petition, describing the exterior boundaries of the proposed district, and the nature of the pest or pests to be controlled or abated. The petition may fix the maximum rate of assessment to be levied for the district.

Petition

SEC. 3. The petition shall be signed by registered voters resident in the proposed district equal in number to ten per cent of the votes cast therein at the last preceding general election. The petition may consist of any number of separate instruments, which shall be duplicates, except as to the signatures and addresses of the signers. Each person who signs the petition shall also include his address.

Presentation to county clerk

SEC. 4. The petition shall be presented to the clerk of the county in which the land in the proposed district is situated. The clerk shall compare the signatures on the petition with the names of the registered voters for the purpose of ascertaining whether or not the petition contains sufficient signatures.

Supplementary names

SEC. 5. If the petition lacks the necessary number of signatures the clerk shall certify that fact, and at any time within sixty days thereafter additional signatures may be presented to supplement the signatures on the original petition and such signatures shall be compared by the clerk in the manner above prescribed. If sufficient additional signatures are not so presented, proceedings under such petition shall be terminated, without prejudice to the right to file a new petition.

Certificate

SEC. 6. If the petition is found to contain the requisite number of signatures the clerk shall make a certificate to that effect and shall present the petition, with his certificate, to the board of supervisors.

Supervisors' resolution

SEC. 7. If the board of supervisors finds that the petition has been properly presented, the board shall, by resolution, fix a time for the hearing of said petition not less than two nor more than five weeks from the time of presentation thereof, and shall cause notice to be given of the time and place of said hearing by publication in some newspaper of general circulation, printed and published in said county, for not less than two weeks prior to the time of said hearing.

Hearing

SEC. 8. At the time of the hearing or at any time to which it may be adjourned the board shall determine whether or not the notice required herein has been published as required and shall hear and consider all competent and relevant testimony or evidence offered in support of or in opposition to the formation of such district. The board may make such changes in the proposed boundaries of the district as it may deem advisable, and upon the application of the owner of any land within the proposed district may exclude such land, or upon the application of the owner of any land outside of the district and contiguous thereto, may include such land within the district, if the board determines that such exclusion or inclusion is proper.

Findings and order

SEC. 9. If, upon such hearing, the board determines that the public interest or welfare of the proposed territory and the inhabitants thereof require the formation of such district, the board, by resolution, shall declare its findings, and shall order that the territory within the boundaries determined by the board be created into a pest abatement district, under an appropriate name to be selected by the board.

Filing of order.

SEC. 10. The clerk of the board shall immediately cause to be filed in the office of the county recorder in which the district is situated a certified copy of such order, and shall cause to be filed a certified copy thereof with the Secretary of State, and after the date of the last mentioned filing the district named herein shall be incorporated as a pest abatement district, with all of the rights, privileges, and powers set forth in this act, or necessarily incident thereto.

Board of trustees

SEC. 11. Within thirty days after such incorporation the board of supervisors shall appoint a board of trustees, consisting of five members, as the governing body of such district. The members of the board of trustees shall hold office at the

pleasure of the board of supervisors, and shall serve as such trustees without compensation, but shall be allowed their necessary traveling and other expenses incurred in the performance of their official duties.

Powers of trustees

SEC. 12. The board of trustees of such district shall have power to take all necessary or proper steps for the extermination of the pest or pests referred to in the petition, subject to the control of municipal or other public authorities having jurisdiction in the matter. The board of trustees may purchase supplies, and other personal property; may employ such labor as may be necessary; may acquire by purchase, condemnation, or otherwise, in the name of the district, any necessary lands, rights of way, easements, real property, or other property or material, necessary for any of the purposes of the district; may make contracts to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers conferred by this act or incident thereto; and may sue and be sued and do all things that are necessary to carry out the powers herein conferred and to carry out the objects of the formation of the district.

Annual budget.

SEC. 13. The board of trustees of each district shall annually before the tenth day of July file with the board of supervisors an estimate of the amount of money necessary to be raised by taxation for the purposes of the district during the ensuing fiscal year.

Tax for purposes of district

SEC. 14. The board of supervisors shall levy, annually, a tax sufficient to raise the amount required for the purposes of the district. The board of supervisors shall determine the rate of such tax by deducting fifteen per cent from the total assessed value of the taxable property of the district as it appears upon the assessment roll and then dividing the sum required for the purposes of the district by the remainder of such assessed value. If the rate has been fixed by the petition, the rate fixed by the board shall not exceed such rate.

Assessment and collection.

SEC. 15. All taxes levied under the provisions of this act shall be assessed and collected at the same time and in the same manner as other taxes are collected for county purposes, and when collected shall be paid into the county treasury to the credit of the district.

Withdrawal and transfer of moneys

SEC. 16. The funds of the district shall be withdrawn from the treasury upon the warrant of the board of trustees. The board of supervisors, from time to time, may order a temporary transfer from other funds in the treasury available for the purpose to the credit of the fund of the district. Such temporary transfer shall be made only upon resolution adopted by the board of supervisors directing the treasurer to make such transfer, and shall not exceed eighty-five per cent of the taxes accruing to the district, and shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year. Any funds so transferred shall be replaced from the taxes accruing to such district

before any other obligation of the district is met from such taxes.

Annexations.

SEC. 17. At any time after the incorporation of the district, upon petition of the owners of land contiguous thereto, such land may be annexed to the district, if the board of supervisors find that such annexation shall be for the benefit of the land so annexed and for the benefit of the district.

Dissolution of district.

SEC 18. Upon application of such persons as could have initiated proceedings for the formation of a district, the board of supervisors may, after notice of hearing, published in the manner herein prescribed for the notice of a hearing of a petition, dissolve such district if it appears to the board that such dissolution is proper. The dissolution of a district shall not have any effect on any assessment theretofore levied. Upon such dissolution the board of supervisors shall succeed to all the powers and jurisdiction of the board of trustees for the purpose of winding up the affairs of the district, and may continue to levy such assessments as are necessary in the winding up of the affairs of the district. No district shall be finally dissolved until all outstanding obligations of the district, including the repayment of funds transferred to the credit of the district from other funds of the county, have been fully paid and discharged.

Urgency.

SEC. 19. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into effect immediately. A statement of the facts constituting such necessity is as follows:

In certain areas within this State there exist pests, the abatement of which is necessary and desirable in order to promote the comfort and welfare of the residents of such areas. The purpose of this act is to provide a method for the abatement of such pests. Facilities of the State Emergency Relief Administration are now available to assist in the work of eradicating or controlling these pests in cooperation with local governmental units such as a district, the organization of which is herein provided for. These facilities may not long continue to be available and in order to utilize these facilities, and in order that the work of abating these pests and relieving persons from the discomforts caused by such pests may be accomplished as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 21.

An act to validate bonds of school districts, high school districts and junior college districts of every kind and class and providing for the levy of a tax to pay the same, and declaring the urgency of said act.

[Approved by the Governor February 2, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Where in any school district, high school district, or junior college district, of any kind or class, proceedings have been taken for the purpose of voting, issuing and selling bonds of such district for any purpose or purposes, all acts and proceedings of the officers of election and of the board of trustees, board of education, or other governing body of such district, and all acts and proceedings of the board of supervisors of the county within which such district is situated, leading up to and including the issuance of such bonds if they have been heretofore sold, and all such acts and proceedings heretofore had, although the bonds are not sold, are hereby legalized, ratified, confirmed and validated to all intents and purposes, and the power of such district and of the board of supervisors of the county in which such district is situated to issue such bonds is hereby ratified, confirmed and declared, and bonds heretofore sold are declared to be and shall be, in the form and manner in which such bonds have been actually issued and delivered, the legal and binding obligations of and against such district and bonds hereafter sold are declared to be and shall be legal and binding obligations of such district, and the full faith and credit of such district is hereby declared to be pledged for the prompt payment and redemption of the principal and interest of said bonds. *School district bonds validated*

SEC. 2. For the purpose of paying interest on such bonds as it becomes due and the principal thereof at maturity, the assessors, treasurers, boards of supervisors and other officers of the respective counties shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds for the payment of the principal and interest of bonds of school districts, high school districts and junior college districts of every kind and class, respectively. *Taxes for payment*

SEC. 3. This act shall not operate to legalize any bonds which have been sold for less than par, nor legalize any bonds the issuance of which has not received the assent of two-thirds of the qualified electors of such district voting at an election held for the purpose of determining whether such indebtedness should be incurred, nor to legalize any bonds which mature more than forty years from the time of their issuance. *Exceptions*

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of *Urgency*

Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such urgency: Many school districts within the State of California are without sufficient money to purchase school lots or to build school buildings or to make alterations or additions to school buildings or to repair, restore or rebuild school buildings damaged, injured or destroyed by fire or other public calamity, or to supply school buildings with furniture or necessary apparatus of a permanent nature. Many school districts have within the last two years voted bonds for raising money for such purposes or some of them and the proceedings in many of such bond elections were irregular, and by reason of such irregularities such bonds can not now be sold. The population of many of these districts has increased so rapidly that the present school facilities of such districts are unable to meet the needs of the great increase of pupils in such districts and it is necessary and urgent that such bonds and the proceedings thereunder be validated at an early date in order that the bonds may be sold and said school buildings, lots, equipment and facilities may be purchased or built before the opening of the next school year which in many instances would be impossible if this act did not go into effect immediately but was required to await until ninety days after adjournment of this Legislature.

Bonds have also been voted to raise money to repair, rebuild or reconstruct in whole or in part school buildings destroyed or seriously injured by earthquake or to strengthen buildings now deemed unsafe in case of earthquake, and such work is required immediately in order to protect the health and safety of school children. Because of irregularities some bonds voted for such purposes cannot now be sold but can be sold and moneys therefrom be made available at once if this act goes into effect immediately.

CHAPTER 22.

Stats 1897, p 254, amended

An act to amend sections 86, 89, 90 and 94 of the California Irrigation District Act, relating to the inclusion of land in irrigation districts and fixing conditions under which such lands may be included, and the liability of such included lands for the obligations of such irrigation districts, declaring the urgency thereof, the act to take effect immediately.

[Approved by the Governor February 2, 1935 In effect immediately]

The people of the State of California do enact as follows:

Stats 1927, p 192

SECTION 1. Section 86 of the California Irrigation District Act is hereby amended to read as follows:

Petition for inclusion of land

Sec. 86. The holder or holders of title, or evidence of title, or a majority of the holders of title, or evidence of title of any tract of land may file in the office of the board

of directors of any irrigation district a petition praying that said tract of land be included within said district; provided, that if there is more than one holder of title or evidence of title of said land, the petitioners must include the holders of title or evidence of title of at least one-half of the area of said land. If any petitioner is the owner of an undivided interest in said land or any of it, he shall be deemed to be the owner of such proportion of the area of the land in which he has an interest as his interest bears to the whole of such land. Each signature to such petition shall be acknowledged or proved as provided by law for signatures to an instrument to entitle it to be recorded. The petition may state that if the land described therein is included within the district, it shall not become liable by assessment or otherwise for any of the outstanding obligations, bonded or otherwise, of the district, and that the land then within the district shall not be liable for assessment or otherwise on account of any costs or expenses for the acquisition or construction of works, waters, water rights, or other property to be used or now used for the irrigation of the lands to be included, but that the lands to be included shall be subject to such assessments and charges as may be necessary to provide for all or part of the costs of works, water, water rights and other property necessary to provide for the irrigation thereof, and the cost of maintaining and operating such works or the liability of the lands to be included may be limited solely to the fixing and collecting of tolls and charges for the use of water on such lands, and the petition may set forth any other terms or conditions with respect to the inclusion of the land described in the petition and the liability of said land for any costs or expenses to be incurred thereafter.

SEC. 2. Section 89 of the California Irrigation District Act is hereby amended to read as follows: Stats 1897, p. 282

Sec. 89. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments, had such lands been included in such district at the time the same was originally formed; or may require such other conditions as said board may consider proper. Condition precedent

SEC. 3. Section 90 of the California Irrigation District Act is hereby amended to read as follows: Stats 1929, p 687.

Sec. 90. If the board of directors, after the hearing provided for in section 88 hereof, shall determine that said petition complies with the requirements of section 86 hereof and that the inclusion within the district of the tract of land described in said petition, or some portion or portions thereof, will be for the best interests of the district, and if no protest against the inclusion of such land is made as provided in sec- Decision of board

tion 91 hereof, or if such protest be made and enough signatures be withdrawn therefrom so that said protest is no longer sufficient, the board shall order the boundaries of the district to be changed so that said tract of land, or such portion or portions thereof as the board shall deem it for the best interests of the district to include, subject to such terms and conditions as may be prescribed, shall be included within the district, but no land shall be so included unless the board, after the hearing aforesaid, shall determine that it can be irrigated by means of some of the works of the district or by means of practicable works connecting therewith and will be benefited by such irrigation; and if the board determines that only a portion or certain portions of the tract of land described in said petition should be included, said petition shall be dismissed unless the petitioners include a majority of the holders of title or evidence of title of said portion, or of each of said portions, of said tract, representing also at least one-half the area of said portion, or of each of said portions, or unless, within sixty days from the time such determination is made, there shall be filed with the board the consent in writing, acknowledged or proved as required in section 86 hereof, of a majority of the holders of title or evidence of title of said portion, or of each of said portions of said tract of land, representing also at least one-half of the area of said portion or of each of said portions. The order shall describe the boundaries of the land so included within the district, and if said land adjoins any portion of the district the order shall also describe that portion of the boundary of the district which coincides with the boundary of the land so included, and for the purposes of said order the board may cause a survey to be made of such portions of said boundaries as may be deemed necessary. If so requested and provided in the petition for inclusion the board may provide that such lands included within said district shall not become liable by assessment or otherwise for any of the outstanding obligations, bonded or otherwise, of the district, and that the lands then within the district shall not be liable for assessments or otherwise on account of any costs or expenses for the acquisition or construction of works, waters, water rights, or other property used or to be used for the irrigation of the lands to be included, but that the lands to be included shall be subject and liable to such assessments and charges as may be necessary to provide for all or part of the costs of works, waters, water rights and other property necessary to provide for the irrigation thereof, and the cost of maintaining and operating such works, and the board of directors shall be authorized and empowered to levy assessments, annual or otherwise, and to fix such assessment rate, upon such lands so included, as may be necessary to raise and pay the amount of the obligations so assumed by said included lands as they accrue, or such amount may be raised in whole or in part by, or the liability of such included lands for the payment of any indebtedness may be solely limited to, the fixing and collec-

Order to describe boundaries

Liability for obligations

tion of tolls and charges for the use of water on such lands and all the provisions of this act in reference to the levy of assessments and the fixing of tolls and charges for the use of water shall be applicable to such included lands to the extent of the liabilities assumed by such lands under the provisions of the order or orders of inclusion. If more than one petition for the inclusion of land has been presented, the board may in one order include within the district any number of separate tracts of land. Any public land of the United States of America may be included within any irrigation district by such order of the board of directors without any petition therefore except as may be required by the laws of the United States, if such land can be irrigated by means of any of the works of the district or by any practicable works connecting therewith and will be benefited by such irrigation. When the board finds that the inclusion of any land within an irrigation district without condition would work an injury to the land already within the district, the board may prescribe conditions upon such inclusion of land either by providing for priority of right to water for the land already in the district or for the payment of an additional annual charge upon the land included or such other conditions as may to the board seem just. If any such conditions are prescribed by the board all the owners of the land subject to such conditions must, before any order for its inclusion is made, sign an agreement with the district describing the land so to be included and specifying such conditions. The signatures to said agreement must be acknowledged or proved as provided by law for the signatures of instruments to be recorded, and said agreement must be recorded in the office of the county recorder of the county in which such lands are situated, and thereupon and upon the recording of a copy of the order including such lands as hereinafter provided, such lands shall become a part of the district subject to the conditions of said agreement. Or in lieu of the execution and recording of such agreement signed and acknowledged by the owners of land to be included subject to such conditions the board of directors may adjourn said hearing for not less than thirty days nor more than sixty days and shall give notice of the time and place of such adjourned hearing by publication in a newspaper of general circulation published in the county in which the office of the board of directors is located and in which the lands affected are situate for not less than once a week for three consecutive weeks; said notice so published shall set out at length the conditions proposed to be imposed and directing all persons interested to appear at the time and place specified in said notice and show cause, if any they have, why such conditions should not be imposed. At such hearing, or at any further adjournment thereof duly entered upon the minutes, the board of directors may by resolution adopt, reject, or modify such conditions as may be just and make the order hereinabove provided for containing such of said condi-

Public land

Conditions

Agreement

Alternative method of fixing conditions

Publication

Hearing

Order

tions as may have been adopted and such order shall be final and conclusive upon a copy thereof duly certified by the secretary of the board having been recorded in the office of the county recorder of the county in which the lands affected are situate; provided, that said certified copy of such order shall not be recorded for a period of thirty days from and after the making of such order, during which thirty days a majority of the holders of title or evidence of title of the land described in the petition for inclusion and representing also more than one-half of the area of said tract or tracts of land, may file with the secretary of the board of directors a statement or statements in writing signed and acknowledged in the form required for the conveyance of real property, objecting to the inclusion of such lands with the conditions imposed thereon, whereupon said objections shall be laid before the board of directors and if the board finds the same to be in the form required by this section and signed by a majority of the holders of title or evidence of title of the tract or tracts of land described in said petition for inclusion, and also representing more than one-half of the area of land described in said petition, then the board of directors shall enter in its minutes an order dismissing said petition for inclusion and no further proceedings shall be had thereon, but such order of dismissal shall be without prejudice to the filing of another petition or other petitions for inclusion of the same land or any part thereof; and provided further, that agreeable to the laws of the United States and the proper regulations or consent of any authorized department thereof, or the laws of this State as the case may be, such conditions as the board of directors shall deem equitable and just may be imposed upon any public lands of the United States or of this State as a part of the order of inclusion without the agreement or hearing provided for in this section.

Recordation

Objections

Dismissal

Public lands

Stats 1897, p 283

SEC. 4. Section 94 of the California Irrigation District Act is hereby amended to read as follows:

Order of board to be recorded

Sec. 94. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain an irrigation district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district, save and except that such included lands shall be and remain subject to such terms, conditions and liabilities as may have been fixed and imposed upon them by such order of inclusion.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure within the meaning of section 1 of Article IV of the Constitution, necessary for the immediate preservation of the public peace, health and safety, and shall take effect immedi-

ately. The facts constituting such necessity are as follows: Many parcels of land adjoining irrigation districts in this State are without means of irrigation or providing for the means of irrigation or the cost of such irrigation as may be available is so excessive that said lands will remain of little value and the residents on such lands will be unable to raise sufficient foodstuffs either for their own sustenance or the sustenance of their families or for sale in order to purchase other necessities of life for themselves and families and great distress and ill health will be caused and exist by reason thereof unless water can be immediately furnished to such lands at a reasonable cost. That it is impossible under present financial and economic conditions to obtain the necessary money through irrigation district bond issues and the only method of financing is either through loans from the Reconstruction Finance Corporation or other agencies of the United States with limited time to make loans, or through private capital only available for a very short period of time, which can be obtained if such lands are immediately included in the adjoining irrigation districts and under the conditions in this act set forth. That if such lands are not so immediately included in such districts the opportunity so to do will be lost; and such lands and the owners thereof and the residents thereon will suffer great and irreparable injury as hereinbefore set forth.

CHAPTER 23.

An act to authorize the city of Napa to execute certain conveyances to the United States of America, declaring the urgency thereof, and providing that this act shall take effect immediately.

[Approved by the Governor February 2, 1935. In effect immediately.]

The people of the State of California do enact as follows:

City of Napa. Conveyances authorized

SECTION 1. The city of Napa, to fulfill the purposes of this act, is hereby authorized and empowered to make and execute, in such form as may be necessary and proper, such deeds or other conveyances as may be necessary to convey to the United States of America the title which the city of Napa now has or may hereafter acquire in and to those certain parcels of land situated in the county of Napa, State of California, and commonly known as Jack's Bend and Carr Bend.

Property covered

SEC. 2. The title hereby authorized to be conveyed is a fee simple interest in and to Jack's Bend and an easement in and to Carr Bend to allow such land to be excavated to sufficient depth and width to provide a navigable canal to become a part of the Napa River. The purpose for the con-

veyance of these titles is to straighten the Napa River and improve the navigability thereof.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution, and shall therefore take effect immediately The facts constituting such necessity are as follows:

Because of the existing economic conditions which make it imperative and necessary to furnish as much work as possible so that unemployment may be relieved, the work necessary to straighten the Napa River and increase its navigability will furnish needed employment. By the immediate conveyance to the United States of the titles to these parcels of land, the plan for the work to be so done on the Napa River can be presented to the Congress of the United States at its present session, thus enabling the actual work to be started before the forthcoming winter season.

CHAPTER 24.

Stats 1933, p 60

An act to amend section 92 of the Agricultural Code, relating to agricultural fairs, to declare the urgency hereof, and to provide that this act take effect immediately.

[Approved by the Governor February 9, 1935 In effect immediately]

The people of the State of California do enact as follows:

Stats 1933, p 73

SECTION 1. Section 92 of the Agricultural Code is hereby amended to read as follows:

State premium money

92. Any money appropriated by the State for the encouragement of county, district or combined county and district agricultural fairs shall be expended under the supervision of the State Department of Finance for premiums for agricultural, horticultural and live stock exhibits only. The Department of Finance shall apportion the money appropriated for the various agricultural fairs on the basis of the amount which each fair actually paid in premiums for agricultural, horticultural and live stock exhibits in each year. The Secretary of any such fair desiring to share in any such appropriation shall file with the Department of Finance on or before December 31st, of each year, a sworn statement setting forth the actual amount paid for premiums by such fair held in that year. No allotment from the appropriation herein provided shall be made for more than one fair in any one year in any county or district. The fact that one county joins with another county, or with several others, or that one district contracts with a county or county fair association, to hold an agricultural fair shall not bar it from receiving a proper proportion of the moneys herein appropriated. No fair for which a

separate appropriation is made by the State shall participate in the apportionment of any money appropriated for the encouragement of county and district agricultural fairs.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into immediate effect. Urgency.

A statement of the facts constituting such necessity is as follows:

Owing to the existing economic depression many agricultural fairs were discontinued during the year 1934. The section of the Agricultural Code amended by this act, provides for the allocation of funds appropriated for agricultural fairs upon the basis of premiums paid in the preceding year. Unless this section is amended, no appropriation will be permitted on behalf of any fair which was discontinued for the year 1934, and this condition will continue to exist in future years unless the section is amended.

The holding of agricultural fairs is a matter of interest to the people of the State, and the appropriation for agricultural fairs should be distributed equally among all fairs entitled to participation, regardless of the fact that due to economic conditions some fairs were discontinued, and in order that the law may provide for the proper allocation of these funds in the current year, it is necessary that this act go into immediate effect.

CHAPTER 25.

An act relating to the transfer and expenditure of moneys for relief of hardship and destitution due to and caused by unemployment, and declaring the urgency hereof.

[Approved by the Governor March 14, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The Controller must, when the "Relief Fund" created by section 10 of Article XVI of the Constitution is exhausted or there is no money therein, and there is money in some other fund not required to meet any demand which has accrued or may accrue against it, report such fact to the Governor and the Treasurer. If they find that the money is not needed in such other fund, the Governor may order the Controller to direct the transfer of such money, or any part thereof, to the "Relief Fund." All money so transferred must be returned to the fund from which it was transferred as soon as there is sufficient money in the "Relief Fund" to return it. Nothing in this section authorizes the transfer of any money from any fund so as in any manner to interfere with the object for which such fund was created. Transfers of moneys to Relief Fund

Expenditures from Relief Fund

SEC. 2. The relief administrator is hereby authorized and directed to expend the moneys so transferred to the "Relief Fund" as direct grants to relief beneficiaries, without making such grants to or through any county, city and county, municipality, district or other political subdivision.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and shall go into immediate effect. The facts constituting such necessity are as follows:

There are not sufficient Federal relief funds available to meet current relief needs. Unless this act takes effect immediately, over one million persons in California will receive inadequate relief budgets during the present and succeeding months, and there will be danger of serious unrest. In fact, it is probable that relief operations will have to be suspended during the present month. It is therefore necessary that Federal relief funds be supplemented immediately, and that aid be administered as herein provided to secure efficient and orderly distribution thereof, and to secure maximum Federal cooperation, in accordance with understandings and agreements heretofore made.

CHAPTER 26.

An act to authorize the legislative bodies of counties, cities and cities and counties, directly, or through a duly authorized representative or representatives, to attend the sessions of the Legislature of the State of California and to appear before said Legislature and the committees thereof and making the cost incidental thereto a proper charge against the funds of the county, or city or city and county, and declaring the urgency thereof.

[Approved by the Governor March 16, 1935 In effect immediately.]

The people of the State of California do enact as follows:

Counties and cities represented during legislative sessions.

SECTION 1. The legislative body of any county or city or city and county may directly, or through a duly authorized representative or representatives, attend the sessions of the Legislature of the State of California and present to said Legislature of the State of California, or any committee thereof, such information as the county, or city or city and county may deem necessary for the purpose of aiding in the passage of any legislation which in the judgment of said county, or city or city and county may be deemed beneficial thereto, or for the purpose of preventing the passage of any legislation which said legislative body of said county, or city

or city and county may deem detrimental to said county, or city or city and county, and the cost and expense incident thereto shall be a proper charge against the funds of said county or city or city and county.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California and shall therefore go into effect immediately. A statement of facts constituting such necessity is as follows: Urgency

Bills are now pending before the Legislature of the State of California that are of vital and of immediate importance to the counties, cities and cities and counties of the State of California. Many of these bills directly concern taxation, revenue, special assessment districts, publicly owned public utilities and other matters of moment to the finances of counties, cities and cities and counties, while others concern the social well-being and welfare of the citizens of the counties, cities and cities and counties. Because of the importance of these bills, it is both equitable and necessary that representatives from the counties, cities and cities and counties be permitted to attend and to appear before the Legislature of this State and before its committees to the end that counties, cities and cities and counties may have the opportunity to be heard on all measures affecting said counties, or cities or cities and counties. Unless this authority is granted immediately and the expense of sending representatives is made a proper charge against the county, or city or city and county, the counties, cities and cities and counties will be precluded from proper representation before the Legislature and its committees. Because of the direct concern of the counties, cities and cities and counties in bills now assigned to committees it is urgently necessary that this bill be acted upon immediately and go into effect immediately.

CHAPTER 27*

An act to establish a Vehicle Code, thereby consolidating and revising the law relating to vehicles and vehicular traffic, and to repeal certain acts and parts of acts specified herein.

[Approved by the Governor March 25, 1935. In effect September 15, 1935.]

NOTE.—This chapter contains all the amendments made thereto during the fifty-first session of the Legislature, namely by Chapters 154, 155, 156, 171, 332, 376, 384, 390, 508, 524, 527, 546, 570, 586, 589, 590, 591, 592, 605, 671, 713, 714, 764, 765, 778, 783, 808 and 847.

Said amendatory chapters, with the exception of Chapter 765, become effective September 15, 1935. Chapter 765 becomes effective October 1, 1935.

For the approval dates, see said chapters in their numerical sequence.

* A cross-reference table showing the origin of each section appears in the appendix to this volume.

The people of the State of California do enact as follows:

GENERAL PROVISIONS.

Short title

1. Short Title. This act shall be known as the "Vehicle Code."

Continuation of existing law.

2. Continuation of Existing Law. The provisions of this code, in so far as they are substantially the same as existing provisions relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

Tenure

3. Tenure of Office. All persons who, at the time this code goes into effect, hold office under any of the acts repealed by this code, which offices are continued by this code, continue to hold the same according to the former tenure thereof.

Pending proceedings

4. Pending Proceedings and Accrued Rights. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as possible.

Validity

5. Constitutionality. If any portion of this code is held unconstitutional, such decision shall not affect the validity of any other portion of this code.

Construction

6. Construction of Code. Unless the context otherwise requires, the general provisions hereinafter set forth shall govern the construction of this code.

Headings

7. Effect of Headings. Division, chapter, article, and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any division, chapter, article or section hereof.

Delegation of powers

8. Delegation of Powers and Duties. Whenever, by the provisions of this code, a power is granted to a public officer or a duty imposed upon such an officer, the power may be exercised or the duty performed by a deputy of the officer or by a person authorized pursuant to law by the officer.

Writings

9. Required Writings. Whenever any notice, report, statement or record is required by this code, it shall be made in writing in the English language.

Notices.

10. Method of Giving Notice. Whenever a notice is required to be given under this code by the department or any division, officer or employee thereof, unless a different method of giving such notice is elsewhere otherwise expressly prescribed herein, such notice shall be given either by personal delivery thereof to the person to be so notified or by deposit in the United States mail of an envelope with postage prepaid which said envelope shall contain such notice and shall be addressed to such person at his address as shown by the records of the department. The giving of notice by personal delivery is complete upon delivery of a copy of said notice to said person. The giving of notice by mail is complete upon the expiration of four days after said deposit of said notice.

Proof of the giving of such notice may be made by the certificate of any officer or employee of the department or affidavit of any person over eighteen years of age naming the person to whom such notice was given and specifying the time, place and manner of the giving thereof.

Reference to statutes

11. References to Statutes. Whenever any reference is made to any portion of this code or of any other law, such reference shall apply to all amendments and additions thereto heretofore or hereafter made.

Definitions

12. "Section" and "Subdivision" Defined. "Section" means a section of this code unless some other statute is specifically mentioned and "subdivision" means a subdivision of the section in which that term occurs unless some other section is expressly mentioned.

13. Construction of Tenses. The present tense includes the past and future tenses; and the future, the present.

14. Construction of Genders. The masculine gender includes the feminine and neuter.

15. Construction of Singular and Plural. The singular number includes the plural, and the plural the singular.

16. "Shall" and "May." "Shall" is mandatory and "may" is permissive.

17. Oath Includes Affirmation. "Oath" includes affirmation.

18. Signature by Mark. "Signature" or "subscription" includes mark when the signer or subscriber can not write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

19. "County" and "City." "County" and "city" both include "city and county."

DIVISION I. WORDS AND PHRASES DEFINED.

CHAPTER 1. VEHICLES AND EQUIPMENT DEFINED.

Definitions Vehicles and equipment

31. "Vehicle." A "vehicle" is a device in, upon or by which any person or property is or may be propelled, moved or drawn upon a highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks.

32. "Motor Vehicle." A "motor vehicle" is a vehicle which is self-propelled.

33. "Motor Truck." A "motor truck" is a motor vehicle designed, used or maintained primarily for the transportation of property.

34. "Commercial Vehicle." A "commercial vehicle" is a vehicle of a type required to be registered hereunder designed, used or maintained for the transportation of persons for hire, compensation or profit or designed, used or maintained primarily for the transportation of property.

Definitions

35. "Motorcycle." A "motorcycle" is a motor vehicle, other than a tractor, designed to travel on not more than three wheels in contact with the ground.

36. "Trailer." A "trailer" is a vehicle without motive power designed for carrying persons or property on its own structure and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

37. "Semitrailer." A "semitrailer" is a vehicle without motive power designed for carrying persons or property and having one or more axles and two or more wheels, used in conjunction with a motor vehicle and so constructed that some part of its weight and that of its load rests upon, or is carried by, another vehicle. A tractor, not designed to carry an independent load, and a semitrailer permanently joined to the tractor, is one vehicle.

38. "Pole or Pipe Dolly." A "pole or pipe dolly" is a vehicle without motive power having one or more axles which axles, if there be more than one, are not more than forty-eight inches apart, and two or more wheels, used in connection with a motor vehicle solely for the purpose of transporting poles or pipes and connected with the towing vehicle both by chain, rope or cable and by the load without any part of the weight of said dolly resting upon the towing vehicle.

39. "Special Mobile Equipment." "Special mobile equipment" is a vehicle, not self-propelled, not designed or used primarily for the transportation of persons or property, and only incidentally operated or moved over a highway, excepting implements of husbandry.

40. "Specially Constructed Vehicle." A "specially constructed vehicle" is a vehicle of a type required to be registered hereunder not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles.

41. "Reconstructed Vehicle." A "reconstructed vehicle" is a vehicle of a type required to be registered hereunder materially altered from its original construction by the removal, addition or substitution of essential parts, new or used.

42. "Essential Parts." "Essential parts" are all integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance.

43. "Foreign Vehicle." A "foreign vehicle" is a vehicle of a type required to be registered hereunder brought into this State from another State, Territory or country other than in the ordinary course of business, by or through a manufacturer or dealer and not registered in this State.

44. "Authorized Emergency Vehicle." An "authorized emergency vehicle" is a vehicle of any of the following types:

Definitions

(a) A vehicle publicly owned and operated by a police or fire department or traffic law enforcement officer in responding to emergency calls or in traffic patrol duty.

(b) A motorcycle, either publicly or privately owned, operated by a police or traffic law enforcement officer in enforcing the provisions of this code.

(c) A motor vehicle, either publicly or privately owned, operated by a State or county forest ranger, or a fire warden on salary and directly in charge of fire protection work upon behalf of the State or in any county, or the chief or assistant chief of an organized fire department, in responding to emergency fire calls.

(d) Any fire fighting equipment designed and operated exclusively as such by an oil company and used in responding to emergency fire calls and in combating fires.

(e) When used in responding to emergency calls, any privately owned ambulance authorized by permit issued by the Chief of the California Highway Patrol, and any publicly owned ambulance.

(f) Any emergency repair vehicle of a public utility corporation used in responding to emergency calls when authorized by the Chief of the California Highway Patrol.

45. "Implement of Husbandry." An "implement of husbandry" is a vehicle which is designed exclusively for agricultural purposes and used exclusively in the conduct of agricultural operations.

46. "Pneumatic Tire." A "pneumatic tire" is a tire inflated or capable of inflation with compressed air.

47. "Solid Tire." A "solid tire" is a tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

48. "Metal Tire." A "metal tire" is a tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

49. "Axle." An "axle" is a structure or portion of a structure comprising two spindles which are inserted in the hubs of wheels and on which the wheels revolve, such two spindles being located in a transverse plane on opposite sides of a vehicle.

CHAPTER 2. GOVERNMENTAL AGENCIES, PERSONS, OWNERS, ETC., DEFINED.

Definitions: Governmental agencies, persons, etc.

61. "Department." The "Department" is the Department of Motor Vehicles of the State of California.

62. "Director." The "Director" is the Director of Motor Vehicles.

63. "County." "County" includes every county and every city and county within this State.

64. "Local Authorities." "Local authorities" means the legislative body of every county or municipality having authority to adopt local police regulations.

Definitions.

65. "Person." "Person" includes a natural person, firm, copartnership, association or corporation.

66. "Owner." "Owner" is a person having the lawful use or control or the right to the use or control of a vehicle under a lease or otherwise for a period of ten or more successive days.

67. "Legal Owner." "Legal owner" is the person who holds the legal title to a vehicle or a mortgage thereon.

68. "Registered Owner." "Registered owner" is a person registered by the department as the owner of a vehicle.

69. "Driver." "Driver" is a person who drives or is in actual physical control of a vehicle.

70. "Operator." "Operator" is a person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway.

71. "Chauffeur." "Chauffeur" is a person who is employed by another for the principal purpose of driving a motor vehicle on the highways and receives compensation therefor.

72. "Nonresident." "Nonresident" is a person who is not a resident of this State.

73. "Dealer." "Dealer" is a person engaged in the business of buying, selling or exchanging vehicles of a type required to be registered hereunder who has an established place of business for such purpose in this State, or engaged in the business of delivering vehicles of a type required to be registered hereunder from a manufacturing, assembling, or distributing, plant to dealers or sales agents of a manufacturer.

74. "Established Place of Business." "Established place of business" is a place actually occupied either continuously or at regular periods by a dealer or manufacturer where his books and records are kept and a large share of his business transacted.

75. "Garage." "Garage" is a building or other place wherein the business of storing or safekeeping vehicles of a type required to be registered hereunder and which belong to divers members of the public is conducted for compensation.

CHAPTER 3. HIGHWAYS, RESTRICTED DISTRICTS, ZONES, ETC., DEFINED.

Definitions Highways, zones, etc

81. "Street" or "Highway." "Street" or "highway" is a way or place of whatever nature open to the use of the public as a matter of right for purposes of vehicular travel.

82. "Private Road or Driveway." "Private road or driveway" is a way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner but not by other members of the public.

83. "Roadway." "Roadway" is that portion of a highway improved, designed or ordinarily used for vehicular travel.

Definitions

84. "Sidewalk." "Sidewalk" is that portion of a highway, other than the roadway, set apart for pedestrian travel.

85. "Crosswalk." "Crosswalk" is either:

(a) That portion of a roadway ordinarily included within the prolongation or connection of the boundary lines of sidewalks at intersections where the intersecting roadways meet at approximately right angles, except the prolongation of any such lines from an alley across a street.

(b) Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

86. "Intersection." "Intersection" is the area embraced within the prolongation of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways, of two highways which join one another at approximately right angles or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

87. "Right of Way." "Right of way" is the privilege of the immediate use of the highway.

88. "Safety Zone." "Safety zone" is the area or space lawfully set apart within a roadway for the exclusive use of pedestrians and which is protected, or which is marked or indicated by vertical signs, raised markers or raised buttons, in order to make such area or space plainly visible at all times while the same is set apart as a safety zone.

89. "Business District." "Business district" is that portion of a highway and the property contiguous thereto (a) upon one side of which highway, for a distance of 600 feet, fifty per cent or more of the contiguous property fronting thereon is occupied by buildings in use for business, or (b) upon both sides of which highway, collectively, for a distance of 300 feet, fifty per cent or more of the contiguous property fronting thereon is so occupied. A business district may be longer than the distances specified in this section if the above ratio of buildings in use for business to the length of the highway exists.

90. "Residence District." "Residence district" is that portion of a highway and the property contiguous thereto, other than a business district, (a) upon one side of which highway, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by thirteen or more separate dwelling houses or business structures, or (b) upon both sides of which highway, collectively, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by sixteen or more separate dwelling houses or business structures. A residence district may be longer than one-quarter of a mile if the above ratio of separate dwelling houses or business structures to the length of the highway exists.

DIVISION II. THE DEPARTMENT OF MOTOR VEHICLES.

CHAPTER 1. ORGANIZATION OF DEPARTMENT.

Department

101. Department Created. A department of the government of the State of California to be known as the Department of Motor Vehicles is hereby created.

Succeeds to powers of certain agencies

102. Department Successor to Certain State Agencies. The department shall succeed to and is hereby vested with all of the powers, duties, purposes, responsibilities and jurisdiction now or hereafter vested by law in the Department of Motor Vehicles, the California Highway Patrol, the Motor Vehicle Department, the Motor Vehicle Department of California, the Division of Motor Vehicles of the Department of Finance, the Division of Motor Vehicles of the Department of Public Works, and all other State agencies of similar designation, or in the several heads, members, officers and employees of each thereof.

Records and property

103. Department Has Possession of Records and Property. The department shall have possession and control of all records, books, papers, offices, equipment, moneys, funds, appropriations, and all other property, real, personal and mixed, now or hereafter held for the benefit or use of the Department of Motor Vehicles or of any other State agency hereinbefore in this chapter mentioned.

Political Code sections applicable

104. When General Laws Govern Department. Except as otherwise herein prescribed, the provisions of sections 348 to 359b, both inclusive, of the Political Code shall apply to and govern the conduct of said department.

Director

105. Office of Director Created. The department shall be under the control of a civil executive officer to be known as the Director of Motor Vehicles, which office is hereby created. The director shall be appointed by, and hold office at the pleasure of, the Governor. He shall receive a salary of six thousand dollars per year and shall be allowed his actual and necessary traveling expenses incurred in the performance of the duties of his office. The director shall execute and deliver, as provided by law, an official bond in the sum of twenty-five thousand dollars.

(Amended by Ch. 546, Stats. 1935.)

[ORIGINAL SECTION.]

105. Office of Director Created. The department shall be under the control of a civil executive officer to be known as the Director of Motor Vehicles, which office is hereby created. The director shall be appointed by, and hold office at the pleasure of, the Governor. The director shall receive no salary but shall be allowed his actual and necessary traveling expenses incurred in the performance of the duties of his office. The director shall execute and deliver, as provided by law, an official bond in the sum of twenty-five thousand dollars.

Subordinates

106. Director to Appoint Subordinates. The director may appoint and, with the approval of the Department of Finance, fix the salaries of:

(a) A deputy director and a secretary.

(b) Except as provided in sections 110 and 112, such other officers, deputies, technical experts and employees as may be necessary for the proper discharge of the duties of the department.

107. Department May Obtain Legal Services. The department may obtain such legal services as it requires in accordance with the provisions of Chapter 213, Statutes of 1933. Legal service

108. Organization of Department. The director with the approval of the Governor shall organize the department in such manner as he may deem necessary properly to segregate and conduct the work of the department. The work of the department is hereby divided into at least two divisions, to be known respectively as the Division of Registration and the Division of Enforcement, to be known as the California Highway Patrol. Organization

109. Office of Registrar of Vehicles Created. The Division of Registration shall be under the control of a civil executive officer to be known as the Registrar of Vehicles, which office is hereby created. The Registrar of Vehicles shall be appointed by the director subject to the approval of the Governor, pursuant to the provisions of Article XXIV of the State Constitution, and shall receive an annual salary of five thousand dollars The Registrar of Vehicles shall execute and deliver, as provided by law, an official bond in the sum of twenty-five thousand dollars. Registrar

(Amended by Ch. 546, Stats. 1935.)

[ORIGINAL SECTION.]

109 Office of Registrar of Vehicles Created. The Division of Registration shall be under the control of a civil executive officer to be known as the Registrar of Vehicles, which office is hereby created. The Registrar of Vehicles shall be appointed by, and hold office at the pleasure of, the director subject to the approval of the Governor, and shall receive an annual salary of five thousand dollars The Registrar of Vehicles shall execute and deliver as provided by law, an official bond in the sum of twenty-five thousand dollars.

110. Registrar to Appoint Subordinates. The Registrar of Vehicles with the approval of the director may appoint a deputy registrar, a secretary, and such investigators as may be necessary, whose salaries shall be fixed by the director with the approval of the Department of Finance. Subordinates of Registrar

111. Office of Chief of California Highway Patrol Created The California Highway Patrol shall be under the control of a civil executive officer to be known as the Chief of the California Highway Patrol, which office is hereby created. The Chief of the California Highway Patrol shall be appointed by the director subject to the approval of the Governor, pursuant to the provisions of Article XXIV of the State Constitution, and shall receive an annual salary of seven thousand two hundred dollars. The Chief of the California Highway Patrol shall execute and deliver, as provided by law, an official bond in the sum of twenty-five thousand dollars. Chief of California Highway Patrol

(Amended by Ch. 546, Stats. 1935.)

[ORIGINAL SECTION.]

111. Office of Chief of California Highway Patrol Created. The California Highway Patrol shall be under the control of a civil executive officer to be known as the Chief of the California Highway Patrol, which office is hereby created. The Chief of the California Highway Patrol shall be appointed by, and hold office at the pleasure of, the director subject to the approval of the Governor, and shall receive an annual salary of seven thousand two hundred dollars. The Chief of the California Highway Patrol shall execute and deliver, as provided by law, an official bond in the sum of twenty-five thousand dollars

Subordinates of chief.

112. Chief of California Highway Patrol to Appoint Subordinates. The Chief of the California Highway Patrol with the approval of the director may appoint:

(a) An assistant chief, a secretary and such investigators as may be necessary.

(b) Subject to section 114, such traffic officers and traffic clerks as may be necessary.

(c) A stenographer, and such deputy chiefs, inspectors, captains, sergeants and other employees as may be necessary.

The salaries of all persons appointed under this section shall be fixed by the director with the approval of the Department of Finance.

Members of patrol

113. Who Are Members of the California Highway Patrol. The director, the Chief of the California Highway Patrol, and the assistant chief, deputy chiefs, inspectors, captains, sergeants and traffic officers appointed by said chief, shall constitute the members of the California Highway Patrol.

Appointments

114. Method of Making Certain Appointments. (a) When appointments are to be made of traffic officers and traffic clerks to serve in a given county, the board of supervisors of such county shall be notified by the Chief of the California Highway Patrol of such contemplated appointments, and thereupon said board shall submit a list of persons proposed for such positions. If any board of supervisors should fail or refuse to submit a list of names for such appointments then the Chief of the California Highway Patrol shall prepare a list of names for such appointments.

(b) All persons so listed shall take an examination in accordance with the civil service laws and all such appointments shall be made from the eligible list resulting from said examination.

Qualifications

115. Qualifications of Applicants. Applicants for examination for the positions of captain, sergeant, traffic officer or traffic clerk shall be limited to citizens of the United States who for at least one year immediately preceding the date of any examination shall have maintained a bona fide residence within one of the counties in which the California Highway Patrol is established. No person shall be eligible for appointment to any such position unless he shall have been a resident of the county in which he is to serve at least six months immediately prior to the date of his appointment.

Ratings

116. Permanent Ratings. Every inspector, captain, sergeant, traffic officer and traffic clerk, duly appointed hereunder, shall serve a probationary period of one year and if,

upon the expiration thereof, he retains his position, he shall acquire permanent civil service status and be rated as to efficiency by the Chief of the California Highway Patrol in accordance with the civil service laws.

Promotions

117. Promotions. All appointments to the grades of supervising inspector, assistant supervising inspector, district inspector, inspector, captain and sergeant shall be made from eligible lists resulting from promotional examinations. For the purposes of recruiting, the grade of assistant supervising inspector shall be considered on a par with that of district inspector, the grade of inspector shall be considered on a par with that of captain, and the grade of sergeant shall be considered on a par with that of traffic officer. Whenever any civil service position of promotional grade is abolished, eliminated, or made unnecessary, the member of the California Highway Patrol holding such position shall, upon the termination of such position, be assigned to a position in the next lower grade with the civil service standing, rank, and salary of such lower grade. The specific position to which such officer is assigned in the next lower grade shall be that occupied by the officer in said lower grade having the lowest efficiency rating. Any officer so assigned to a position in a lower grade shall, without further examination, be given preference for a position of the same or equal grade to the one he formerly held, if the abolished position or position of equal grade is reestablished or established.

Service

118. Requisites of Promotion. No person shall be a candidate for promotion until he has served at least one year in the grade immediately preceding the one to which he seeks appointment. Promotional examination shall be held pursuant to the civil service laws.

Civil service.

119. Retention of Civil Service Status. All members and employees of the California Highway Patrol holding their positions under civil service rating on the day this code takes effect shall retain their civil service status.

Specialized positions

120. Specialized Positions. Such specialized positions as shall be designated by the Chief of the California Highway Patrol with the approval of the director and the Civil Service Commission shall be filled from open competitive examinations held pursuant to the civil service laws.

Violation of laws and rules.

121. Violation of Laws or Rules. Members of the California Highway Patrol subject to civil service who violate any provision of section 14 of the State Civil Service Act or any of the rules or regulations of the California Highway Patrol shall be subject to the penalties set forth in section 14 of the State Civil Service Act. No such penalty shall be imposed unless a verified complaint is first made setting forth specific charges and after reasonable notice a hearing is held by a trial board of three members of said patrol, of equal or superior rank to the accused, appointed by the Chief of the California Highway Patrol. Said hearing shall be held in the county in which the offense charged is alleged to have been committed. At such hearing the accused is entitled to appear personally or with

counsel and to have a public trial. The findings of the trial board shall be submitted to the Chief of the California Highway Patrol and his decision when approved by the Civil Service Commission is final.

Workmen's compensation.

122. Workmen's Compensation. For the purpose of determining the scope of employment of any member of the California Highway Patrol under the workmen's compensation laws, any such member shall be deemed to be on duty and acting within the scope of his employment when actually exercising any of the powers or performing any of the duties imposed or authorized by law at any time during the twenty-four hours of the day.

Assignment for duty

123. Assignment of Members for Service Outside County of Appointment. The Chief of the California Highway Patrol whenever in his opinion an emergency in the enforcement of this code exists, may assign the members of the California Highway Patrol for service in any portion of the State. No member of the California Highway Patrol appointed to serve in any county shall be assigned for service outside said county for a longer period than one week, without the consent of the board of supervisors of that county.

Administration.

124. Administration of California Highway Patrol. (a) The Chief of the California Highway Patrol shall make adequate provision for the patrol of the highways at all times both day and night.

(b) The chief may:

(1) Establish a school for the training and education of the members of the California Highway Patrol in traffic regulation, their duties and the proper enforcement of this code.

(2) Create highway patrol districts for the efficient administration and enforcement of this code.

(3) Adopt rules and regulations relative to all activities of the California Highway Patrol.

Badges.

125. California Highway Patrol Badges. (a) The Chief of the California Highway Patrol shall issue to each member of the patrol a badge of authority with the seal of the State of California in the center thereof, the words "California Highway Patrol" encircling said seal and below the designation of the position held by the member to whom issued.

(b) Neither the director, the chief nor any other person shall issue any such badge to any person who is not a duly appointed and acting member of the California Highway Patrol.

(c) Any person who without authority wears the badge of a member of the California Highway Patrol, or a badge of similar design which would tend to deceive anyone, is guilty of a misdemeanor.

(d) Any person who impersonates a member of the California Highway Patrol with intent to deceive anyone is guilty of a misdemeanor.

Offices and stations.

126. Offices and Stations. (a) The department shall maintain an office at the State capital.

(b) The director, as and where he may deem necessary, may establish and maintain (1) branch offices and (2) stations at the State boundary line.

(c) The Chief of the California Highway Patrol shall, in counties having charters other than counties of the first and second class, and may from time to time, in such localities of this State as he deems most suitable, establish headquarters or substations for the efficient performance of the duties of the California Highway Patrol and for that purpose may lease or purchase lands and buildings, in accordance with law.

CHAPTER 2. POWERS AND DUTIES.

128. Powers and Duties of Director. (a) The director shall administer and enforce this code and shall enforce all other laws regulating the operation of vehicles or the use of the highways. Powers of director.

(b) The director may adopt and enforce such rules and regulations as may be necessary to carry out the provisions of this code.

(c) The department may purchase such real estate and erect such buildings as it may require, subject to the approval of the Department of Finance.

129. Department to Prescribe Forms. The department shall prescribe and provide suitable forms of applications, certificates of ownership, registration cards, operators' and chauffeurs' licenses and all other forms requisite or deemed necessary for the purposes of this code and shall prepay all transportation charges thereon. Forms

130. Records of Department. All records of the department relating to the registration of vehicles and the licenses of operators or chauffeurs shall be open to public inspection during office hours. Records

131. Authority of Officers and Employees. (a) Officers and employees of the department are for the purposes of this code authorized to administer oaths and acknowledge signatures, and shall do so without fee. Oaths

(b) The director and such officers of the department as he may designate may, upon request, prepare under the seal of the department and deliver without charge a certified copy of any record of the department received or maintained under this code. Certified copies of records

(Added by Ch. 156, Stats. 1935.)

132. Authority to Grant or Refuse Applications. The department shall examine and determine the genuineness and regularity of every application for registration of a vehicle and for an operator's or chauffeur's license and of every other application herein provided for and may in all cases require additional information and reject any such application if not satisfied of the genuineness and regularity thereof or the truth of any statement contained therein. Application for registration.

Seizure of evidence of registration or license

133. Seizure of Documents and Plates. The department may take possession of any certificate, card, permit, license or license plate issued hereunder upon expiration, revocation, cancellation or suspension thereof or which is fictitious or which has been unlawfully or erroneously issued.

Distribution of synopsis of laws

134. Distribution of Synopsis of Laws. The department may publish a synopsis or summary of the laws regulating the operation of vehicles and the use of the highways and may deliver a copy thereof without charge with each original vehicle registration and with each original operators' and chauffeurs' license.

(Amended by Ch. 156, Stats. 1935.)

[ORIGINAL SECTION.]

134. Distribution of Synopsis of Laws. The department shall publish a synopsis or summary of the laws regulating the operation of vehicles and the use of the highways and deliver a copy thereof without charge with each original vehicle registration.

Police authority of patrol

135. Police Authority of Members of the California Highway Patrol. All members of the California Highway Patrol shall have the power:

(a) Of peace officers provided that the primary duty of the California Highway Patrol shall be the enforcement of the provisions of this code and of any and all other acts respecting the use or operation of vehicles upon public highways, and the members thereof shall not act as peace officers in enforcing any other law except

(1) when in pursuit of any offender or suspected offender,

(2) to make arrests for crimes committed in their presence or upon any highway.

(b) At all times to direct all traffic in conformance with the provisions of law, and in the event of a fire or other emergency or to expedite traffic or to insure safety to direct traffic as conditions may require notwithstanding the provisions of this code.

(c) When on duty, upon reasonable belief that any vehicle is being operated in violation of any provision of this code, to require the driver thereof to stop and submit to an inspection of such vehicle, the equipment, license plates and registration card thereon or to a test of the light or brake equipment upon such vehicle.

(d) To inspect any vehicle of a type required to be registered hereunder on a highway or in any garage or repair shop for the purpose of locating stolen vehicles and investigating the title and registration thereof.

(e) To serve all warrants relating to the enforcement of this code.

(Amended by Ch. 589, Stats. 1935.)

[ORIGINAL SECTION.]

135. Police Authority of Members of the California Highway Patrol. All members of the California Highway Patrol shall have the power:

(a) Of peace officers for the purpose of enforcing the provisions of this code.

(b) At all times to direct all traffic in conformance with the provisions of law, and in the event of a fire or other emergency or to expedite traffic or to insure safety to direct traffic as conditions may require notwithstanding the provisions of this code.

(c) When on duty, upon reasonable belief that any vehicle is being operated in violation of any provision of this code, to require the driver thereof to stop and submit to an inspection of such vehicle, the equipment, license plates and registration card thereon or to a test of the light or brake equipment upon such vehicle.

(d) To inspect any vehicle of a type required to be registered hereunder on a highway or in any garage or repair shop for the purpose of locating stolen vehicles and investigating the title and registration thereof.

(e) To serve all warrants relating to the enforcement of this code.

Duties as to traffic accidents

135.5. [Investigation of Accidents by Highway Patrol.] All members of the California Highway Patrol shall have the power to investigate accidents resulting in personal injuries or death and to gather evidence for the purpose of prosecuting the person or persons guilty of any violation of the law contributing to the happening of such accident.

(Added by Ch. 783, Stats. 1935.)

Registrar.

136. Authority of Registrar. The Registrar of Vehicles has personally the power of a peace officer for the purpose of enforcing those provisions of law now or hereafter committed to the administration of the Division of Registration.

(Added by Ch. 156, Stats. 1935.)

Registration and licensing business

137. Restrictions Upon Engaging in the Registration and License Business. No person shall engage in the business of soliciting or receiving any application for the registration, re-registration or transfer of registration of any vehicle of a type subject to registration hereunder, or for any nonresident permit for the operation of any such vehicle within this State, or for an operator's or chauffeur's license, or of transmitting or presenting the same to the department or any branch office thereof, when any compensation is solicited or received for any such service; but such restrictions shall not apply to a common carrier acting in the regular course of its business in so transmitting such applications, nor to such service rendered by an agency or bureau to any person where such person has previously in writing informed the department of his desire to be represented by such agency or bureau and the department has granted permission to said agency or bureau to act as such representative.

Advertising.

138. Unlawful Advertising as Department. It is unlawful for any person to display or cause or permit to be displayed any sign, mark or advertisement containing the term "Department of Motor Vehicles," "State Motor Vehicle Department," "Director of the Department of Motor Vehicles," "California Highway Patrol" or any similar term, name or designation indicating an official connection with the department unless such person then has lawful authority, permission or right to make such display.

DIVISION III. REGISTRATION.

[In effect January 1, 1936. See Sec. 801.]

CHAPTER 1. ORIGINAL AND RENEWAL OF REGISTRATION.

Moving unregistered vehicles.

140. Misdemeanor to Violate Registration Requirements. It is a misdemeanor for any person to drive or move, or for an owner knowingly to permit to be driven or moved, upon any highway any vehicle of a type required to be registered hereunder which is not registered or for which the appropriate fee has not been paid as required hereunder, subject to such exceptions as are stated in this code.

Registration

141. What Vehicles Shall Be Registered. Subject to the exemptions stated in section 142 hereof, registration of the following vehicles is required when driven or moved upon a highway: Any motor vehicle, trailer, semitrailer, pole or pipe dolly.

Exemptions

142. Exemptions from Registration. The registration provisions of this chapter shall not apply to any of the following vehicles:

(a) Any vehicle of a type otherwise subject to registration hereunder which is driven or moved upon a highway in conformance with the provisions of this code relating to dealers, transporters or nonresidents or under a temporary registration permit issued by the department as authorized by section 147 hereof.

(b) Any vehicle of a type otherwise subject to registration hereunder which is driven or moved upon a highway only for the purpose of crossing such highway from one property to another in accordance with a permit issued by the Department of Public Works.

(c) Any implement of husbandry, whether of a type otherwise subject to registration hereunder or not, which is only incidentally operated or moved over a highway.

(d) Special mobile equipment.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

142. Exemptions from Registration. The registration provisions of this chapter shall not apply to any of the following vehicles:

(a) Any vehicle of a type otherwise subject to registration hereunder which is driven or moved upon a highway in conformance with the provisions of this code relating to dealers or nonresidents or under a temporary registration permit issued by the department as authorized by section 147 hereof.

(b) Any vehicle of a type otherwise subject to registration hereunder which is driven or moved upon a highway only for the purpose of crossing such highway from one property to another in accordance with a permit issued by the department of public works.

(c) Any implement of husbandry, whether of a type otherwise subject to registration hereunder or not, which is only incidentally operated or moved over a highway.

(d) Special mobile equipment.

Application

143. Application for Registration. Application for the original registration of a vehicle of a type required to be registered hereunder shall be made by the owner to the department upon the appropriate form furnished by it and shall contain:

(a) The name and address of the owner, and of the legal owner if any.

(b) The name of the county in which the owner resides.

(c) A description of the vehicle including, in so far as the hereinafter specified data may exist with respect to a given vehicle, the make, model, type of body, the number of cylinders, the serial number of the vehicle, the motor number of the vehicle, and the date first sold by a manufacturer or dealer to a consumer.

(d) Such further information as may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to registration.

145. Application for Registration of Special Vehicles. In the event the vehicle to be registered is a specially constructed or a reconstructed vehicle, the application shall also state such fact and contain such additional information as may reasonably be required by the department to enable it properly to register such vehicle.

Vehicles registered outside of State

146. Application for Registration of Vehicle Previously Registered Outside This State. (a) Upon application for registration of a vehicle previously registered outside this State, the application shall be verified and shall also state such fact and the time and place of the last registration of such vehicle outside this State and the name and address of the governmental officer, agency, or authority making such registration, together with such further information relative to its previous registration as may reasonably be required by the department, including the time and place of original registration, if known, and if different from such last foreign registration; and, except as provided in subdivision (b) of this section, the applicant shall surrender to the department all license plates, seals, certificates or other evidence of foreign registration as may be in his possession or under his control.

(b) No nonresident entering this State and subject to registration under the provisions of subdivision (b) of section 216, shall be required to surrender the evidences of foreign registration mentioned in subdivision (a) of this section.

(Amended by Ch 527, Stats. 1935.)

[ORIGINAL SECTION.]

146. Application for Registration of Vehicle Previously Registered Outside This State. Upon application for registration of a vehicle previously registered outside this State, the application shall also contain such information relative to its previous registration as may reasonably be required by the department, including the date of any original registration, if known; and the applicant shall surrender to the department all license plates, seals, certificates or other evidence of foreign registration as may be in his possession or under his control.

Notice of application

146.5. Notice of Application for Registration of Vehicle Previously Registered Outside This State. The department shall forthwith mail a notice of the filing of any application for registration of a vehicle previously registered outside this State to the governmental officer, agency, or authority which made the last registration of such vehicle outside this State.

Such notice must contain like data as required on the application filed with the department. No vehicle previously registered outside this State shall be registered in this State nor shall the department issue any certificate of ownership, registration card, nor license plate or plates hereunder therefor prior to the expiration of ninety days from the day on which the application for registration thereof hereunder is filed with said department, but the foregoing limitations in this sentence shall not apply to commercial vehicles operating in interstate transportation nor affect the right of the department to grant temporary permits under section 147.

(Added by Ch. 527, Stats. 1935.)

Temporary permit.

147. Temporary Permit Pending Registration. The department in its discretion may grant a temporary permit to operate a vehicle for which application for registration has been made, where such application is accompanied by the proper fee pending action upon said application by the department.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

147. Temporary Permit Pending Registration. The department in its discretion may grant a temporary permit to operate a vehicle for which application for registration has been made, pending action upon said application by the department.

Refusal of registration or transfer.

148. Grounds Requiring Refusal of Registration. The department shall refuse registration or transfer of registration upon either of the following grounds:

(a) That the application contains any false or fraudulent statement.

(b) That the required fee has not been paid.

149. Grounds Permitting Refusal of Registration. The department may refuse registration or transfer of registration of a vehicle in any of the following events:

(a) If the department is satisfied that the applicant is not entitled thereto under the provisions of this code.

(b) If the applicant has failed to furnish the department the information required in the application or reasonable additional information required by the department.

(c) If the department determines that the applicant has made or permitted to be made unlawful use of any registration certificate, certificate of ownership or license plates.

(d) If the vehicle is mechanically unfit or unsafe to be operated or moved on the highways.

(e) If the department determines that a manufacturer or dealer has failed to comply with the provisions of this code relating to the giving of notice of the transfer of a vehicle to the department during the current or previous year.

Indices and records

150. Registration Indices and Records. (a) The department shall file each application received and when satisfied as to the genuineness and regularity thereof, and that the applicant is entitled to register such vehicle, shall register the vehicle therein described and keep a record thereof in suitable books or on index cards as follows:

(1) Under a distinctive registration number assigned to the vehicle.

(2) Alphabetically, under the name of the owner.

(3) Under the motor number of the vehicle.

(4) In the discretion of the department, in any other manner it may deem desirable.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

150. Registration Indices and Records. (a) The department shall file each application received and when satisfied as to the genuineness and regularity thereof, and that the applicant is entitled to register such vehicle, shall register the vehicle therein described and keep a record thereof in suitable books or on index cards as follows:

(1) Under a distinctive registration number assigned to the vehicle.

(2) Alphabetically, under the name of the owner.

(3) Under the motor number of the vehicle.

(4) In the discretion of the department, in any other manner it may deem desirable.

(b) The department shall post daily a record of all new vehicle registrations and transfers of registration upon public bulletin boards to be maintained by the department in each of its offices. No information relative to the matters required to be set forth in such posted records shall be made public by any officer or employee of the department in advance of such posting.

Certificate

151. Procedure Upon Registration. The department upon registering a vehicle shall issue a certificate of ownership to the legal owner and a registration card to the owner, or both to the owner if there is no legal owner of the vehicle.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

151. Procedure Upon Registration. The department upon registering a vehicle shall issue a certificate of ownership to the legal owner and a registration card to the owner, or both to the owner if there is no legal owner of the vehicle. Whenever a vehicle is first registered hereunder, the department shall issue a suitable container with the registration card issued for such vehicle.

Registration card.

152. Contents of Registration Card. The registration card shall contain upon the face thereof the date issued, the name and address of the owner and of the legal owner if any, the registration number assigned to the vehicle and a description of such vehicle as complete as that required in the application for registration of such vehicle.

Certificate of ownership.

153. Contents of Certificate of Ownership. (a) The certificate of ownership shall contain upon the face thereof the identical information required upon the face of the registration card.

(b) The certificate of ownership shall contain upon the reverse side forms for notice to the department of a transfer of the title or interest of the owner or legal owner and application for such transfer by the transferee.

Certificate of vehicles previously registered outside State

154. Distinctive Certificate and Card for Vehicles Previously Registered Outside This State. The certificate of ownership and registration card issued upon registration of a vehicle previously registered outside this State and every renewal or reissue thereof shall also give the time and name of the State

or country in which such vehicle was last previously registered outside this State, and shall give the date of the original registration, if known, and if different from such last foreign registration, and shall be distinguishable by a different color from the certificate of ownership and registration card issued for other vehicles registered hereunder.

(Amended by Ch. 527, Stats. 1935.)

[ORIGINAL SECTION.]

154 Distinctive Certificate and Card for Vehicles Previously Registered Outside This State. The certificate of ownership and registration card issued upon registration of a vehicle previously registered outside this State and every renewal or reissue thereof shall also bear the name of the State or country in which such vehicle was previously registered, and shall give the date of the original registration if known, and shall be distinguishable by a different color from the certificate of ownership and registration card issued for other vehicles registered hereunder.

Signatures and display of card

155. Owner to Sign and Display Registration Card. (a) Every owner upon receipt of a registration card shall write his signature thereon with pen and ink in the space provided and shall place and thereafter maintain the same in a suitable container so as to clearly show the entire face of said registration card and shall securely fasten said container and card in plain sight in the driver's compartment of the vehicle for which issued or, if the vehicle has no driver's compartment, shall so fasten the same in plain sight upon, or carry the same in some receptacle attached to, the vehicle.

(b) The provisions of this section shall not apply when a registration card is necessarily removed from the vehicle for which issued for the purpose of application for renewal thereof or a transfer of registration of said vehicle.

License plates

156. License Plates to Be Furnished by the Department. (a) The department upon registering a vehicle shall issue to the owner two license plates for a motor vehicle other than a motorcycle, and one license plate for all other vehicles required to be registered hereunder.

(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, together with the word "California" or the abbreviation "Cal." and the year number for which it is issued.

(c) License plates issued for motor vehicles other than motorcycles shall be rectangular in shape, thirteen and seven-eighths inches in length and six and one-eighth inches in width.

Special plates.

157. Special Series License Plates. License plates issued for trailers, semitrailers, and pole and pipe dollies, and such vehicles as are exempt from the payment of registration fees hereunder shall display suitable distinguishing marks or symbols and the registration numbers assigned to each such class of vehicles shall run in a separate numerical series, except that the registration numbers assigned to such vehicles as are exempt from the payment of registration fees may run in several separate numerical series.

158. Display of License Plates (a) License plates issued for a motor vehicle other than a motorcycle shall be attached thereto, one in the front and the other in the rear. The license plate issued for all other vehicles required to be registered hereunder shall be attached to the rear thereof. Display of plates

(b) Every license plate shall at all times be securely fastened to the vehicle for which it is issued so as to prevent the plate from swinging and at a minimum distance of sixteen inches from the ground in a position to be clearly visible and shall be maintained free from foreign materials and in a condition to be clearly legible.

159. Expiration of Registration. (a) Every vehicle registration under this code and every registration card issued hereunder shall expire at midnight on the thirty-first day of December of each year and shall be renewed annually. Expiration of registration

(b) Certificates of ownership shall not be renewed annually but shall remain valid until suspended, revoked or canceled by the department for cause or upon a transfer of any interest shown therein.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

159. Expiration of Registration. (a) Every vehicle registration under this code and every registration card issued hereunder shall expire at midnight on the thirty-first day of December of each year and shall be renewed annually.

(b) Certificates of ownership need not be renewed annually but shall remain valid until suspended, revoked or canceled by the department for cause or upon a transfer of any interest shown therein

160. Application for Renewal Application for renewal of a vehicle registration expiring on the date above mentioned shall be made by the owner between January 1 and midnight of February 4 succeeding said expiration date and shall be made by presentation of the registration card last issued for the vehicle and by payment of the full annual fee for such vehicle as provided in this code Renewal.

(Amended by Ch 671. Stats. 1935.)

[ORIGINAL SECTION.]

160 Application for Renewal. Application for renewal of a vehicle registration shall be made by presentation of the registration card last issued for the vehicle and by payment of the registration fee for such vehicle as provided in this code. The renewal shall take effect on January 1 of the year for which registration is applied for.

161. Operation of Vehicle Pending Renewal. When application for renewal of registration of a vehicle has been made as required in section 160 hereof, such vehicle may be operated on the highways until the new license plate or plates have been received from the department upon condition that there be displayed on such vehicle the license plate or plates issued to such vehicle for the previous year. Operation pending renewal

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

161. Operation of Vehicle Pending Renewal. The owner of a vehicle registered under the provisions of this code who has duly applied for the annual renewal of registration of such vehicle within fifteen days after the annual expiration of license, accompanying such application with the proper fee for such registration, may operate such vehicle until midnight of January thirty-first without displaying the registration certificate of the current year, on condition that such owner during said time displays upon such vehicle the number plates or plate assigned thereto for the previous year.

Refusal of renewal

163. Refusal of Renewal. No vehicle registration shall be renewed when the department has received notice from a court that the person making application for such renewal has for a period of fifteen or more days wilfully violated his written promise to appear given upon an arrest for any violation of this code as provided herein unless and until the department receives a certificate signed by the magistrate, or the clerk of the court, hearing the case in which such promise was given showing that said case has been adjudicated.

Renewal of registration.

164. Department to Renew Registration. (a) The department upon renewing a registration shall issue a new registration card and license plate or plates to the owner as upon an original registration.

(b) Upon annual renewal, if there is a legal owner of the vehicle, the department shall immediately notify such legal owner by mail of the registration number assigned to such vehicle for the ensuing year.

Stolen, lost or damaged certificates.

165. Stolen, Lost or Damaged Certificates, Cards and Plates. (a) In the event any registration card or license plate is stolen, lost, mutilated or illegible the owner of the vehicle for which the same was issued as shown by the records of the department shall immediately make application for and may obtain a duplicate or a substitute or a new registration under a new registration number, as determined to be most advisable by the department, upon the applicant furnishing information satisfactory to the department.

(b) In the event any certificate of ownership is stolen, lost, mutilated or illegible, the legal owner or, if none, then the owner of the vehicle for which the same was issued as shown by the records of the department shall immediately make application for and may obtain a duplicate upon the applicant furnishing information satisfactory to the department.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

165. Lost or Damaged Certificates, Cards and Plates. (a) In the event any registration card or license plate is lost, mutilated or illegible the owner of the vehicle for which the same was issued as shown by the records of the department shall immediately make application for and may obtain a duplicate or a substitute or a new registration under a new registration number, as determined to be most advisable by the department, upon the applicant furnishing information satisfactory to the department.

(b) In the event any certificate of ownership is lost, mutilated or illegible, the legal owner or, if none, then the owner of the vehicle for which the same was issued as shown by the records of the department shall immediately make application for and may obtain a duplicate upon the applicant furnishing information satisfactory to the department.

166. Department May Assign New Motor Numbers. The department may assign a distinguishing motor number to the motor in any motor vehicle whenever the motor number thereon is destroyed or obliterated and any motor vehicle to which a distinguishing motor number is assigned as authorized herein shall be registered under such distinguishing number when registration of the motor vehicle is required under this code. New motor numbers

167. Regulations Governing Change of Motors. The director may adopt and enforce such registration rules and regulations as are necessary and compatible with the public interest with respect to the temporary change or substitution of one motor in place of another in any motor vehicle. Change of motors

CHAPTER 2. TRANSFERS OF TITLE OR INTEREST.

175. Endorsement of Certificate Upon a Transfer. Upon a transfer of the title or any interest of the legal owner or owner in or to a vehicle registered hereunder, the person whose title or interest is to be transferred shall write his signature with pen and ink, and the transferee shall write his signature and address with pen and ink, in the appropriate space provided upon the reverse side of the certificate of ownership issued for such vehicle. Transfers.

176. Delivery of Certificate. It is unlawful for any person to fail or neglect properly to endorse and deliver the certificate of ownership to a transferee who is lawfully entitled to a transfer of registration. Delivery of certificate

177. Transferor to Notify Department. (a) Whenever the owner of a vehicle registered hereunder sells or transfers his title or interest in, and delivers the possession of, said vehicle to another, said owner shall immediately notify the department of such sale or transfer giving the date thereof, the name and address of such owner and of the transferee and such description of the vehicle as may be required in the appropriate form provided for such purpose by the department. Notice to department

(b) Every dealer upon transferring by sale, lease or otherwise any vehicle, whether new or used, of a type subject to registration hereunder, shall immediately give written notice of such transfer to the department upon the appropriate form provided by it but a dealer need not give such notice when selling or transferring a vehicle to another dealer.

178. Owner Released From Liability for Negligence Upon Transfer. Whether notice of a transfer be given or not as hereinbefore required an owner who has made a bona fide sale or transfer of a vehicle and has delivered possession thereof to a purchaser and has made proper endorsement and delivery of the certificate of ownership as provided in this code shall not by reason of any of the provisions of this code be deemed the owner of such vehicle so as to be subject to civil liability for the operation of such vehicle thereafter by another. Liability upon transfer

179. Transferee to Apply for Transfer. Whenever any person has received as transferee a properly endorsed certifi- Application for transfer

cate of ownership, the registration card and possession of the vehicle described in said certificate and card, such transferee shall within ten days thereafter forward such certificate and card with the proper transfer fee to the department and thereby make application for a transfer of registration, except as provided in the next section.

Transfer by dealer.

180. When Transferee Need Not Apply for Transfer. The provisions of section 179 hereof shall not apply when the transferee of a vehicle is a dealer who holds the same for resale and operates or moves the same upon the highways under special plates solely for purposes of testing, demonstrating or selling the same, but such dealer upon transferring his title or interest to another person shall endorse his signature upon the certificate of ownership, deliver such certificate and registration card to such other person and shall give notice of such transfer to the department upon the appropriate form provided by it.

Transfer of vehicle registered outside State.

180.5. Restriction on Transfer of Vehicle Previously Registered Outside This State. Neither the title to nor any interest in any vehicle previously registered outside this State shall be transferred within this State by any person, whether dealer, manufacturer, or private individual, unless such vehicle is then registered in this State under the provisions of this code.

(Added by Ch. 527, Stats. 1935.)

Transfer of registration

181. Department to Transfer Registration. (a) The department upon receipt of a properly endorsed certificate of ownership and the proper registration card and upon receipt of the required fee shall reregister the vehicle under its registration number in the name of the new owner, and new legal owner if any, and shall issue a new registration card and certificate of ownership as provided upon an original registration.

(b) The department before transferring the registration of a vehicle shall check the certificate or application for such transfer against the stolen vehicle index maintained as provided in this code and determine therefrom that it is not a stolen vehicle.

When transferee has no certificate or card

182. Transferee Unable to Produce Certificate or Registration Card. Whenever application is made to the department for a transfer of registration of a vehicle to a new owner or legal owner and the applicant is unable to present the certificate of ownership or registration card issued for such vehicle by reason of the same being lost or otherwise not available, the department may receive such application and examine into the circumstances of the case and may require the filing of affidavits or other information and when the department is satisfied that the applicant is entitled to a transfer of registration the department may transfer the registration of such vehicle, or reregister such vehicle under a new registration number, and issue a new certificate of ownership and registration card to the person or persons found to be entitled thereto.

Assignment by legal owner

183. Assignment By Legal Owner Only. A legal owner may assign his title or interest in or to a vehicle registered hereunder to a person other than the owner without the consent

of and without affecting the interest of such owner. The department upon receiving a certificate of ownership endorsed by the legal owner and the transferee of legal ownership shall accordingly transfer the legal ownership and shall issue a new certificate of ownership to the new legal owner and a new registration card to the owner.

The owner upon receiving such new registration card shall immediately sign the same and place it in the vehicle to which it refers and shall destroy the former registration card for such vehicle.

Involuntary transfers

184. Transfers Other Than Voluntary Transfers. Whenever the title or interest of any owner or legal owner in or to a vehicle registered hereunder passes to another otherwise than by voluntary transfer the new owner or legal owner may obtain a transfer of registration upon application therefor and upon presentation of the last certificate of ownership and registration card issued for said vehicle, if available, and such instruments or documents of authority or certified copies thereof as may be required by the department, or required by law, to evidence or effect a transfer of title or interest in or to chattels in such case. The department when satisfied of the genuineness and regularity of such transfer shall give notice by mail to the owner and legal owner of such vehicle as shown by the records of the department and five days after the giving of such notice, if still satisfied of the genuineness and regularity of such transfer, shall transfer the registration of the vehicle accordingly.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

184 Transfers Other Than Voluntary Transfers. Whenever the title or interest of an owner or legal owner in or to a vehicle registered hereunder passes to another otherwise than by voluntary transfer the new owner or legal owner may obtain a transfer of registration upon application as for an original registration together with a verified or certified statement setting forth the reason for such transfer, the interest transferred, the name of the person from whom transferred, the name and address of the transferee, the procedure effecting such transfer and such other information as is required by the department. Such statement shall be accompanied by evidence and instruments otherwise required by law to transfer the interest in such vehicle. The department when satisfied of the genuineness and regularity of such transfer shall give notice by mail to the owner and legal owner of such vehicle as shown by the records of the department and thereafter, but not less than five days after the giving of such notice, if still satisfied of the genuineness and regularity of such transfer, shall transfer the registration of the vehicle accordingly.

Transfer of decedent's vehicle

185. Transfer Without Probate. Upon the death of an owner or legal owner of not more than one vehicle registered hereunder and not exceeding a value of one thousand dollars without such decedent's leaving other property necessitating probate, the surviving husband or wife or other heir in the order named in section 630 of the Probate Code, unless such vehicle is by will otherwise bequeathed, may secure a transfer of registration of the title or interest of the deceased upon presenting to the department the appropriate certificate of ownership and registration card, if available, and an affidavit

of such person setting forth the fact of such survivorship or heirship and the names and addresses of any other heirs, and, if required by the department, a certificate of the death of the deceased. The department when satisfied of the genuineness and regularity of such transfer shall transfer the registration accordingly.

When transfer complete

186. When Transfer Deemed Complete. No transfer of the title or any interest in or to a vehicle registered hereunder shall pass nor shall delivery of any said vehicle be deemed to have been made and any attempted transfer shall not be effective for any purpose until transfer of registration is made and the department has issued a new certificate of ownership and registration card with respect thereto as provided herein, except as a transferor may be estopped by law to deny a transfer and except as provided in sections 178 and 180 hereof and in Chapter 3 of this division.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

186. When Transfer Deemed Complete. No transfer of the title or any interest in or to a vehicle registered hereunder shall pass nor shall delivery of any said vehicle be deemed to have been made and any attempted transfer shall not be effective for any purpose until transfer of registration is made and the department has issued a new certificate of ownership and registration card with respect thereto as provided herein, except as provided in sections 178 and 180 hereof and in Chapter 3 of this division.

CHAPTER 3. CHATTEL MORTGAGE LIENS.

Chattel mortgages of vehicles.

195. Application for Chattel Mortgage. No chattel mortgage on any vehicle registered hereunder irrespective of whether such registration was effected prior or subsequent to the execution of such mortgage, is valid as against creditors or subsequent purchasers or encumbrancers until the mortgagee or his successor or assignee has deposited with the department, at its office in Sacramento, a copy of said mortgage with an attached certificate of a notary public stating that the same is a true and correct copy of the original, accompanied by a properly endorsed certificate of ownership to the vehicle described in said mortgage if said vehicle is then registered hereunder, or if said vehicle is not so registered, by an application in usual form for an original registration, together with an application for registration as legal owner, and upon payment of the fees as provided in this code.

(Amended by Ch. 154, Stats. 1935.)

[ORIGINAL SECTION.]

195. Chattel Mortgagee to Register as Legal Owner No chattel mortgage on any vehicle registered hereunder is valid as against creditors or subsequent purchasers or encumbrancers until the mortgagee named therein is registered as legal owner under this code.

Notice of mortgage

196. Registration Effective to Give Notice. When the chattel mortgagee, his successor or assignee, has deposited with the department a copy of the chattel mortgage as provided in section 195 hereof, such deposit constitutes construc-

tive notice of said mortgage and its contents to creditors and subsequent purchasers and encumbrancers but such mortgaged vehicle shall be subject to a lien as provided in Division VIII hereof.

(Amended by Ch. 154, Stats. 1935.)

[ORIGINAL SECTION.]

196. Application for Such Registration. The mortgagee in any such chattel mortgage may obtain registration as legal owner by depositing with the department a copy of said mortgage with an attached certificate of a notary public stating that the same is a true and correct copy of the original, accompanied by a properly endorsed certificate of ownership to the vehicle described in such mortgage if said vehicle is then registered hereunder or, if said vehicle is not so registered, by an application in usual form for an original registration, and upon payment of the fees as provided in this code. If the mortgagee at the time of depositing the mortgage is registered as the legal owner of the mortgaged vehicle, the certificate of ownership need not be deposited.

Registration of mortgagee as legal owner

197. Registration as Legal Owner. Upon the deposit of any such chattel mortgage and application for registration and upon the payment of the fees as provided in this code, the department shall register the mortgagee, his successor or assignee as legal owner in the manner provided for the registration of motor vehicles under the provisions of this act.

(Amended by Ch. 154, Stats 1935.)

[ORIGINAL SECTION.]

197. Registration Effective to Give Notice. When the chattel mortgagee has been registered as legal owner of the mortgaged vehicle and there has been deposited with the department a copy of the chattel mortgage with said attached notary's certificate, such deposit constitutes constructive notice of said mortgage and its contents to creditors and subsequent purchasers and encumbrancers but such mortgaged vehicle shall be subject to a lien as provided in Division VIII hereof.

Method of notice exclusive

198. Exclusive Method of Giving Notice The method provided in this chapter for giving constructive notice of a chattel mortgage on a vehicle registered hereunder is exclusive and any such chattel mortgage is excepted from the provisions of sections 2959, 2965 and 2966 of the Civil Code and those provisions of section 2957 of said code which relate to the recording of mortgages on personal property.

(Amended by Ch. 154, Stats. 1935.)

[ORIGINAL SECTION.]

198. Exclusive Method of Giving Notice The method provided in this chapter of giving constructive notice of a chattel mortgage on a vehicle registered hereunder is exclusive and any such chattel mortgage is excepted from the provisions of sections 2959, 2965 and 2966 of the Civil Code and those provisions of section 2957 of said code which relate to the recording of mortgages on personal property.

CHAPTER 4. ISSUANCE OF SPECIAL PLATES TO DEALERS.

Operation under special plates.

205. Operation of Vehicles Under Special Plates. (a) A manufacturer or dealer owning any vehicle of a type otherwise required to be registered hereunder may operate or move the same upon the highways solely for the purposes of testing, demonstrating or selling the same without registering each such vehicle upon condition that any such vehicle display

thereon in the manner prescribed in section 158 hereof a special plate or plates issued to such owner as provided in this chapter.

(b) A transporter may operate or move any vehicle of like type upon the highways solely for the purpose of delivery upon likewise displaying thereon like plates issued to him as provided in this chapter.

(c) The provisions of this section do not apply to any manufacturer, transporter or dealer operating or moving a vehicle as provided in section 207.

(d) The provisions of this chapter do not apply to work or service vehicles owned by a manufacturer, transporter or dealer.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

205. Operation of Vehicles Under Special Plates. (a) A manufacturer having an established place of business in this State or dealer owning any vehicle of a type otherwise required to be registered hereunder may operate or move the same upon the highways solely for purposes of testing, demonstrating or selling the same without registering each such vehicle upon condition that any such vehicle display thereon in the manner prescribed in section 158 hereof a special plate or plates issued to such owner as provided in this chapter.

(b) A dealer may operate or move any vehicle of like type upon the highways solely to deliver such vehicle from a manufacturing plant, a manufacturer's assembly plant, or a distributing plant to bona fide dealers or sales agents of such manufacturer upon likewise displaying thereon like plates issued to him as provided in this chapter.

(c) The provisions of this section shall not apply to any vehicle operated or moved as provided in section 207.

(d) The provisions of this chapter shall not apply to work or service vehicles owned by a manufacturer or dealer.

Application for special plates.

206. Application for and Issuance of Certificate and Special Plates. (a) Every such manufacturer, transporter or dealer shall make application to the department upon the appropriate form for a certificate containing a general distinguishing number and for one or more pair of special plates or single special plates as appropriate to various types of vehicles subject to registration hereunder. The applicant shall also submit proof of his status as a bona fide manufacturer, transporter or dealer as may reasonably be required by the department.

(b) The department upon granting any such application shall issue to the applicant a certificate containing the applicant's name and address and the general distinguishing number assigned to the applicant.

Issuance

(c) The department shall also issue special plates as applied for which shall have displayed thereon the general distinguishing number assigned to the applicant. Each plate or pair of plates so issued shall also contain a number or symbol identifying the same from every other plate or pair of plates bearing a like general distinguishing number.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

206. Application for and Issuance of Certificate and Special Plates. (a) Every such manufacturer or dealer shall make application to the

department upon the appropriate form for a certificate containing a general distinguishing number and for one or more pair of special plates or single special plates as appropriate to various types of vehicles subject to registration hereunder. The applicant shall also submit proof of his status as a bona fide manufacturer or dealer as may reasonably be required by the department.

(b) The department upon granting any such application shall issue to the applicant a certificate containing the applicant's name and address and the general distinguishing number assigned to the applicant.

(c) The department shall also issue special plates as applied for which shall have displayed thereon the general distinguishing number assigned to the applicant. Each plate or pair of plates so issued shall also contain a number or symbol identifying the same from every other plate or pair of plates bearing a like general distinguishing number.

Operation without plates

207. When a Vehicle May be Operated Without Plates. A manufacturer, transporter or a dealer in the course of his business may operate or move any vehicle of a type otherwise required to be registered hereunder without registering the same, and without license or special plates attached thereto, from a vessel, railroad depot or warehouse over the highways to a warehouse or salesroom upon first having obtained a written permit authorizing such operation from the department.

(Amended by Ch 671, Stats. 1935.)

[ORIGINAL SECTION]

207. When Dealer May Operate Vehicle Without Plates A manufacturer having an established place of business in this State, or a dealer in the course of his business may operate or move any vehicle of a type otherwise required to be registered hereunder without registering the same, and without license or special plates attached thereto, from a vessel, railroad depot or warehouse over the highways to a warehouse or salesroom upon first having obtained a written permit authorizing such operation from the local police authorities or marshals.

Expiration of special plates.

208. Expiration of Special Plates Every special plate issued hereunder shall expire at midnight on the thirty-first day of December of each year and a new plate or plates for the ensuing year may be obtained by the person to whom any such expired plate or plates was issued upon application to the department and payment of the fee provided in this code.

CHAPTER 5. PERMITS TO NONRESIDENT OWNERS.

Nonresident owners' permits

210. Nonresident Owner Exempt from Registration. (a) A nonresident owner of a foreign vehicle of a type otherwise subject to registration hereunder may operate or permit the operation of such vehicle within this State without registering such vehicle in, or paying any fees to, this State, subject to the following conditions:

(1) That such vehicle at all times when operated in this State is duly registered in, and displays upon it a valid plate or plates issued for such vehicle in the place of residence of such owner.

(2) That such owner obtain and duly display on such vehicle a nonresident permit or its equivalent as hereinafter provided.

(b) The provisions of this section shall not apply to a nonresident owner of a foreign vehicle operated or used within

this State for the purposes mentioned in section 215 or section 216 hereof.

Application for nonresident permit

211. Application for a Nonresident Permit. (a) Application for such nonresident permit shall be made within five days after such vehicle is first operated in this State upon the appropriate form furnished by the department and shall contain the name and home address of the owner and the temporary address, if any, of the owner while within this State, the foreign registration number of the vehicle and such description of the vehicle as may be called for in said form and such other statement of facts as may reasonably be required by the department.

(b) No application for such nonresident permit shall be granted unless and until the applicant shall present for the inspection of the department a valid certificate of registration issued for such vehicle in the place of residence of such applicant.

(c) In the event such applicant is unable to present a valid certificate of registration, the department may issue to said applicant a temporary permit pending presentation of such certificate of registration. Said temporary permit shall entitle such applicant for a period not exceeding thirty days to like privileges as a nonresident permit under like conditions as to display thereof.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

211. Application for a Nonresident Permit. (a) Except as provided in section 214, application for such nonresident permit shall be made within five days after such vehicle is first operated in this State upon the appropriate form furnished by the department and shall contain the name and home address of the owner and the temporary address, if any, of the owner while within this State, the foreign registration number of the vehicle and such description of the vehicle as may be called for in said form and such other statement of facts as may reasonably be required by the department.

(b) No application for such nonresident permit shall be granted unless and until the applicant shall present for the inspection of the department a valid certificate of registration issued for such vehicle in the place of residence of such applicant.

Issuance

212. Issuance of Permits and Permit Indices. (a) The department shall file each such application received and, when satisfied that the applicant is entitled to a nonresident permit, shall issue the same to said applicant without charge.

(b) Said permit shall contain the date of issuance, a brief description of the vehicle for which issued and a statement that the owner has procured said permit for the operation of such vehicle in this State.

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(c) The department shall keep a record of all such permits issued in suitable books or on index cards.

Display of permit

213. Display of Permit A nonresident permit issued as hereinbefore provided shall at all times be carried upon the windshield of the vehicle for which issued in the manner specified by the department or if the vehicle has no windshield then in plain sight on such vehicle for which issued in the manner specified by the department.

214. Expiration and Renewal of Permit. (a) A nonresident permit shall be valid until the expiration of the foreign registration of said vehicle, but no such permit shall be valid in any event for longer than the current calendar year during which said permit was issued. Expiration and renewal

(b) Upon the expiration of a nonresident permit, the department shall issue a new permit upon application made in the manner prescribed in section 211. Such application shall be made within five days after the expiration of the nonresident permit held by the applicant.

215. Registration of Foreign Vehicle Used Commercially. A nonresident owner of a foreign vehicle of a type subject to registration hereunder which is used within this State for the transportation of persons or property for compensation or profit shall register such vehicle as provided in Chapter 1 of this division and the same fees shall be collected as upon the registration of a like vehicle owned by a resident of this State. Registration of foreign commercial vehicle

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

215. Registration of Foreign Vehicle Used Commercially. A nonresident owner of a foreign vehicle of a type subject to registration hereunder intended to be used within this State for the transportation of persons or property for compensation or profit shall register such vehicle as provided in Chapter 1 of this division and the same fees shall be collected as upon the registration of a like vehicle owned by a resident of this State. In the event any such vehicle is to be operated in this State for a period not to exceed three months in any registration year, if such vehicle is then duly registered and licensed under the laws of any other country, State or Territory, the owner of such vehicle shall apply to the department in the manner and form prescribed for the registration and licensing of such vehicles for the period of time during which it is desired to operate the same in this State. Such application shall be accompanied by a fee in an amount equal to one-twelfth of the full annual license fee applicable to such vehicle for each month or fraction thereof said vehicle is to be so operated in this State during said three months' period. The department, if satisfied as to the facts therein stated, shall register and license such vehicle for the period stated in such application and assign thereto an appropriate certificate of license or permit, which shall at all times be displayed upon such vehicle in the manner prescribed by the department during the period of the life of such certificate of license or permit.

216. Nonresidents Conducting Business in this State. Every nonresident, including any foreign corporation, carrying on business within this State and owning and regularly operating in such business any vehicle of a type subject to registration hereunder shall register each such vehicle and pay the same fees therefor as is required with reference to like vehicles owned by residents of this State. Nonresidents conducting business in State

CHAPTER 6. REPORTS OF STOLEN VEHICLES.

220. Police Reports of Stolen and Recovered Vehicles. Every peace officer upon receiving reliable information that any vehicle registered hereunder has been stolen shall not later than one week after receiving such information report such theft to the department unless prior thereto information has been received of the recovery of such vehicle. Any said Police reports of stolen vehicles

officer upon receiving information that any vehicle, which he has previously reported as stolen, has been recovered, shall immediately report the fact of such recovery to the department.

Owner's report.

221. Reports by Owners of Stolen and Recovered Vehicles. The owner or legal owner of a vehicle registered hereunder which has been stolen or embezzled may notify the department of such theft or embezzlement but in the event of an embezzlement may make such report only after having procured the issuance of a warrant for the arrest of the person charged with such embezzlement.

Every owner or legal owner who has given any such notice must notify the department of a recovery of such vehicle.

Index of stolen vehicles.

222. Action by Department on Report of Stolen or Embezzled Vehicle. The department upon receiving a report of a stolen or embezzled vehicle as hereinbefore provided, shall file and appropriately index the same and shall immediately suspend the registration of the vehicle so reported and shall not transfer the registration of the same until such time as it is notified in writing that such vehicle has been recovered. A report of a stolen or embezzled vehicle is effective only during the current registration year in which given.

CHAPTER 7. SUSPENSION, REVOCATION AND CANCELLATION OF REGISTRATION.

Suspension or revocation of registration

223. Authority of Department to Suspend or Revoke a Registration. The department may suspend, cancel, or revoke the registration of a vehicle or a certificate of ownership, registration card or license plate or any nonresident or other permit in any of the following events:

(a) When the department is satisfied that such registration or that such certificate, card, plate or permit was fraudulently obtained or erroneously issued.

(b) When the department determines that a registered vehicle is mechanically unfit or unsafe to be operated or moved upon the highways.

(c) When a registered vehicle has been dismantled or wrecked.

(d) When the department determines that the required fee has not been paid and the same is not paid upon reasonable notice and demand.

(e) When a registration card, license plate or permit is knowingly displayed upon a vehicle other than the one for which issued.

(f) When the registration could have been refused when last issued or renewed.

(g) When the department determines that the owner or legal owner has committed any offense under Chapter 8 of this division, involving the registration or the certificate, card, plate, or permit to be suspended, canceled or revoked.

(h) When the department is so authorized under any other provision of law.

(Amended by Ch. 605, Stats. 1935.)

[ORIGINAL SECTION.]

223. Authority of Department to Suspend or Revoke a Registration. The department may suspend or revoke the registration of a vehicle or a certificate of ownership, registration card or license plate or any nonresident or other permit in any of the following events:

(a) When the department is satisfied that such registration or that such certificate, card, plate or permit was fraudulently obtained or erroneously issued.

(b) When the department determines that a registered vehicle is mechanically unfit or unsafe to be operated or moved upon the highways.

(c) When a registered vehicle has been dismantled or wrecked.

(d) When the department determines that the required fee has not been paid.

(e) When a registration card, license plate or permit is knowingly displayed upon a vehicle other than the one for which issued.

(f) When the registration could have been refused when last issued or renewed.

Suspension or revocation of special plates.

225. Suspending or Revoking Certificate or Special Plates. The department may suspend or revoke a certificate or the special plates issued to a manufacturer, transporter, or dealer upon determining that any said person is not lawfully entitled thereto or has made or knowingly permitted any illegal use of such plates or has committed fraud in the registration of vehicles or failed to give notices of transfers when and as required by this code.

(Amended by Ch. 605, Stats. 1935)

[ORIGINAL SECTION.]

225. Suspending or Revoking Certificate or Special Plates. The department may suspend or revoke a certificate or the special plates issued to a manufacturer or dealer upon determining that any said person is not lawfully entitled thereto or has made or knowingly permitted any illegal use of such plates or has committed fraud in the registration of vehicles or failed to give notices of transfers when and as required by this code.

Return of evidence of registration

226. Owner to Return Evidence of Registration Upon Cancellation, Suspension or Revocation. Whenever the department as authorized hereunder cancels, suspends or revokes the registration of a vehicle or a certificate of ownership, registration card, or license plate or plates, or any nonresident or other permit, the owner or person in possession of the same shall immediately return the evidences of registration so canceled, suspended or revoked to the department.

(Amended by Ch 605, Stats. 1935.)

[ORIGINAL SECTION.]

226. Owner to Return Evidences of Registration Upon Cancellation, Suspension or Revocation. Whenever the department as authorized hereunder cancels, suspends or revokes the registration of a vehicle or a certificate of ownership, registration card, or license plate or plates, the owner or person in possession of the same shall immediately return the evidences of registration so canceled, suspended or revoked to the department.

CHAPTER 8. OFFENSES AGAINST THE REGISTRATION LAWS.

Violation of registration laws.

230. Misdemeanors to Violate Registration Laws. In addition to any other offenses relating to registration declared in this code it is a misdemeanor punishable as provided in this code for any person to violate any of the provisions of this division.

Change of address

231. Notice of Change of Address. Whenever any person after making application for the registration of a vehicle required to be registered hereunder, or after obtaining registration either as owner or legal owner, shall move from the address named in the application or shown upon the certificate of ownership or registration card such person shall within ten days thereafter notify the department in writing of his old and new address.

Transfer of motor

232. Notice of Transfer of Engine or Motor. Upon the transfer by sale, lease or otherwise of any motor vehicle engine or motor the transferee shall within three days thereafter give a notice to the department upon a form furnished by it containing the date of such transfer, a description of such engine or motor including the maker's number thereon or the number assigned by the department thereto and the name and address of the transferee. Such notice need not be given upon a sale or other transfer of a new engine or motor to be installed in a new and unregistered motor vehicle.

Vehicles with no number

233. Vehicles Without Manufacturers' Numbers. No person shall knowingly buy, receive, dispose of, sell, offer for sale or have in his possession any motor vehicle, or motor removed from a motor vehicle, from which the manufacturer's serial or motor number or other distinguishing number or identification mark or number placed thereon under assignment from the department has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of said motor vehicle or motor.

Changing numbers.

234. Altering or Changing Motor or Other Numbers. (a) No person shall with fraudulent intent deface, destroy, or alter the manufacturer's serial or motor number or other distinguishing number or identification mark of a motor vehicle, nor shall any person place or stamp any serial, motor or other number or mark upon a motor vehicle, except one assigned thereto by the department.

(b) This section does not prohibit the restoration by an owner of an original serial, motor, or other number or mark when such restoration is authorized by the department, nor prevent any manufacturer from placing in the ordinary course of business numbers or marks upon new motor vehicles or new parts thereof.

(Added by Ch. 671, Stats. 1935.)

Return of evidence of registration when vehicle dismantled

235. Person Dismantling or Wrecking Vehicle to Return Evidences of Registration. Any person dismantling or wrecking any vehicle registered hereunder shall immediately forward to the department the certificate of ownership, registration card and the license plate or plates last issued for such vehicle.

Also every such person shall maintain a record of all vehicles so dismantled or wrecked which shall contain the name and address of the person from whom such vehicle was purchased or acquired and the date thereof, the registration number last assigned to the vehicle and a brief description of the vehicle including, in so far as the hereinafter specified data may exist with respect to a given vehicle, the make, type, serial number and motor number, if available, otherwise any other number of the vehicle. Said record shall be open to inspection during business hours by any peace officer.

Fraudulent applications

236. Fraudulent Applications. No person shall fraudulently use a false or fictitious name in any application for the registration of a vehicle or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application.

Operation of unregistered vehicle

237. Operation of Vehicles Without Evidences of Registration. No person shall operate, nor shall an owner knowingly permit to be operated, upon any highway any vehicle required to be registered hereunder unless there shall be attached thereto and displayed thereon when and as required by this code a valid registration card and license plate or plates issued therefor by the department for the current registration year or in lieu thereof a valid permit when and as required in this code.

Lending evidence of registration

238. Improper Use of Evidences of Registration. No person shall lend any certificate of ownership, registration card, license plate, special plate or permit issued to him if the person desiring to borrow the same would not be entitled to the use thereof nor shall any person knowingly permit the use of any of the same by one not entitled thereto nor shall any person display upon a vehicle any registration card, license plate or permit not issued for such vehicle or not otherwise lawfully used thereon under this code.

False evidence of registration

239. False Evidences of Registration. No person shall with intent to defraud, alter, forge, counterfeit or falsify any certificate of ownership, registration card, certificate, license or special plate or permit in this code mentioned nor shall any person alter, forge, counterfeit or falsify any such document or plate with intent to represent the same as issued by the department nor shall any person alter, forge, counterfeit or falsify with fraudulent intent any endorsement of transfer on a certificate of ownership nor shall any person with fraudulent intent display or cause or permit to be displayed or have in his possession any canceled, suspended, revoked, altered, forged, counterfeit, or false certificate of ownership, registration card, certificate, license or special plate or permit in this code mentioned.

(Amended by Ch 671, Stats. 1935.)

[ORIGINAL SECTION.]

239 False Evidences of Registration. No person shall display or cause or permit to be displayed or have in his possession any canceled, suspended, revoked, altered, forged, counterfeit or false certificate of

ownership, registration card, certificate, license or special plate or permit in this code mentioned.

DIVISION IV. OPERATORS' AND CHAUFFEURS' LICENSES.

CHAPTER 1. PERSONS REQUIRED TO BE LICENSED, EXEMPTIONS AND AGE LIMITS.

Driving without license

250. Unlawful to Drive Unless Licensed. (a) It is a misdemeanor for any person to drive a motor vehicle upon a highway unless he then holds a valid operator's or chauffeur's license issued hereunder, except such persons as are expressly exempted under this code.

(b) It is a misdemeanor for any person to drive a motor vehicle upon a highway as a chauffeur unless he then holds a chauffeur's license duly issued hereunder, except such persons as are expressly exempted under this code.

Exemptions

251. Certain Persons Exempt. (a) No person in the naval or military service of the United States, while acting as chauffeur in such service, need obtain a chauffeur's license.

(b) No person while driving or operating implements of husbandry incidentally operated or moved over a highway, need obtain an operator's or chauffeur's license.

Nonresident operators

252. When Nonresident Exempt. (a) A nonresident over the age of twenty-one years having in his immediate possession a valid operator's license issued to him in his home State or country may operate a motor vehicle in this State as an operator only for not to exceed one year without obtaining a license hereunder.

(b) A nonresident over the age of twenty-one years having in his immediate possession a valid chauffeur's license issued to him in his home State or country may operate a motor vehicle in this State without obtaining a license hereunder, but such nonresident must be licensed as a chauffeur under this code before accepting employment as a chauffeur from a resident of this State.

(c) A nonresident over the age of twenty-one years whose home State or country does not require the licensing of operators or chauffeurs may operate a foreign vehicle owned by him for not to exceed thirty days upon display of a valid nonresident permit issued under the provisions of this code without obtaining a license hereunder.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

252. When Nonresident Exempt. (a) A nonresident over the age of sixteen years having in his immediate possession a valid operator's license issued to him in his home State or country may operate a motor vehicle in this State as an operator for not to exceed six months in any one year without obtaining a license hereunder.

(b) A nonresident over the age of sixteen years having in his immediate possession a valid chauffeur's license issued to him in his home State or country may operate a motor vehicle in this State either as an operator or chauffeur for not to exceed six months in any one year without obtaining a license hereunder.

(c) A nonresident over the age of sixteen years whose home State or country does not require the licensing of operators or chauffeurs may

operate a foreign vehicle owned by him for not to exceed thirty days in any one year upon display of a valid nonresident permit issued under the provisions of this code without obtaining a license hereunder.

Instruction permits

253. Instruction Permits. Any person over the age of fourteen years may apply to the department for an instruction permit. The department for good cause may issue to the applicant an instruction permit which shall entitle the applicant while having such permit in his immediate possession to drive a motor vehicle upon the highways for a period not exceeding ninety days when accompanied by, and under the immediate supervision of, a licensed operator or chauffeur.

(Amended by Ch. 570, Stats. 1935.)

[ORIGINAL SECTION.]

253. Instruction Permits. Any person over the age of fourteen years may apply to the department for an instruction permit. The department for good cause may issue to the applicant an instruction permit which shall entitle the applicant while having such permit in his immediate possession to drive a motor vehicle upon the highways for a period not exceeding thirty days when accompanied by a licensed operator or chauffeur.

Temporary licenses

254. Temporary Licenses. The department may issue to any person applying for an operator's license, a temporary operator's license, and to any person applying for a chauffeur's license, a temporary chauffeur's license. No such temporary licenses may be issued to any person who has not successfully passed the tests prescribed by the department for operator's or chauffeur's licenses. A temporary license shall permit the operation of a motor vehicle upon the highways for a period of thirty days, when the licensee has such license in his immediate possession.

(Added by Ch. 570, Stats. 1935.)

Operator as chauffeur

255. When Licensed Operator May Drive as Chauffeur. Any person duly licensed as an operator hereunder may after application for a chauffeur's license and pending examination and action by the department thereon, drive a motor vehicle on the highways as a chauffeur.

Chauffeur as operator

256. Licensed Chauffeur Need Not Procure Operator's License. Any person duly licensed as a chauffeur hereunder need not procure an operator's license.

Age limit for operators

257. Age Limit for Operators. No operator's license shall be issued to any person under the age of sixteen years except that an operator's license may be issued to a person fourteen years of age but less than sixteen years of age upon application as required of other minors under section 350 hereof accompanied by a statement of reasons satisfactory to the department given and signed by the persons or person other than the minor required under said section to sign and verify such application.

The department may impose such restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(Amended by Ch. 570, Stats. 1935.)

[ORIGINAL SECTION.]

257. Age Limit for Operators. No operator's license shall be issued to any person under the age of sixteen years except that an operator's license may be issued to a person fourteen years of age but less than sixteen years of age upon application as required of other minors under section 350 hereof accompanied by a statement of reasons satisfactory to the department given and signed by the persons or person other than the minor required under said section to sign and verify such application.

Age limit for chauffeurs

258. Age Limit for Chauffeurs. No chauffeur's license shall be issued to any person under the age of eighteen years.

Age limit for school bus operator.

259. Age Limit for Driving a School Bus. It is unlawful for any person under the age of eighteen years to drive a school bus transporting pupils to or from school.

CHAPTER 2. ISSUANCE OF OPERATORS' AND CHAUFFEURS' LICENSES.

Application for license

265. Applications for Operators' and Chauffeurs' Licenses. Every application for an operator's or chauffeur's license shall be made upon the appropriate form furnished by the department and shall contain the following information:

(a) The applicant's name, age, sex and residence address.

(b) A brief description of the applicant for the purpose of identification.

(c) The kind of license applied for.

(d) Whether the applicant has ever previously been licensed as an operator or chauffeur and if so when and in what State or country and whether or not any such license has been suspended or revoked and if so the date of and reason for such suspension or revocation.

(e) Whether the applicant has ever previously been refused an operator's or chauffeur's license in this State, and if so, the date of and the reason for such refusal.

(f) Whether the applicant has previously operated a motor vehicle and if so for what length of time.

(g) The condition of the applicant's hearing and eyesight.

(h) Whether the applicant has the normal use of both hands and feet.

(i) Whether the applicant has ever been afflicted with epilepsy, paralysis, insanity or other disability or disease affecting his ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(j) Whether the applicant understands traffic signs and signals.

(k) Any other information necessary to enable the department to determine whether the applicant is entitled to a license under this code.

Verification

266. Applications to Be Signed and Verified. Every such application shall be signed and verified by the applicant before a person authorized to administer oaths and, if the applicant is a minor, such application must also be signed and verified as provided in Division V hereof. Officers and employees of the department may administer such oaths without fee.

Examination

267. Examinations for License. Upon application for an original license the department shall require an examination of the applicant and shall make provision therefor before an officer or employee or authorized representative of the department in the county wherein the applicant resides within one week after such application is presented to the department.

(Amended by Ch. 570, Stats. 1935.)

[ORIGINAL SECTION.]

267. Examinations for License. Upon application for an original license the department shall require an examination of the applicant and shall make provision therefor before an officer or employee or authorized representative of the department in the county wherein the applicant resides within five days after such application is presented to the department.

Scope of examination

268. Scope of Examination. The examination shall include a test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways, his understanding of traffic signs and signals and the applicant shall be required to give an actual demonstration of his ability to exercise ordinary and reasonable control in operating a motor vehicle by driving the same under the supervision of an examining officer. Said examination shall also include a test of the hearing and eyesight of the applicant and such other matters as may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways and whether any ground exists for refusal of a license under this code.

(Amended by Ch. 570, Stats. 1935.)

[ORIGINAL SECTION.]

268. Scope of Examination. The examination shall include a test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways, his understanding of traffic signs and signals and the applicant shall be required to give an actual demonstration of his ability to exercise ordinary and reasonable control in operating a motor vehicle by driving the same under the supervision of an examining officer. Said examination shall also include a test of the hearing and eyesight of the applicant and such other matters as may be necessary to determine the applicant's physical fitness to operate a motor vehicle upon the highways and whether any ground exists for refusal of a license under this code.

Grounds for refusal of license.

269. Grounds Requiring Refusal of License. The department shall not issue an operator's or chauffeur's license to any person:

(a) Who is not of legal age to receive such license.

(b) Who is an habitual drunkard or addicted to the use of narcotic drugs.

(c) Who is insane or feeble-minded or an idiot, imbecile or epileptic.

(d) Who is unable as shown by examination to understand traffic signs or signals or who does not have a reasonable knowledge of the provisions of this code governing the operation of vehicles upon the highways.

(e) Who is unable as shown by examination to exercise reasonable and ordinary control in operating a motor vehicle

upon a highway because of physical or mental defect or because unskilled.

Any physical or mental defect of the applicant which in the opinion of the department does not affect the applicant's ability to exercise reasonable and ordinary control in operating a motor vehicle upon the highways shall not prevent the issuance of a license to the applicant.

(Amended by Ch. 570, Stats. 1935.)

[ORIGINAL SECTION.]

269. Grounds Requiring Refusal of License. The department shall not issue an operator's or chauffeur's license to any person:

(a) Who is not of legal age to receive such license.

(b) Who is an habitual drunkard or addicted to the use of narcotic drugs.

(c) Who is insane or feeble-minded or an idiot, imbecile or epileptic.

(d) Who is unable as shown by examination to understand traffic signs or signals or who does not have a reasonable knowledge of the provisions of this code governing the operation of vehicles upon the highways.

(e) Who is unable as shown by examination to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

Any physical defect of the applicant which in the opinion of the department does not affect the applicant's ability to exercise reasonable and ordinary control in operating a motor vehicle upon the highways shall not prevent the issuance of a license to the applicant.

Additional grounds for refusal of license

270. Additional Grounds Requiring Refusal of License. The department shall not issue or renew an operator's or chauffeur's license to any person:

(a) When a license previously issued to such person hereunder has been suspended until the expiration of the period of such suspension unless such suspension was for a cause which has been removed.

(b) When a license previously issued to such person hereunder has been revoked until the expiration of one year after the date of such revocation except where a different period of revocation is prescribed by this code or unless the revocation was for a cause which has been removed.

(Amended by Ch. 570, Stats. 1935.)

[ORIGINAL SECTION.]

270. Additional Grounds Requiring Refusal of License. The department shall not issue or renew an operator's or chauffeur's license to any person:

(a) When a license previously issued to such person hereunder has been suspended until the expiration of the period of such suspension.

(b) When a license previously issued to such person hereunder has been revoked until the expiration of one year after the date of such revocation.

Optional grounds for refusal of license

271. Grounds Permitting Refusal of License. The department may refuse to issue an operator's or chauffeur's license to any person:

(a) If the department is satisfied that the applicant is not entitled thereto under the provisions of this code.

(b) If the applicant has failed to furnish the department the information required in the application or reasonable additional information requested by the department.

(c) If the department determines that the applicant has made or permitted to be made unlawful use of any operator's or chauffeur's license previously issued to him.

Hearing on refusal

271.5. Procedure upon Refusal or Cancellation of License. Any applicant refused a license, and any person whose license is canceled has a right, upon written demand made upon the director, to a hearing before the director or a trial board of three officers or employees of the department and a final review by the director as provided herein with reference to a hearing upon an order of suspension or revocation of a license.

(Added by Ch. 570, Stats. 1935.)

Issuance and contents of license

272. Issuance and Contents of License. When the department determines that the applicant is lawfully entitled to a license it shall issue to such person an operator's or chauffeur's license as applied for. Every such license shall state whether it is an operator's or chauffeur's license and shall bear thereon the distinguishing number assigned to the applicant, the date of expiration, the name, age and residence address of the licensee, a brief description of such licensee for the purpose of identification and space for the signature of the licensee.

Each license shall also contain a space for the endorsement thereon of a record of each suspension or revocation thereof.

(Amended by Ch. 570, Stats. 1935.)

[ORIGINAL SECTION.]

272. Issuance and Contents of License. When the department determines that the applicant is lawfully entitled to a license it shall issue to such person an operator's or chauffeur's license as applied for. Every such license shall state whether it is an operator's or chauffeur's license and shall bear thereon the distinguishing number assigned to the applicant, the date of expiration, the name, age and residence address of the licensee, a brief description of such licensee for the purpose of identification and space for the signature of the licensee.

Each license shall also contain a space for the endorsement thereon of a record of:

(a) Each suspension or revocation thereof.

(b) Each conviction of the licensee on a charge of violating any of the following provisions of this code:

(1) Those relating to driving a vehicle while an habitual user of narcotic drugs or while under the influence of intoxicating liquor or narcotic drugs.

(2) Those limiting the speed of vehicles.

(3) Those relating to reckless driving.

(4) Those relating to operating a vehicle on the right half of a highway.

(5) Those relating to overtaking and passing of vehicles.

(6) Those relating to overtaking and passing railway, interurban or street cars, or driving through safety zones.

(7) Those relating to the duty of a driver involved in an accident resulting in injury or death to any person or damage to property, other than a collision with an unattended vehicle.

Restricted licenses

273. Issuance of Restricted Licenses. (a) The department upon issuing an operator's or chauffeur's license shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of, or special mechanical control devices required on, a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the department may

determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The department may issue either a special restricted license or may set forth such restrictions upon the usual license form.

(c) The department may, upon receiving satisfactory evidence of any violation of the restrictions of such license, suspend or revoke the same. Any person who operates a vehicle in violation of the provisions of a restricted license issued to him is guilty of a misdemeanor, and is punishable by a fine of not to exceed five hundred dollars or by imprisonment for not to exceed six months, or by both.

(Amended by Ch. 570, Stats. 1935.)

[ORIGINAL SECTION.]

273. Issuance of Restricted Licenses. (a) The department upon issuing an operator's or chauffeur's license shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of, or special mechanical control devices required on, a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The department may issue either a special restricted license or may set forth such restrictions upon the usual license form.

Signing and carrying licenses

274. Licenses to Be Signed and Carried. (a) Every person licensed hereunder shall write his usual signature with pen and ink in the space provided for that purpose on the license issued to him immediately on receipt thereof and such license shall not be valid until so signed.

(b) The licensee shall have such license in his immediate possession at all times when driving a motor vehicle upon a highway and shall display the same upon demand of a justice of the peace, a member of the California Highway Patrol or any peace or traffic officer enforcing the provisions of this code.

(c) Any charge under subdivision (b) of this section shall be dismissed when the person so charged produces in court an operator's or chauffeur's license theretofore duly issued to such person and valid at the time of his arrest.

Chauffeurs' badges

275. Chauffeurs' Badges. The department shall issue to every person licensed as a chauffeur a suitable metal badge with the distinguishing number assigned to such person stamped thereon, which badge shall be conspicuously worn by such chauffeur upon an outer garment whenever he is operating any motor vehicle as a chauffeur.

Expiration of operators' licenses

276. Expiration of Operator's License. Every operator's license hereafter issued shall expire two years from date of issuance and the department is authorized to cancel and require the renewal of all operators' licenses which have been outstanding two years or more.

Expiration of chauffeurs' licenses

277. Expiration of Chauffeur's License. Every chauffeur's license shall expire at midnight on December thirty-first of the second year after issuance counting the year in which issued as the first year and shall be renewed upon payment of the fee required by this code.

278. Renewal of License. (a) Application for renewal of a license shall be made by the person to whom such license was issued upon such form as the department may require. The department may in its discretion require an examination of the applicant as upon an original application. Renewal

(b) No license shall be renewed when the department has received notice from a court that such applicant has for a period of fifteen or more days wilfully violated his written promise to appear given upon an arrest for any violation of this code as provided herein unless and until the department receives a certificate signed by the magistrate, or the clerk of the court, hearing the case in which such promise was given showing that said case has been adjudicated.

279. Licenses and Badges Lost, Destroyed or Mutilated. In the event an operator's or chauffeur's license or a chauffeur's badge issued hereunder is lost, destroyed or mutilated, the person to whom the same was issued may obtain a duplicate thereof upon furnishing satisfactory proof of such fact to the department. Lost or damaged licenses or badges.

CHAPTER 3. SUSPENSION OR REVOCATION OF LICENSE BY A COURT.

291. Suspension for Speeding or Reckless Driving. Whenever any person licensed hereunder is convicted of a violation of any provision of this code relating to the speed of vehicles or of reckless driving the court may, unless this code makes mandatory a revocation of such license by the department, suspend the license of such person for a period of not to exceed thirty days upon a first conviction, for a period of not to exceed sixty days upon a second conviction, and for a period of not to exceed six months upon a third or any subsequent conviction. Suspension of licenses for speeding or reckless driving

292. Suspension or Revocation for Violating Liquor or Narcotic Drugs Provisions. A court may suspend the license of any person, for a period not exceeding six months, upon conviction of such person of any of the following offenses: Suspension for specific offenses

(a) Driving while under the influence of intoxicating liquor under section 502 hereof, which is punishable as a misdemeanor.

(b) Failure of the driver of a vehicle involved in an accident to stop or otherwise comply with the provisions of section 481 hereof, which is punishable as a misdemeanor.

(c) Reckless driving proximately causing bodily injury to any person under section 505 hereof, which is punishable as a misdemeanor.

(d) Failure of the driver of a vehicle to stop at a railway grade crossing as required by section 576 hereof, which is punishable as a misdemeanor.

(Added by Ch. 605, Stats. 1935, which repealed the original section.)

[ORIGINAL SECTION.]

292. Suspension or Revocation for Violating Liquor or Narcotic Drugs Provisions. A court may suspend the license of any person, for a period not exceeding six months, or may revoke the same upon conviction of such person of driving a vehicle on a highway while an habitual user of narcotic drugs or while under the influence of intoxicating liquor or narcotic drugs.

293. (Repealed by Ch. 605, Stats. 1935.)

[ORIGINAL SECTION.]

293. Suspension for Failing to Stop at Railway Crossings. The license of any person convicted of violating section 576 shall be suspended by the court for not less than three months nor more than six months.

Forfeiture of bail

294. Forfeiture of Bail Equivalent to Conviction in Certain Cases. For the purposes of section 293, a forfeiture of bail is equivalent to a conviction.

Privileges of nonresidents

295. Provisions Applicable to Nonresidents. The privileges of nonresidents to operate vehicles in this State are subject to the provisions of this chapter in the same manner and to the same extent as the privileges of resident operators and chauffeurs.

Surrender of license upon suspension

296. Surrender of License During Suspension. Whenever a court duly suspends a license, the court shall require such license to be produced and surrendered to it and shall retain the same during the period of suspension and return such license to the owner at the end of such period after endorsing thereon a record of the suspension.

Suspension or revocation applicable to all licenses

297. All Licenses of Licensee Affected by Suspension or Revocation. Whenever a court suspends or revokes a license under this chapter, its order shall apply to all licenses held by the licensee.

Surrender of licenses upon conviction

298. Surrender of Revoked Licenses. Whenever any person is convicted of any offense for which this code makes mandatory the revocation of the license or licenses of such person by the department, or is convicted under section 502 the court in which such conviction is had shall require the surrender to it of all operator's and chauffeur's licenses issued to the person so convicted and the court shall thereupon forward the same with the required report of such conviction to the department.

(Added by Ch. 605, Stats. 1935.)

CHAPTER 4. CANCELLATION, SUSPENSION AND REVOCATION OF LICENSE BY THE DEPARTMENT.

Grounds for revocation of licenses.

304(a). Grounds Requiring Revocation by Department. (a) The department shall immediately revoke the license of any person, or if such person holds two or more licenses then all such licenses, upon receipt of a duly certified abstract of the record of any court showing that such person has been convicted of any of the following crimes:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle.

(2) Driving while under the influence of intoxicating liquor proximately causing the death of or bodily injury to any person under section 501 hereof.

(3) Driving when addicted to the use, or under the influence, of narcotic drugs under section 506 hereof.

(4) Failure of the driver of a vehicle involved in an accident resulting in injury or death to any person to stop or otherwise comply with section 480 hereof.

(5) Any crime not heretofore mentioned punishable as a felony under this code or any other felony in the commission of which a motor vehicle is used.

(6) Upon three charges of reckless driving all within a period of twelve months from the time of the first conviction.

(b) A license revoked under subdivision (a) hereof shall not be renewed until the expiration of one year after the date of such revocation and until the person whose license was so revoked gives proof of ability to respond in damages as provided in this code.

(c) The department upon receipt of a duly certified abstract of the record of any court showing that any person has been convicted under section 502 hereof shall suspend all licenses issued hereunder which the person then holds until the person gives proof of ability to respond in damages as provided in this code.

(Added by Ch. 605, Stats. 1935, which repealed the original section.)

[ORIGINAL SECTION.]

304. Grounds Requiring Revocation by Department. The department shall forthwith revoke the license of any person upon receipt of satisfactory evidence of a conviction or a plea of guilty and sentence thereon of such person charged with any of the following crimes:

(a) Manslaughter resulting from the operation of a motor vehicle.

(b) Any offense in this code constituting a felony or any other felony in the commission of which a motor vehicle is used.

(c) Three charges of reckless driving all within a period of a year from the time of the first conviction.

Additional grounds for revocation of licenses

305. Additional Grounds Requiring Revocation by Department. (a) The department shall also revoke the license of any person under the age of eighteen years who has been found by a judge of the juvenile court to have committed any of the following offenses:

(1) Operating a vehicle while an habitual user of narcotic drugs or while under the influence of intoxicating liquor or narcotic drugs.

(2) Reckless driving.

(3) Failure to comply with duties imposed upon a driver involved in an accident resulting in injury or death to any person or damage to property, other than a collision with an unattended vehicle.

(4) Twice within a period of six months violating the provisions of this code limiting the speed of vehicles.

(b) Each judge of a juvenile court shall immediately report such findings to the department.

(c) No new license shall be issued to a person whose license is revoked pursuant to this section until such person attains the age of eighteen years.

Grounds permitting revocation of license.

306. Grounds Permitting Revocation or Suspension by the Department. The department may revoke a license upon any of the grounds which authorize the refusal to issue a license and may also suspend or revoke a license upon a conviction of the licensee of operating a vehicle on a highway while under the influence of intoxicating liquor.

(Amended by Ch. 605, Stats. 1935.)

[ORIGINAL SECTION.]

306. Grounds Permitting Revocation or Suspension by Department. The department may revoke a license upon any of the grounds which authorize the refusal to issue a license and may also suspend or revoke a license upon a conviction of the licensee of operating a vehicle on a highway while an habitual user of narcotic drugs or while under the influence of intoxicating liquor or narcotic drugs.

Suspension or revocation of restricted license.

307. Suspension or Revocation of Restricted License. The department may suspend or revoke a restricted license for violation of any of the terms or conditions thereof.

Additional grounds for suspension

308. Additional Grounds Permitting Suspension by the Department. The department may suspend a license upon any of the following grounds:

(a) Conviction of the licensee of a failure to stop in the event of an accident under section 481 which is punishable as a misdemeanor.

(b) Conviction of the licensee of reckless driving resulting in personal injury or serious damage to property under section 505.

In case of any suspension under this section the department is authorized to require that the licensee give proof of ability to respond in damages as provided in this code before reinstating said license.

(Amended by Ch. 605, Stats. 1935.)

[ORIGINAL SECTION.]

308. Grounds Requiring Suspension by Department. The department shall suspend a license upon any of the following grounds:

(a) Conviction of the licensee of violating section 576. In such case the license shall be suspended for not less than three months nor more than six months.

(b) Conviction of the licensee of operating a vehicle while an habitual user of narcotic drugs or while under the influence of intoxicating liquor or narcotic drugs, or of failing to comply with the duty imposed upon a driver involved in an accident resulting in injury or death to any person or damage to property, other than a collision with an unattended vehicle. The department shall not suspend a license under this subdivision until the time for appeal has elapsed without an appeal having been taken, or, if an appeal has been taken, until the judgment of conviction has been affirmed. Such a suspension shall remain effective during the period thereof and in addition until the licensee gives proof of ability to respond in damages as provided by this code.

Cancellation of minor's license

309. Grounds Requiring Cancellation by Department. The department shall cancel the license of any minor in the event that the parent, guardian or employer who has signed

the minor's application dies. No new license shall be issued until the applicant attains the age of 21 years or until a new application for a license is made and granted.

Nonresidents subject to license requirements

310. Nonresidents Subject to Chapter. The privileges of nonresidents to operate vehicles in this State are subject to the provisions of this chapter in the same manner and to the same extent as the privileges of resident operators and chauffeurs.

Procedure on cancellation, etc.

311. Procedure Upon Cancellation, Suspension or Revocation. Whenever the department revokes, suspends or cancels a license, such license shall be surrendered to the department. All suspended licenses shall be retained by the department. Except for cancellation pursuant to sections 276 and 309, whenever the department revokes, suspends or cancels a license, the order shall apply to all licenses held by the licensee. Upon the expiration of the period of suspension by the department of any license, the department shall return the license to the licensee, or may grant him a new one. A chauffeur's badge shall likewise be returned or a new one issued. A record of the suspension or revocation shall be entered on each such license.

Forfeiture of bail equivalent to conviction

312. Forfeiture of Bail Equivalent to Conviction. For the purposes of this chapter a forfeiture of bail constitutes a conviction of any of the crimes mentioned herein.

Suspensions limited to six months

313. Suspensions Limited to Six Months in Certain Cases. Unless otherwise specifically provided in this chapter, no suspension of a license by the department shall be for a longer period than six months.

Investigations

314. Investigations by Department. (a) The department may conduct an investigation to determine whether a license should be suspended or revoked upon receiving information or upon a showing by its records:

(1) That the licensee has been involved as a driver in any accident causing death or personal injury or serious damage to property.

(2) That the licensee has been involved in three or more accidents within a period of twelve consecutive months.

(3) That the licensee is an habitual violator of the traffic laws.

(4) That the licensee is an habitual reckless, negligent or incompetent driver of a motor vehicle.

(5) That the licensee has permitted an unlawful or fraudulent use of such license.

(6) That any ground exists for which a license might be refused.

(b) In any such event the department may require the reexamination of the licensee, and in the event the licensee refuses or fails to submit to an order for reexamination within ten days after the giving of written notice of the time and place thereof, the department may preemptorily suspend the license of such person until such time as the licensee shall have submitted to such examination.

(c) Whenever the department determines upon any such investigation or examination that good cause exists under this section for a suspension or revocation of a license, the department may suspend the license of such person for a period not to exceed six months or revoke such license, but no such order of suspension or revocation shall become effective until ten days after the giving of written notice thereof to the licensee.

(d) Within ten days after the giving of said notice of such suspension or revocation the person whose license has been so suspended or revoked may in writing demand a hearing. If a hearing is so demanded the director shall fix a time and place therefor in the county in which said licensee resides and shall thereupon give said licensee ten days' notice of the time and place so fixed for such hearing.

(Amended by Ch. 570, Stats. 1935.)

[ORIGINAL SECTION.]

314. Investigations by Department. (a) The department may conduct an investigation and hearing to determine whether the license of an operator or chauffeur shall be suspended or revoked in any of the following events:

(1) Upon receiving a verified complaint that any person is afflicted with such mental or physical infirmities or disabilities as would constitute a ground for refusal of a license under this code.

(2) Upon receiving a verified complaint that any person has driven a motor vehicle in a reckless or negligent manner, and has thereby endangered life, limb or property or caused death or injury to any person or serious damage to property and upon investigation following such complaint, inquiry shall be made, and the department shall have jurisdiction to determine whether the license of any operator or chauffeur involved in or contributing to such accident shall be suspended or revoked.

(3) Upon receiving a verified complaint that an operator or chauffeur is an habitual reckless, negligent or incompetent driver of any motor vehicle.

(b) The director shall determine the sufficiency of any complaint filed hereunder and in his discretion shall have power to set a time for hearing in the county wherein the person complained of resides, and such person shall be entitled to at least ten days' previous notice of such hearing.

Hearings.

315. Hearings re Suspensions or Revocations (a) Said hearing shall be conducted by the director or a trial board of three officers or employees of the department appointed by the director.

(b) Said hearing shall be conducted as nearly as practicable according to the rules of practice and procedure governing the trial of a civil action and witnesses shall be summoned and oaths administered as provided in section 353 of the Political Code.

(c) Upon the conclusion of such hearing the trial board, if such there be, shall prepare findings based upon the evidence received.

(d) The department may employ a competent person to act as reporter at said hearing.

(Amended by Ch. 570, Stats. 1935.)

[ORIGINAL SECTION.]

315. Hearings re Suspensions or Revocations. (a) Said hearing shall be conducted personally by the director or a board of not exceeding three officers or employees of the department appointed by the director.

(b) The director or other persons designated by him to hold such hearing may summon witnesses on behalf of the State and such witnesses as may be designated by the person under investigation, and may administer oaths and take testimony or cause depositions to be taken, and the Supreme Court, any District Court of Appeal or any superior court shall have jurisdiction upon the application of the department to enforce all lawful orders of the department under this chapter. The failure of the respondent to appear at the time and place of hearing after notice, as provided in this chapter, shall not prevent the hearing, the taking of testimony and determination of the matter as herein provided. The fees for the attendance and travel of witnesses shall be the same as for witnesses before the superior court and shall be paid by the State upon demand by the department filed with the Controller.

Procedure following hearing

316. Proceedings Following Hearing. The director, upon review of said findings, if any, shall render his decision sustaining, modifying or reversing the order of suspension or revocation.

If no hearing is demanded within the time allowed, or if after a hearing the director decides in favor of a suspension or revocation, the licensee must thereupon surrender the license so suspended or revoked and any chauffeur's badge to the department.

Upon the expiration of the period of suspension the department shall return to the licensee his license and any badge or the department may issue to such person a new license and, if proper, a new badge.

(Amended by Ch. 570, Stats. 1935.)

[ORIGINAL SECTION.]

316. Proceedings Following Hearing. Upon the conclusion of such hearing, the director or other persons holding such hearing shall prepare findings based on the evidence received and considered. If the findings are to the effect that the person referred to therein is incompetent or is unfit to operate a motor vehicle upon any of the grounds upon which license might be refused as stated in this code, the director, upon a review of such findings, may forthwith revoke the license of such person, or if the findings are to the effect that the person therein referred to has, by reason of negligent or reckless driving, endangered life, limb or property, or has thereby caused loss of life or injury to person or serious damage to property, the director upon such review may suspend or revoke such license.

Review.

317. Court Review. Nothing in this code shall be deemed to prevent a review or other action as may be permitted by the Constitution and laws of this State by a court of competent jurisdiction with reference to any order of the department refusing, canceling, suspending or revoking a license.

CHAPTER 5. LICENSE RECORDS OF THE DEPARTMENT.

Records

320. Records to be Kept by Department. The department shall file every application for a license received by it and maintain:

(a) A suitable index containing, in alphabetical order, all applications denied and on each thereof note the reasons for such denial.

(b) A suitable index containing, in alphabetical order, all applications granted.

(c) A suitable index containing, in alphabetical order, the name of every licensee whose license has been suspended or revoked by the department or by a court and after each such name note the reasons for such action and the period of revocation or suspension.

(d) The department shall also file all accident reports and abstracts of court records of convictions received hereunder and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents in which he was involved shall be readily ascertainable.

(Amended by Ch. 155, Stats. 1935.)

[ORIGINAL SECTION.]

320. Records to Be Kept by Department. The department shall file every application for a license received by it and maintain:

(a) A suitable index containing, in alphabetical order, all applications denied and on each thereof note the reasons for such denial.

(b) A suitable index containing, in alphabetical order, all applications granted.

(c) A suitable index containing, in alphabetical order, the name of every licensee whose license has been suspended or revoked by the department or by a court and after each such name note the reasons for such action and the period of revocation or suspension.

CHAPTER 6. OFFENSES AGAINST THE LICENSE LAWS.

Violation

330. Misdemeanor to Violate License Laws. In addition to any other offenses relating to operators, chauffeurs, or other persons driving a vehicle upon a highway, declared in this code, it is a misdemeanor punishable as provided in this code for any person to violate any of the provisions of this division.

Change of address

331. Notice of Change of Address. Whenever any person after applying for or receiving an operator's or chauffeur's license moves from the address named in such application or in the license issued to him, he shall within ten days thereafter notify the department in writing of his old and new address.

Driving when license suspended or revoked

332. Driving While License Suspended or Revoked. Any person who drives a motor vehicle upon a highway after his operator's or chauffeur's license or his driving privilege has been suspended or revoked is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not to exceed one year or by fine of not to exceed one thousand dollars or by both.

Driving by unlicensed minor

333. Permitting Unlicensed Minor to Drive. No person shall cause or knowingly permit his child, ward or employee under the age of twenty-one years to drive a motor vehicle upon the highways whether as operator or chauffeur unless such child, ward or employee is then duly licensed hereunder so to drive.

Employing unlicensed chauffeurs

334. Employing Unlicensed Chauffeur. No person shall employ or hire as a chauffeur of a motor vehicle any person not then duly licensed hereunder so to drive.

Driving by unlicensed operator

335. Permitting Unlicensed Person to Drive. No person shall knowingly permit or authorize the driving of a motor

vehicle, owned by him or under his control, upon the highways by any person whether as operator or chauffeur unless such person is then duly licensed hereunder so to drive.

Renting vehicle to unlicensed person

336. Renting Motor Vehicle to Unlicensed Person. No person shall rent a motor vehicle to any other person unless the person to whom rented is then duly licensed hereunder or, in the case of a nonresident, then duly licensed under the laws of the State or country of his residence.

Duty of renter of vehicle.

337. Duty of Person Renting Motor Vehicle to Another. (a) No person shall rent a motor vehicle to another until he has inspected the operator's or chauffeur's license of the person to whom the vehicle is to be rented and compared the signature thereon with the signature of such person written in his presence.

(b) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of said latter person and the date and place when and where said license was issued.

Unlawful use of license

338. Unlawful Use of License. It is unlawful for any person:

(a) To display or cause or permit to be displayed or have in his possession any canceled, revoked, suspended, fictitious or fraudulently altered operator's or chauffeur's license.

(b) To lend his operator's or chauffeur's license to any other person or knowingly permit the use thereof by another.

(c) To display or represent as one's own any operator's or chauffeur's license not issued to him.

(d) To fail or refuse to surrender to the department upon its lawful demand any operator's or chauffeur's license which has been suspended, revoked or canceled.

(e) To use a false or fictitious name in any application for an operator's or chauffeur's license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application.

(f) To permit any unlawful use of an operator's or chauffeur's license issued to him.

(g) To do any act forbidden or fail to perform any act required by this division.

(Amended by Ch. 570. Stats. 1935.)

[ORIGINAL SECTION.]

338. Unlawful Use of License. It is unlawful for any person:

(a) To display or cause or permit to be displayed or have in his possession any canceled, revoked, suspended, fictitious or fraudulently altered operator's or chauffeur's license.

(b) To lend his operator's or chauffeur's license to any other person or knowingly permit the use thereof by another.

(c) To display or represent as one's own any operator's or chauffeur's license not issued to him.

(d) To fail or refuse to surrender to the department upon its lawful demand any operator's or chauffeur's license which has been suspended, revoked or canceled.

(e) To use a false or fictitious name in any application for an operator's or chauffeur's license or to knowingly make a false statement or

to knowingly conceal a material fact or otherwise commit a fraud in any such application.

(f) To permit any unlawful use of an operator's or chauffeur's license issued to him.

(g) To do any act forbidden or fail to perform any act required by this division.

(h) To alter, erase, or remove, from any operator's or chauffeur's license any endorsement thereon of any conviction, revocation or suspension.

DIVISION V. CIVIL LIABILITY OF PERSONS SIGNING LICENSE APPLICATIONS OF MINORS.

Minors' licenses.

350. Application of Minors. For the purposes of this section, all persons under twenty-one years of age shall be deemed to be minors. No application for an operator's or chauffeur's license shall be granted by the department to any minor unless such application is signed by the father and mother of such minor if both father and mother are living and have custody of the minor; otherwise the application shall be signed by the parent, guardian, employer or other person having custody of such minor; provided, however, that:

1. If any such minor is married or otherwise emancipated, or

2. If the father and mother of any such minor, if both are living and have custody of the minor, or otherwise the parent or guardian having custody of the minor are nonresidents of this State, the department may, in lieu of an application signed and verified as provided herein, accept an application signed and verified only by said minor if said minor, at the time of making such application, shall give proof of ability to respond in damages as provided in section 414 of the Vehicle Code. If, at any time, such proof of ability to respond in damages shall fail, the department shall forthwith suspend such license until proof of such licensee's continued ability to respond in future damages has been given or until such minor reaches the age of twenty-one years.

(Added by Ch. 570, Stats. 1935, which repealed the original section.)

[ORIGINAL SECTION.]

350. Applications of Minors. The application to the department of any minor for an operator's or chauffeur's license shall not be granted unless such application is signed by both the father and mother of the applicant if both the father and mother are living and have custody of the applicant, otherwise by the parent, guardian, employer or other person having the custody of such minor or by the employer of such minor.

Imputation of negligence of minor to signer of application

351. Minor's Negligence Imputed to Signer of Application. (a) In lieu of the signatures and verifications required in the last preceding section, such application with the consent of said father and mother if both are living and have custody of the minor or otherwise with the consent of the person or guardian having such custody may be signed and so verified by such minor and his employer, but in such case the department shall issue to the minor only a chauffeur's license restricted to the operation of vehicles by such minor within the scope of his employment by such employer, unless the

employer in writing authorizes the issuance of an unrestricted operator's or chauffeur's license.

(b) The father and mother of said person or guardian giving such consent to, but not signing or verifying, said application as provided in this section shall not be subject merely by reason of having given such consent to the civil liability specified in subdivision (a) and (b) of section 352 hereof

(Added by Ch. 570, Stats. 1935, which repealed the original section.)

[ORIGINAL SECTION.]

351. Minor's Negligence Imputed to Signer of Application. Any negligence of a minor in driving a motor vehicle upon a public highway shall be imputed to the person or persons who have signed the application of such minor for said license, which person or persons are jointly and severally liable with such minor for any damages caused by such negligence except in the event the minor is driving a motor vehicle as the agent, servant, or upon the business of a person other than the person who has signed said application.

Imputation of negligence to parent or signer of application

352. Minor's Negligence Imputed to Parent in Certain Cases. (a) Any liability of a minor arising out of his driving a motor vehicle upon a highway is hereby imposed upon the persons or person who signed and verified the application of such minor for a license for all purposes of civil damages and said persons or person shall be jointly and severally liable with such minor for any damages proximately resulting from such negligence or wilful misconduct, except that an employer signing such application shall be subject to the provisions of this subdivision only if an unrestricted operator's or chauffeur's license has been issue to the minor pursuant to such employer's written authorization.

(b) Any negligence or wilful misconduct of a minor whether licensed or not under this code in driving a motor vehicle upon a highway with the express or implied permission of the parents or the person or guardian having custody of the minor shall be imputed to such parents or such person or guardian for all purposes of civil damages and such parents or such person or guardian shall be jointly and severally liable with such minor for any damages proximately resulting from such negligence or wilful misconduct.

(c) No person, nor the persons collectively if the negligence or wilful misconduct of the minor in operating a motor vehicle is imputed hereunder to more than one person, shall incur liability under this section in any amount exceeding five thousand dollars for injury to or death of one person as a result of any one accident or, subject to said limit as to one person, exceeding ten thousand dollars for injury to or death of all persons as a result of any one accident or exceeding one thousand dollars for damage to property of others as a result of any one accident.

(d) The provisions of this section have no application when the minor is acting as the agent or servant of any person.

(Added by Ch. 570, Stats 1935, which repealed the original section.)

[ORIGINAL SECTION.]

352. Minor's Negligence Imputed to Parent in Certain Cases. Also any negligence of a minor, whether licensed or not, in driving a motor vehicle upon a public highway with the express or implied permission of a parent or parents having custody of such minor, shall be imputed to such parent or parents, who are jointly and severally liable with such minor for any damages caused by such negligence, except in the event the minor is driving a motor vehicle as the agent or servant or upon the business of a person other than the parent or parents.

Release from liability

353. Release from Liability. Any person who has signed and verified the application of a minor for an operator's or chauffeur's license under section 350 or any employer who has authorized the issuance of an unrestricted license to a minor and who desires to be relieved from the joint and several liability imposed by reason of having so signed and verified such application or having authorized the issuance of an unrestricted license may file a verified application with the department requesting that the license of said minor issued upon said application or authorization be canceled. Thereupon the department shall cancel the license of said minor and thereafter said person shall be relieved from the liability imposed under this division by reason of having so signed and verified said original application or having given such authorization on account of any subsequent wilful misconduct or negligent operation of a motor vehicle by said minor.

(Added by Ch. 570, Stats. 1935, which repealed the original section.)

[ORIGINAL SECTION.]

353. Limitation for Damages for Torts by Minor. Unless the minor is acting as the agent or servant and upon the business of a parent, guardian or employer, the latter shall not incur liability under sections 350, 351 and 352 of this code in any amount exceeding five thousand dollars for injury or death of one person or ten thousand dollars for injury or death of more than one person in any one accident, or one thousand dollars for damage to property in any one accident.

Cancellation upon death of signer.

354. When License to be Canceled. (a) The department, upon receipt of satisfactory evidence of the death of the father and mother or the person or guardian who signed and verified the application of any minor under section 350 hereof or any employer who authorized the issuance of an unrestricted license, shall cancel such license and shall not issue a new license until such time as a new application duly signed and verified in the manner required by this code is made and granted.

(b) The department, upon receipt of satisfactory evidence showing that any minor to whom was issued a license, other than an unrestricted license, under section 351 (a) hereof has left the employ of the employer who signed and verified the application of such minor for said license, shall cancel said license and shall not issue a new license until such time as a new application duly signed and verified in the manner required by this code be made and granted.

(Added by Ch. 570, Stats 1935, which repealed the original section.)

[ORIGINAL SECTION.]

354. Release From Liability. Any person who has signed the application of a minor under this division and who desires to be relieved from the joint and several liability imposed by reason of having signed such application, may file a verified application with the department requesting that the license of said minor be canceled and thereupon the department shall cancel the license of said minor and thereafter the person who originally signed the application shall be relieved from the liability imposed in sections 350 and 351 of this code, on account of subsequent negligent operation of a motor vehicle by said minor.

DIVISION VI. REGISTRATION AND LICENSE FEES.

[In effect January 1, 1936 See Sec 801]

370 Registration Fees. A registration fee of three dollars shall be paid to the department for the registration of every vehicle of a type subject to registration, except for such thereof as are expressly exempted under this code from the payment of registration fees. Registration fee

371. Additional Registration Fee for Electric Passenger Vehicles. In addition to the registration fee specified in section 370, there shall be paid a registration fee of ten dollars for the registration of every electric passenger motor vehicle, except where such vehicle is subject to a different additional fee as provided in section 372 hereof. Electric vehicles: Additional fee

371.5. Additional Registration Fee for Vehicle Previously Registered Outside This State. In addition to the registration fee specified in section 370 and any weight fee, there shall be paid a registration fee of three dollars for the original registration within this State of every vehicle previously registered outside this State. Vehicles previously registered outside State Additional fee

(Added by Ch. 527, Stats. 1935.)

372. Weight Fees for Commercial Vehicles. (a) In addition to the registration fee specified in section 370, there shall be paid fees for the registration of every vehicle of a type subject to registration designed, used or maintained for the transportation of persons for hire, compensation or profit or designed, used or maintained primarily for the transportation of property as set forth in this section. Weight fees for commercial vehicles

(b) Any electric vehicle designed, used or maintained as described in subdivision (a) hereof shall pay fees for registration according to the following schedule: Electric vehicles

Unladen weight	Fee
(1) Less than 6000 pounds	$50.00
(2) 6000 pounds or more but less than 10,000 pounds	$70.00
(3) 10,000 pounds or more	$90.00

(c) Any vehicle designed, used or maintained as described in subdivision (a) hereof other than an electric vehicle when equipped wholly with pneumatic tires shall pay fees for registration according to the following schedule: Vehicles, other than electric, with pneumatic tires

Weight	Fee
(1) When unladen, 3000 pounds or more, but less than 6000 pounds	$8.00
(2) When unladen, 6000 pounds or more but less than 10,000 pounds and limited hereunder to a gross weight of vehicle and load of not exceeding 22,000 pounds	$40.00
(3) When unladen, 10,000 pounds or more and limited hereunder to a gross weight of vehicle and load of not exceeding 22,000 pounds	$50.00
(4) When unladen, 6000 pounds or more and entitled hereunder to a gross weight of vehicle and load in excess of 22,000 pounds	$70.00

Vehicles other than electric, not equipped with pneumatic tires

(d) Any vehicle designed, used or maintained as described in subdivision (a) hereof other than an electric vehicle when not equipped wholly with pneumatic tires shall pay fees for registration amounting to twice the fees imposed upon other vehicles having corresponding weights as specified in subdivision (c) hereof.

Alternative fees
Effect of unconstitutionality of Stats 1923, p 571

(e) If the tax provided for by the "Motor Vehicle Fuel License Tax Act" is held unconstitutional by the Supreme Court of the State of California or by the Supreme Court of the United States, then beginning with the first year next succeeding the date upon which such decision becomes final there shall be paid upon and for the registration and reregistration of every motor vehicle with the department, in addition to any other fees imposed by law, a registration fee of five dollars for every electric motor vehicle and for every other motor vehicle a fee amounting to the sum of forty cents for each horsepower or major fraction thereof of such motor vehicle and a proportionate amount thereof for the registration of such vehicle for a period of less than one year. The horsepower of any motor vehicle, except electric or steam driven motor vehicles, shall be determined by the formula commonly known as that of the Association of Licensed Automobile Manufacturers (A. L. A. M.) being as follows: Square the diameter of the cylinder in inches, multiply by the number of cylinders, and divide by two and five-tenths; provided, that for the purposes hereof the horsepower of any steam driven motor vehicle shall be the horsepower rating fixed and advertised by the manufacturer thereof. In the event that the registration fees for electric motor vehicles and fees based on horsepower as hereinabove specified shall be collected, all such fees shall be paid into the motor vehicle fund of the State of California, and shall be distributed and used for such purposes as may be provided by law for the distribution and use of such motor vehicle fund; and provided, further, that in the event the provisions of this section, relative to registration fees, based upon horsepower rating, shall become effective the provisions of sections 370, 371 and subdivision (b) of 372 of this code shall be deemed to be superseded.

373. Reduced Fees for Portion of a Year. Upon registration issued after the end of January of any year the fee required under section 372 hereof shall be reduced by one-twelfth for each month which shall have elapsed since the beginning of such year, if such vehicle has not been operated on any highway during such elapsed time without payment of the required fee. Fees for part of year.

374. Exemptions from Registration Fees. (a) The registration fees specified in this code except fees for duplicate license plates, certificates or cards need not be paid for any vehicle of a type subject to registration hereunder owned by any foreign government or by a consul or other official representative thereof or by the United States or by any State or political subdivision thereof or by any municipality duly organized under the Constitution or laws of this State, nor for any like vehicle owned by a voluntary fire department organized under the laws of this State and used exclusively for fire fighting purposes, nor for any like vehicle owned by and used exclusively in the operative work of any persons taxed for State purposes and exempt from the payment of license fees under the Constitution of this State. Exemptions

(b) All such vehicles so exempt from the payment of registration fees shall be registered as otherwise required by this code by the person having custody thereof and such custodian shall display upon said vehicle a license plate or plates bearing distinguishing marks or symbols as hereinbefore specified which said plate or plates shall be furnished by the department free of charge. Exempt plates

375. Fees to Be Paid by Manufacturers, Transporters and Dealers. The following fees shall be paid to the department for special plates issued to manufacturers, transporters, and dealers: Fees of manufacturers, transporters and dealers

(a) For special plates for motor vehicles other than motorcycles:

(1) For the first set of special plates $5.00
(2) For each additional set of special plates $3.00

(b) For special plates for motorcycles:

(1) For the first special plate $5.00
(2) For each additional special plate $1.00

(c) For special plates for other vehicles of a type otherwise subject to registration hereunder:

(1) For the first special plate $5.00
(2) For each additional special plate $1.00

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

375. Fees to Be Paid by Manufacturers and Dealers. The following fees shall be paid to the department for special plates issued to manufacturers and dealers:

(a) For special plates for motor vehicles other than motorcycles:
(1) For the first set of special plates..... $5.00
(2) For each additional set of special plates..... $3.00
(b) For special plates for motorcycles:
(1) For the first special plate..... $5.00
(2) For each additional special plate..... $1.00
(c) For special plates for other vehicles of a type otherwise subject to registration hereunder:
(1) For the first special plate..... $5.00
(2) For each additional special plate..... $1.00

When fees payable

376. When Registration Fees Payable. All registration fees and all fees required of a manufacturer, transporter, or dealer for any special plate or set of plates shall be paid at the time application is made to the department for such registration or such plate or plates.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

376. When Registration Fees Payable. All registration fees and all fees required of a manufacturer or dealer for any special plate or set of plates shall be paid at the time application is made to the department for such registration or such plate or plates.

Transfer fees

377. Fees for Transfer of Registration. Upon application for the transfer of the title or any interest of an owner or legal owner in or to a vehicle registered hereunder, other than upon a transfer to a chattel mortgagee and other than upon a transfer to a transferee not required hereunder to obtain the issuance to him of a new certificate of ownership and registration card, there shall be paid the following fees:

(1) For a transfer by the owner..... $1.00
(2) For a transfer by the legal owner..... $1.00
(3) For a transfer by the owner and legal owner at the same time..... $1.00

Delinquencies

378. When Fees Delinquent. Penalties.

(a) Whenever any vehicle is operated upon any highway of this State without the registration fee having first been paid as required by this code, such fee is delinquent.

Penalty

(b) A penalty shall be added upon any application for annual renewal of registration made on or after February 5 unless the vehicle has not been operated on the highways since the expiration date.

(c) If any other fee is not paid within thirty days after the same becomes delinquent a penalty shall be added thereto.

(d) In every event the penalty shall be equal to the fee and shall be collected therewith.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

378. When Fees Delinquent. (a) Whenever any vehicle is operated upon any highway of this State without the registration or transfer fee having first been paid as required by this code, such fee is delinquent.

(b) If such fee is not paid within thirty days after the same becomes delinquent, a penalty equal to such fee shall be added thereto and be collected therewith.

379. Seizure and Sale of Vehicle. (a) Every registration or transfer fee and any penalty added thereto, from the date the same become due, constitute a lien upon the vehicle for which due. Lien.

(b) The department shall collect such fee and any penalty by seizure of such vehicle from the person or persons in possession thereof, if any, and by the sale of such vehicle. The seizure and sale herein authorized shall be conducted and carried out by the department in the same manner as is provided by law for the seizure and sale of personal property by the assessor for the collection of taxes due on personal property.

380. Fee for Filing Chattel Mortgage. Upon filing with the department a copy of a chattel mortgage and application for transfer of registration to the chattel mortgagee as provided herein there shall be paid to the department a fee of one dollar for each vehicle registered hereunder described in and subject to such chattel mortgage. Chattel mortgage fee.

(Amended by Ch. 154, Stats. 1935.)

[ORIGINAL SECTION.]

380. Fee for Filing Chattel Mortgage. Upon filing with the department a copy of a chattel mortgage and application for transfer of registration to the chattel mortgagee as provided herein there shall be paid to the department a fee of one dollar for each such chattel mortgage.

381. Fee for Chauffeur's License or Badge. Upon application for a chauffeur's license there shall be paid the department a fee of one dollar for the issuance of such license with a chauffeur's badge. Upon the renewal of a chauffeur's license there shall be paid the department a fee of one dollar. Chauffeur's fee.

382. Fees for Duplicates. Upon application for duplicates as permitted under this code, the following fees shall be paid: Duplicates

(a) For a duplicate certificate of ownership or registration card $0.50
(b) For any duplicate license plate $1.00
(c) For a duplicate chauffeur's badge $1.00
(d) For a duplicate operator's or chauffeur's license $0.50

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

382. Fees for Duplicates. Upon application for duplicates as permitted under this code, the following fees shall be paid:

(a) For a duplicate certificate of ownership or registration card $0.50
(b) For any duplicate license plate $1.00
(c) For a duplicate chauffeur's badge $1.00
(d) For a duplicate operator's or chauffeur's license $0.50
(e) For a container for registration certificate $0.25

383. When Fees Returnable. (a) Whenever any application to the department is accompanied by any fee as required by law and such application is refused or rejected, the fee shall be returned to the applicant. Return of fees

(b) Whenever the department through error collects any fee not required to be paid hereunder the same shall be refunded to the person paying the same upon application therefor made within six months after the date of such payment.

(Amended by Ch. 671, Stats. 1935.)

[ORIGINAL SECTION.]

383. When Fees Returnable. Whenever the department through error collects any fee not required to be paid hereunder the same shall be refunded to the person paying the same upon application therefor.

Credit for fees

384. Credit for Fees Paid. Whenever any registered vehicle used or maintained for the transportation of persons for hire, compensation or profit for which fees have been paid under section 372 is withdrawn from service in this State before the expiration of such registration the owner may surrender the registration certificate and license plates previously issued for such vehicle to the department and make application for the registration of another vehicle which is subject to the fees specified in section 372. In such event and upon a proper showing of the facts the department upon determining the fees payable hereunder shall allow as credit thereon the amount of the fee paid under section 372 for the unexpired portion of the previous registration but in addition to fees otherwise payable hereunder less any such credit shall charge and collect an additional fee of two dollars for issuance of such new registration.

(Added by Ch. 713, Stats. 1935.)

DIVISION VII. CIVIL LIABILITY AND FINANCIAL RESPONSIBILITY OF OWNERS AND OPERATORS OF VEHICLES.

CHAPTER 1. CIVIL LIABILITY.

Liability of governmental agencies

400. Liability of Governmental Agencies. The State, and every county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State owning any motor vehicle is responsible to every person who sustains any damage by reason of death, or injury to person or property as the result of the negligent operation of any said motor vehicle by an officer, agent, or employee or as the result of the negligent operation of any other motor vehicle by any officer, agent or employee when acting within the scope of his office, agency or employment; and such person may sue the State, county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State, as the case may be, in any court of competent jurisdiction in this State in the manner directed by law. In every case where a recovery is had under the provisions of this section against the State, any county, city and county, municipal corporation, the State Compensation Insur-

ance Fund, irrigation district, school district, district established by law and political subdivision of the State, then the State, or the county or city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State shall be subrogated to all the rights of the person injured, against the officer, agent or employee, as the case may be, and may recover from such officer, agent or employee, the total amount of any judgment and costs recovered against the State, county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State in such case, together with costs therein.

And the State, county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State may insure their liability in any insurance company authorized to transact the business of such insurance in the State of California, and the premium for such insurance shall be a proper charge against the respective general fund of the State, county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State, as the case may be.

Police and fire departments

401. Nonliability for Operation of Police and Fire Department Vehicles in the Line of Duty. No member of any police or fire department maintained by a county, incorporated or unincorporated city, town or district is liable for civil damages on account of personal injury to or death of any person or damage to property resulting from the operation, in the line of duty, of a motor vehicle, of such county, incorporated or unincorporated city, town or district while responding to a fire alarm or an emergency police call.

Liability of owners

402. Liability of Private Owners. (a) Every owner of a motor vehicle is liable and responsible for the death of or injury to person or property resulting from negligence in the operation of such motor vehicle, in the business of such owner or otherwise, by any person using or operating the same with the permission, express or implied, of such owner.

(b) The liability of an owner for imputed negligence imposed by this section and not arising through the relationship of principal and agent or master and servant is limited to the amount of five thousand dollars for the death of or injury to one person in any one accident and subject to said limit as to one person is limited to the amount of ten thousand dollars with respect to the death of or injury to more than one person in any one accident and is limited to the sum of one thousand dollars for damage to property of others in any one accident.

(c) In any action against an owner on account of imputed negligence as imposed by this section the operator of said

vehicle whose negligence is imputed to the owner shall be made a party defendant if personal service of process can be had upon said operator within this State. Upon recovery of judgment, recourse shall first be had against the property of said operator so served.

(d) In the event a recovery is had under the provisions of this section against an owner on account of imputed negligence such owner is subrogated to all the rights of the person injured or whose property has been injured and may recover from such operator the total amount of any judgment and costs recovered against such owner.

(e) Where two or more persons are injured or killed in one accident, the owner may settle and pay any bona fide claim or claims for damages arising out of personal injuries or death, whether reduced to judgment or not, and such payments shall diminish to the extent thereof the owner's total liability on account of such accident; and payments so made aggregating the full sum of ten thousand dollars shall extinguish all liability of the owner hereunder to said claimants and all other persons on account of such accident, which liability may exist by reason of imputed negligence, pursuant to this section, and not arising through the negligence of the owner nor through the relationship of principal and agent or master and servant.

(f) If a motor vehicle is sold under a contract of conditional sale whereby the title to such motor vehicle remains in the vendor, such vendor or his assignee shall not be deemed an owner within the provisions of this section, but the vendee, or his assignee shall be deemed the owner notwithstanding the terms of such contract, until the vendor or his assignee retake possession of such motor vehicle. A chattel mortgagee of a motor vehicle out of possession shall not be deemed an owner within the provisions of this section.

Liability as to guests

403. *Liability for Personal Injury to or Death of "Guest."* No person who as a guest accepts a ride in any vehicle upon a highway without giving compensation for such ride, nor any other person, has any right of action for civil damages against the driver of such vehicle or against any other person legally liable for the conduct of such driver on account of personal injury to or the death of such guest during such ride, unless the plaintiff in any such action establishes that such injury or death proximately resulted from the intoxication or wilful misconduct of said driver.

Service of process on nonresidents.

404. *Service of Process on Nonresident.* (a) The acceptance by a nonresident of the rights and privileges conferred upon him by this code or any use of the highways of this State as evidenced by the operation by himself or agent of a motor vehicle upon the highways of this State or in the event such nonresident is the owner of a motor vehicle then by the operation of such vehicle upon the highways of this State by any person with his express or implied permission, is equivalent to an appointment by such nonresident of the director or his successor in office to be his true and lawful attorney upon whom may be served all lawful processes in any action or proceeding

against said nonresident operator or nonresident owner growing out of any accident or collision resulting from the operation of any motor vehicle upon the highways of this State by himself or agent.

(b) The acceptance of such rights and privileges or use of said highways shall be a signification of the agreement of said nonresident that any such process against him which is served in the manner herein provided shall be of the same legal force and validity as if served on said nonresident personally in this State.

(c) Service of such process shall be made by leaving a copy of the summons and complaint with a fee of two dollars in the hands of the director or in his office at Sacramento and such service shall be a sufficient service on said nonresident subject to compliance with subdivision (d) hereof.

(d) A notice of such service and a copy of the summons and complaint shall be forthwith sent by registered mail by the plaintiff or his attorney to said defendant. Personal service of such notice and a copy of the summons and complaint upon said defendant wherever found outside this State shall be the equivalent of said mailing.

(e) Proof of compliance with subsection (d) hereof shall be made in the event of service by mail by affidavit of the plaintiff or his attorney showing said mailing, together with the return receipt of the United States postoffice bearing the signature of said defendant. Such affidavit and receipt shall be appended to the original summons which shall be filed with the court from out of which such summons issued within such time as the court may allow for the return of such summons. In the event of personal service outside this State such compliance may be proved by the return of any duly constituted public officer, qualified to serve like process of and in the State or jurisdiction where the defendant is found, showing such service to have been made. Such return shall be appended to the original summons which shall be filed as aforesaid.

(f) The court in which the action is pending may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action.

(g) The director shall keep a record of all process so served upon him which record shall show the day and hour of service

CHAPTER 2. FINANCIAL RESPONSIBILITY LAW.

Financial responsibility

410. Suspension of License and Registration While Judgment Unsatisfied and Until Giving of Proof of Ability to Respond in Damages (a) Whenever any judgment is rendered by a court of competent jurisdiction against any person for damage to property in excess of one hundred dollars or for damages in any amount on account of personal injury to or death of any person resulting from the ownership or operation of any motor vehicle by the person against whom such judgment was rendered or the ownership or operation of any motor vehicle by his agent, or the operation by any person of a motor

vehicle with the express or implied permission of the owner and such judgment has not been satisfied in full or to the extent hereinafter specified within fifteen days after such judgment becomes final the court in which such judgment is rendered shall immediately thereafter forward to the department a certified copy of such judgment if such court is a court of record or a certified copy of the docket entries covering the action in which such judgment was rendered if such court is not a court of record.

(b) The department upon receiving such proof of any such final and unsatisfied judgment rendered by a court of competent jurisdiction in this or any other State or in a district court of the United States shall forthwith suspend all operators' and chauffeurs' licenses issued to the judgment debtor and the registration cards and license plates issued for all motor vehicles registered in the name of such judgment debtor as owner. Furthermore, the department shall not reissue nor renew any such suspended license, registration card or license plate nor issue to the judgment debtor any operator's or chauffeur's license or a registration card or license plate for any motor vehicle while such judgment remains in effect and until such judgment is satisfied in full or to the extent hereinafter specified and unless the judgment debtor also gives proof of his ability to respond in damages in the manner and to the extent hereinafter specified for accidents occurring after the date of the giving of such proof.

Suspension of license and registration when judgment unsatisfied

411. Suspension of License and Registration Until All Judgments Not Covered by Proof of Ability Are Satisfied. Whenever after one such judgment is so satisfied and said proof of ability to respond in damages is given, another such judgment is rendered against said person for any accident occurring prior to the date of the giving of said proof and such person fails to satisfy the latter judgment within the amounts specified herein within fifteen days after the same became final, then the department shall again suspend the operator's or chauffeur's license of such judgment debtor and the registration cards and license plates issued for all motor vehicles registered in the name of such judgment debtor as owner and shall not renew the same and shall not issue to him any operator's or chauffeur's license or a registration card or license plate for any motor vehicle while such latter judgment remains unsatisfied and subsisting within the amounts specified herein.

Relief when insurer does not pay.

411.5. [Relief From Suspension Upon Failure of Insurer to Pay Judgment.] Any person whose operator's or chauffeur's license or certificate of registration have been suspended, or are about to be suspended or shall become subject to suspension under the provisions of this chapter, may relieve himself from the effect of such judgment as hereinbefore prescribed in this chapter by filing with the department an affidavit stating that at the time of the accident upon which such judgment has been rendered he was insured, that the insurer is liable to pay such judgment, and the reason, if known, why

such insurance company has not paid such judgment. He shall also file the original policy of insurance or a certified copy thereof, and such other documents as the department may require to show that the loss, injury or damage for which such judgment was rendered, was covered by such policy of insurance.

If the department is satisfied from such papers that such insurer was authorized to issue such policy of insurance in the State of California at the time of issuing such policy and that such insurer is liable to pay such judgment, at least to the extent and for the amounts hereinbefore provided in this chapter, the department shall not suspend such license or licenses and such certificate or certificates, or if already suspended, shall reinstate them.

(Added by Ch. 171, Stats. 1935.)

Actions against nonresidents

412. Action Against Nonresident. (a) If the person against whom any such judgment is rendered is a nonresident and such person fails within said time to satisfy the same in full or to the extent specified herein, all privileges of operating a motor vehicle in this State given to such person under this code and all nonresident permits for any foreign motor vehicles owned by him shall be suspended while such judgment remains in effect and so unsatisfied in this State or elsewhere and until such nonresident gives proof of his ability to respond in damages in the manner and to the extent hereinafter specified for accidents occurring after the date of the giving of such proof.

(b) The department shall also forward a certified copy of such judgment of a court of record or a certified copy of the docket of a court not of record to the appropriate officer in charge of the registration of vehicles or the licensing of drivers thereof in the State of which said person is a resident.

Satisfaction of judgment

413. When Judgment Deemed Satisfied. Every such judgment shall for the purposes of this chapter be deemed satisfied:

(a) When five thousand dollars has been credited, upon any judgment in excess of that amount, or upon all judgments, collectively, which together total in excess of that amount, for personal injury to or death of one person as a result of any one accident.

(b) When, subject to said limit of five thousand dollars as to one person, the sum of ten thousand dollars has been credited, upon any judgment in excess of that amount, or upon all judgments, collectively, which together total in excess of that amount, for personal injury to or death of more than one person as a result of any one accident.

(c) When one thousand dollars has been credited, upon any judgment in excess of that amount, or upon all judgments, collectively, each of which is in excess of one hundred dollars, and which together total in excess of one thousand dollars, for damage to property of others as a result of any one accident.

Proof of ability to respond in damages

414. Proof of Ability to Respond in Damages. Proof of ability to respond in damages when required by this code means proof of ability to respond in damages resulting from the ownership or operation of a motor vehicle, and arising by reason of personal injury to, or death of, any one person, of at least five thousand dollars, and, subject to the limit of five thousand dollars for each person injured or killed, of at least ten thousand dollars for such injury to or the death of, two or more persons in any one accident, and for damage to property (in excess of one hundred dollars) of at least one thousand dollars resulting from any one accident. Such proof of ability to respond in damages may be given by any of the following:

Insurance

(a) The written certificate or certificates of any insurance carrier duly authorized to do business within the State, that it has issued to or for the benefit of the person named therein a motor vehicle liability policy or policies as defined in section 415, which, at the date of said certificate or certificates is in full force and effect, and designating therein by explicit description or by other appropriate reference all motor vehicles with respect to which coverage is granted by the policy certified to. The department shall not accept any certificate or certificates unless the same cover all motor vehicles registered in the name of the person furnishing such proof. Additional certificates shall be required as a condition precedent to the registration of any additional motor vehicle or motor vehicles in the name of the person required to furnish such proof. Said certificate or certificates shall certify that the motor vehicle liability policy or policies therein cited shall not be canceled except upon ten days prior written notice to the department.

Surety bond

(b) The bond of a surety company duly authorized to do business within the State, or a bond of individual sureties each owning unencumbered real estate, approved by a judge of a court of record. Such bond shall be conditioned for the payment of the amount specified in this section, and shall provide for the entry of judgment on motion of the State in favor of any holder of any final judgment on account of damage to property over one hundred dollars in amount, or injury to any person caused by the operation of such person's motor vehicle, in the same manner as provided in section 942 of the Code of Civil Procedure for the entry of judgment upon appeal bonds.

Deposit.

(c) Evidence presented to the department of a deposit by such person with the State Treasurer of eleven thousand dollars. The department shall not accept a deposit of money where any judgment or judgments theretofore recovered against such person as a result of damages arising from the operation of any motor vehicle shall not have been paid in full. The Treasurer of the State shall accept any such deposit and issue a receipt therefor.

415. Requisites of Motor Vehicle Liability Policy. "Motor vehicle liability policy," as used in this code, means a policy of liability insurance issued by an insurance carrier authorized to transact business in this State to the person therein named as insured. Such policy shall designate, by explicit description or by appropriate reference, all motor vehicles with respect to which coverage is intended to be granted by said policy, and shall insure the insured named therein, and any other person using or responsible for the use of any such motor vehicle, with the consent, express or implied, of such insured, against loss from the liability imposed upon such insured by law or upon such other person for injury to, or death of, any person, other than such person or persons as may be covered, as respects such injury or death by any workmen's compensation law, or damage to property, except property of others in charge of the insured or the insured's employees growing out of the maintenance, use or operation of any such motor vehicle in the United States of America; or which policy shall, in the alternative, insure the person therein named as insured against loss from the liability imposed by law upon such insured for injury to or death of any person, other than such person or persons as may be covered as respects such injury or death by any workmen's compensation law, or damage to property, except property of others in charge of the insured or the insured's employees, growing out of the operation or use by such insured of any motor vehicle, except a motor vehicle registered in the name of such insured, and occurring while such insured is personally in control, as driver or occupant, of such motor vehicle within the United States of America, to the amount or limit of five thousand dollars, exclusive of interest and costs, on account of injury to or death of any one person, and, subject to the same limit as respects injury to or death of one person, of ten thousand dollars, exclusive of interest and costs, on account of any one accident resulting in injury to or death of more than one person; and of one thousand dollars for damage to property of others, as herein provided, resulting from any one accident; or a binder pending the issuance of any such policy, or an endorsement to an existing policy as hereinafter provided. This section shall not prevent such insurance carrier from granting any lawful coverage in excess of or in addition to the coverage herein provided for, nor from embodying in such policy any agreements, provisions or stipulations not contrary to law. Motor vehicle liability policy

416. Installment Payments of Civil Judgments. (a) The department shall not suspend a license or registration of a motor vehicle and shall restore any suspended license or registration following nonpayment of a final judgment when the judgment debtor gives proof of financial responsibility for future damages and when the trial court in which such judgment was rendered orders the payment of such judgment in installments and while the payment of any said installment is not in default. Whenever the trial court orders the payment Payment of judgments by installments

of a judgment in installments as provided in this section such court shall forward a certified copy of such order to the department.

(b) The trial court may order the payment of a judgment in installments only upon the written consent of the judgment creditor. Such order shall fix the amounts and times of payment of the installments and shall be without prejudice to any other legal remedies available to the judgment creditor.

Procedure on default

(c) In the event that it is made to appear to the court that the judgment debtor has failed to pay any installment as permitted by the order of the court, then the court shall give notice of such default to the department and the department shall forthwith suspend the license and registration certificates and registration plates of the judgment debtor until said judgment is satisfied as provided in this act.

(Added by Ch. 591, Stats. 1935.)

DIVISION VIII. GARAGES, REPAIR SHOPS, SERVICE STATIONS AND PRIVATE BUILDINGS.

CHAPTER 1. LIENS ON VEHICLES.

Liens on vehicles

425. Labor and Material Liens on Vehicles. Every person has a lien dependent upon possession for the compensation to which he is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the storage, repair or safe-keeping of, any vehicle of a type subject to registration hereunder, subject to the limitations set forth in this chapter.

Revival of liens

426. Revival of Liens Lost; Duties of Lienholder. (a) Whenever such lien upon any such vehicle is lost by reason of the loss of possession through trick, fraud, or device, the repossession of such vehicle by the lienholder revives such lien but any lien so revived is subordinate to any right, title or interest of any person under any sale, transfer, encumbrance, lien or other interest acquired or secured in good faith and for value between the time of such loss of possession and the time of repossession.

Notice to legal owner

(b) That portion of such lien in excess of one hundred dollars, for any work, services, care, storage or safe-keeping rendered or performed at the request of any person other than the holder of the legal title, is invalid, unless prior to commencing any such work, service, care, storage or safe-keeping, the person claiming such lien gives actual notice in writing either by personal service or by registered letter addressed to the legal owner named in the registration certificate. If any portion of a lien includes storage charges upon a vehicle for a period in excess of sixty days, the portion of the lien which accrued after the expiration of such period is invalid unless the provisions of sections 438 and 439 have been complied with by the holder of said lien.

Sale

427. Sale to Satisfy Liens. If the lien holder is not paid the amount due, and for which the lien is given, within ten

days after the same becomes due, then such lien holder may proceed to sell said property, or so much thereof as may be necessary to satisfy said lien and costs of sale at public auction.

Notice of sale.

428. Notice of Sale; Disposition of Proceeds. Prior to any such sale said lien holder shall give at least ten days' notice of such sale by advertising in some newspaper published in the county in which said property is situated; or if there is no newspaper printed in such county, then by posting notice of sale in three of the most public places in the town or place where such property is to be sold, for ten days previous to the date of the sale. Prior to the sale of any vehicle to satisfy any such lien, twenty days' notice by registered mail shall be given to the legal owner and to the registered owner of said vehicle, if registered in this State, as the same appear in the registration certificate, and also to the department by registered letter. The department shall in like manner immediately notify the legal owner and the registered owner of the proposed sale, but failure on the part of said department to give such notice shall not affect the validity of any such sale. The proceeds of the sale must be applied to the discharge of the lien and the cost of keeping and selling the property. The remainder, if any, shall be paid to the legal owner.

Sale of vehicle of less than $25 value

428.5. Sale of Certain Vehicles by Lienholder. Where the vehicle subject to the lien is appraised at a value not exceeding twenty-five dollars by an officer or employee of the department, the lienholder may sell such vehicle at public sale, upon the giving of notice as provided in this section. At least ten days before the sale, the lienholder shall notify the legal owner, the registered owner, and the department by registered mail of the time and place of the sale. At least ten days before the sale, the lienholder shall also post a notice of the sale in a conspicuous place on the premises where the vehicle is stored, giving the date of the sale and a description of the vehicle, including the make, model, type, and license number.

(Added by Ch. 808, Stats. 1935.)

Redemption

429. Redemption from Sale. Within twenty days after such sale, the legal owner may redeem any such vehicle so sold to satisfy said lien upon the payment of the amount thereof, all costs and expenses of said sale, together with interest on said sum at the rate of twelve per cent per annum from the due date thereof or the date when the same were advanced until the repayment.

Removal of vehicle subject to lien

430. Unlawful Removal or Obtaining of Vehicle Subject to Lien. It is a misdemeanor for any person to obtain possession of any vehicle or any part thereof subject to a lien under this chapter through surreptitious removal or by trick, fraud, or device perpetrated upon the lien holder.

CHAPTER 2. CONDUCT OF GARAGES AND REPAIR SHOPS AND OF PERSONS RENTING PRIVATE BUILDINGS.

Garage-keepers' records.

438. Records of Garage Keepers. (a) Every keeper of a garage shall keep a written record of every vehicle of a type subject to registration hereunder stored therein for compensation for a period longer than twelve hours.

(b) Such record shall contain the name and address of the person storing the same and a brief description of the vehicle including the name or make, the motor or other number of the vehicle, and the license number shown by the license plates or registration card if either of the latter is attached to the vehicle in a clearly discernible place.

(c) All such records shall be open to inspection by any peace officer.

Reports.

439. Report of Vehicles Known or Suspected to Have Been Abandoned or Unlawfully Stored. Whenever any vehicle of a type subject to registration hereunder has been stored in a garage for thirty days and the ownership of said vehicle is unknown to the keeper thereof said keeper shall thereupon report the presence of such vehicle to the sheriff's office of the county or the police department of the city wherein such garage is located. At the same time, whether the name of the registered owner is known or not, said keeper shall report such fact to the department by receipted mail and the department shall at once notify the legal owner as of record

(Added by Ch. 713, Stats. 1935.)

[ORIGINAL SECTION.]

439. Report of Vehicles Known or Suspected to Have Been Abandoned or Unlawfully Stored. Whenever any vehicle of a type subject to registration hereunder has been stored in a garage for thirty days and the ownership of said vehicle is unknown to the keeper thereof said keeper shall thereupon report the presence of such vehicle to the sheriff's office of the county or the police department of the city wherein such garage is located. At the same time, whether the name of the registered owner is known or not, said keeper shall report such fact to any legal owner of the vehicle by registered mail if the address of said legal owner is ascertainable from the records of the department.

Reports of vehicles showing bullet marks

440. Report of Vehicles Showing Bullet Marks. Whenever any vehicle of a type subject to registration hereunder which shows evidence of having been struck by a bullet is stored in a garage or repair shop, the keeper thereof shall within twenty-four hours after receiving such vehicle report such fact to the sheriff's office of the county or police department of the city wherein such garage or repair shop is located giving the motor or other number of the vehicle, the license number if ascertainable, the name and address of the person storing the same or the name and address of the owner shown by the registration card if the same is attached to the vehicle in a clearly discernible place.

Report of rental of private garage

441. Report of Renting of a Private Building in Which a Vehicle is Stored. Every person other than the keeper of a garage renting any private building used as a private garage or space therein for the storage of a vehicle of a type subject

to registration hereunder, when the agreement to rent includes only such building or space therein, shall within twenty-four hours after any such vehicle is stored therein report such fact together with the name of the tenant, and a description of said vehicle including the name or make, the motor or other number of the vehicle and the license number if any, to the sheriff's office of the county or the police department of the city wherein such building is located. "Private garage" as used in this section does not include a public warehouse or public garage.

Penalty

442. Penalty for Failure to Make Reports or Keep Records. Every person required under this chapter to keep a record or make a report who wilfully fails, refuses or neglects to comply with any of the provisions of this chapter is guilty of a misdemeanor.

Unlawful use by custodian of vehicle

443. Unlawful Use Of or Tampering With Vehicles. Every person having the storage, care, safe-keeping, custody or possession of any vehicle of a type subject to registration hereunder who, without the consent of the owner, takes, hires, runs, drives or uses such vehicle or who takes or removes therefrom any part thereof is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding one thousand dollars or by imprisonment in the county jail for not exceeding one year or by both.

DIVISION IX. TRAFFIC LAWS.

CHAPTER 1. UNLAWFUL TO DISOBEY TRAFFIC LAWS.

Obedience to traffic laws

450. Required Obedience to Traffic Laws. It is unlawful and, unless otherwise declared in this division with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this division.

Failure to obey officer

451. Obedience to Traffic and Police Officers. It is unlawful to wilfully fail or refuse to comply with any lawful order, signal or direction of any member of the California Highway Patrol when on duty to enforce the provisions of this code.

Riding bicycles or driving animals

452. Traffic Laws Apply to Persons Riding Bicycles or Animals. Every person riding a bicycle or riding or driving an animal upon a highway is subject to the provisions of this division applicable to the driver of a vehicle, except those provisions which by their very nature can have no application.

Code applies to public officers and employees

453. Public Officers and Employees to Obey Code. The provisions of this code applicable to the drivers of vehicles upon the highways apply to the drivers of all vehicles while engaged in the course of employment by this State or any political subdivision thereof or any municipal corporation therein, subject to such specific exceptions as are set forth in this code with reference to authorized emergency vehicles.

CHAPTER 2. OPERATION AND EFFECT OF DIVISION.

Scope of provisions

457. Scope of Division. The provisions of this division, except those of Chapters 4 and 5, relating to the operation of vehicles refer exclusively to the operation of vehicles upon the highways, unless a different place is specifically referred to in a given section. The provisions of Chapters 4 and 5 of this division apply throughout the State unless otherwise indicated.

Applies throughout State

458. Provisions of Division Uniform Throughout State. The provisions of this division are applicable and uniform throughout the State and in all counties and municipalities therein and no local authority shall enact or enforce any ordinance on the matters covered by this division unless expressly authorized herein.

Regulations by local authorities

459. Powers of Local Authorities. The provisions of this division shall not prevent local authorities within the reasonable exercise of the police power from adopting rules and regulations by ordinance or resolution on the following matters:

(a) Regulating or prohibiting processions or assemblages on the highways.

(b) Licensing and regulating the operation of vehicles for hire.

(c) Regulating traffic by means of traffic officers.

(d) Regulating traffic by means of semaphores or other traffic control signaling devices.

(e) Designating particular highways as one way highways and requiring that all vehicles thereon be moved in one specified direction.

(f) Closing any highway to vehicular traffic when in the opinion of the legislative body having jurisdiction such highway is no longer needed for vehicular traffic.

(g) Designating any highway as a through highway and requiring that all vehicles stop before entering or crossing the same or designating any intersection as a stop intersection and requiring all vehicles to stop at one or more entrances to such intersection.

(h) Prohibiting the use of particular highways by certain vehicles, except as otherwise provided by the Railroad Commission pursuant to section 50¼ of the Public Utilities Act.

No ordinance or resolution enacted under subdivision (e), (f), (g) or (h) hereof shall be effective until signs giving notice of such local traffic laws are posted at all entrances to the highway or part thereof affected. All signs giving notice of any local traffic laws under subdivision (f) hereof shall conform to the specifications applicable to stop signs hereinafter set forth.

No ordinance or resolution enacted under subdivisions (d), (e), (f), (g) or (h) hereof is effective with respect to any highway which is not under the exclusive jurisdiction of the local authority enacting such ordinance or resolution, or, in the case of any State highway within a city, until such

ordinance or resolution has been submitted to and approved in writing by the Department of Public Works.

(Amended by Ch. 590, Stats. 1935.)

[ORIGINAL SECTION.]

459. Powers of Local Authorities. The provisions of this division shall not prevent local authorities within the reasonable exercise of the police power from adopting rules and regulations by ordinance on the following matters:

(a) Regulating or prohibiting processions or assemblages on the highways.

(b) Licensing and regulating the operation of vehicles for hire.

(c) Regulating traffic by means of traffic officers or semaphores or other traffic control signaling devices.

(d) Designating particular highways as one way highways and requiring that all vehicles thereon be moved in one specified direction.

(e) Closing any highway to vehicular traffic when in the opinion of the legislative body having jurisdiction such highway is no longer needed for vehicular traffic.

(f) Designating any highway as a through highway and requiring that all vehicles stop before entering or crossing the same or designating any intersection as a stop intersection and requiring all vehicles to stop at one or more entrances to such intersection.

(g) Prohibiting the use of particular highways by certain vehicles, except as otherwise provided by the Railroad Commission pursuant to section 50¾ of the Public Utilities Act.

No ordinance enacted under subdivision (d), (e), (f) or (g) hereof shall be effective until signs giving notice of such local traffic laws are posted at all entrances to the highway or part thereof affected. All signs giving notice of any local traffic laws under subdivision (f) hereof shall conform to the specifications applicable to stop signs hereinafter set forth.

CHAPTER 3. TRAFFIC SIGNS, SIGNALS AND MARKINGS.

Traffic signs and signals

465. Official Traffic Control Devices. (a) The State Department of Public Works, Division of Highways, shall place and maintain, or cause to be placed and maintained, with respect to highways outside of cities and under its jurisdiction, appropriate signs and signals as required hereunder, and may respectively place and maintain, or cause to be placed and maintained, such appropriate signs and signals as may be authorized hereunder, or as may be necessary properly to indicate and to carry out the provisions of this code, or to direct or warn traffic upon the highways.

(b) Local authorities in their respective jurisdictions shall place and maintain or cause to be placed and maintained such traffic signs and, subject to the provisions of section 466, such stop signs, semaphores and control devices upon streets and highways as may be necessary to indicate and to carry out the provisions of this code or local traffic ordinances or to regulate, warn or guide traffic.

(c) All signs and signals erected in accordance with the provisions of this code shall be deemed official traffic signs and signals.

(d) The provisions of this or any other section of this division shall not modify, limit or prohibit the Railroad Commission from erecting and maintaining or causing to be erected and maintained signs and signals as authorized by law and all

signs and signals so erected shall likewise be deemed official traffic control devices.

(Amended by Ch. 590, Stats. 1935.)

[ORIGINAL SECTION.]

465. Erection of Traffic Signs and Signals. (a) The State Department of Public Works with respect to State highways and local authorities with respect to highways under their jurisdiction shall erect and maintain or cause to be erected and maintained appropriate signs and signals as required hereunder and may, respectively, erect and maintain or cause to be erected and maintained such appropriate signs and signals as may be authorized hereunder, or as may be deemed necessary properly to indicate and to carry out the provisions of this code, or to direct or warn traffic upon the highways. All such signs and signals so erected shall be deemed for the purposes of this code official traffic signs and signals.

(b) The provisions of this or any other section of this division shall not modify, limit or prohibit the Railroad Commission from erecting and maintaining or causing to be erected and maintained signs and signals as authorized by law and all signs and signals so erected shall likewise be deemed official traffic signs and signals.

Control by department over signs and signals

466. [Erection and Maintenance of Stop Signs and Signal Devices.] No local authority, except by permission of said department shall erect or maintain any stop sign, semaphore or other traffic control signaling device in such manner as to require the traffic on any State highway to stop before entering or crossing any intersecting highway.

The State Department of Public Works may erect and maintain, or cause to be erected and maintained, on any State highway, such stop signs, semaphores or other traffic control signaling devices as are necessary for the public safety and the orderly and efficient use of the highways by the public. It is unlawful to fail to obey any such sign, semaphore or signaling device.

(Added by Ch. 590, Stats. 1935.)

Speed restriction signs

468. Business and Residence District Speed Restriction Signs. (a) Speed restriction signs shall be erected upon every principal thoroughfare at the entrance thereof into a business or residence district and may be erected upon any other highway at the entrance thereof into such a district.

(b) The authorities having jurisdiction shall determine and select those principal thoroughfares entering a business or residence district which shall be so signposted

(c) Every speed restriction sign hereafter located upon a highway at the entrance to a business district shall be of metal and rectangular in shape, except that the corners shall be slightly rounded and shall conform approximately to the specifications hereinafter set forth. The minimum size of the sign measured through its center shall be thirty inches in length and twenty-four inches in width. The face of the sign shall be black with the words and figures "speed limit 20 miles" in white thereon. The top of the words "speed limit" shall be two and one-half inches from the top edge of the sign. Each letter of the words "speed limit" shall be four inches in height and of five-eighths inch stroke. The top of the figures "20" shall be one and eleven-sixteenths inches below

the bottom of the words "speed limit." Each figure of the figures "20" shall be ten and seven-eighths inches in height and of one and three-fourths inches stroke. The top of the word "miles" shall be one and eleven-sixteenths inches below the bottom of the figures "20." Each letter of the word "miles" shall be four inches in height and of five-eighths inch stroke. A white border line of three-eighths inch stroke shall parallel the outside edges of the sign. The outside edge of the border line shall be three-eighths inches from the outside edges of the sign. The sign may be made of larger dimensions in which event the size and stroke of letters, figures and lines shall be increased in the proper proportion.

(d) Every speed restriction sign located upon a highway at the entrance to a residence district shall be identical in all particulars with the sign specified and described in subdivision (c) of this section except that the figures "25" shall be substituted in the place of the figures "20."

(e) Such signs shall be erected at a height of not less than four nor more than ten feet from the ground and shall be placed on the right-hand side of the highway at the entrance thereof into such district.

(Amended by Ch. 592, Stats. 1935.)

[ORIGINAL SECTION.]

468. Business and Residence District Speed Restriction Signs (a) Speed restriction signs shall be erected upon every principal thoroughfare at the entrance thereof into a business or residence district and may be erected upon any other highway at the entrance thereof into such a district.

(b) Such signs shall be erected at a height of not less than four nor more than ten feet from the ground and shall be placed on the right-hand side of the highway at the entrance thereof into such district. Signs at the entrance of a business district shall have inscribed on the front thereof in letters of a size to be easily read by a person using the highway the words and figures "20 miles speed limit." Signs at the entrance of a residence district shall be the same in all respects except that the words and figures shall be "25 miles speed limit."

469. Railroad Warning Approach Signs. Railroad warning approach signs shall be erected by local authorities upon the right-hand side of each approach of every highway under their jurisdiction to a grade crossing of a steam railroad or electric interurban railway at a reasonable distance from such crossing. Every such sign shall consist of a metal disc and shall conform approximately to the specifications hereinafter set forth. Said disc shall be twenty-four inches in diameter. The face of said disc shall have a white enameled background upon which there shall be placed an enameled black border line one inch wide and an enameled black vertical line and a like horizontal line each two and one-half inches wide. In each of the upper quarters thus formed there shall appear in black enamel the letter "R," five inches high and three and three-quarters inches wide, drawn in lines of one inch stroke. Railroad warning signs

470. Detour Signs. Detour signs shall be erected at the nearest points of detour from that portion of a highway, or Detour signs

from any bridge, which is closed to traffic while under construction or repair.

Stop signs at through highways

471. Stop Signs at Through Highways. (a) Every primary and secondary State highway is a through highway and the State Department of Public Works may erect stop signs at any entrance thereto.

(b) Subject to the provisions of section 466, any local authority may designate any highway under its jurisdiction as a through highway and may erect like stop signs at specified entrances thereto or may designate any intersection under its exclusive jurisdiction as a stop intersection and erect like signs at one or more entrances thereto.

(c) Every stop sign erected after August 14, 1929, shall be of metal and octagonal in shape and shall conform approximately to the specifications hereinafter set forth. Each side of such sign shall be of equal length and shall be not less than ten inches in length. The face of such sign shall have a field colored a bright red with the word "stop" in white horizontally across the center of said field. Each letter of said word shall be at least six inches in height and of one inch stroke. There shall also be two white lines running horizontally across said sign one above and one below the word "stop." Said lines shall be parallel to each other and shall be at least three-eighths inch stroke and the centers thereof shall be eight and seven-eighths inches apart. The inside edge of each of said lines shall be the same distance from the nearest edge of said letters of said word. Each such white line shall intersect at both ends with a border which border shall consist of a white line paralleling the edges of said sign. Said sign may be made of larger dimensions in which event the size and stroke of letters and lines shall be increased in the proper proportion.

(d) Every stop sign and traffic signal shall be located at or near the entrance to the highway or intersection where a stop is required.

(Amended by Ch. 590, Stats. 1935.)

[ORIGINAL SECTION.]

471. Stop Signs at Through Highways (a) The State Department of Public Works may erect stop signs at any entrance to a State highway.

(b) Any local authority may by ordinance authorize the erection of like stop signs at specified entrances to highways under its jurisdiction and may likewise authorize the erection of like signs at one or more entrances to any intersection under its jurisdiction.

(c) Every stop sign erected after August 14, 1929, shall be of metal and octagonal in shape and shall conform approximately to the specifications hereinafter set forth. Each side of such sign shall be of equal length and shall be not less than ten inches in length. The face of such sign shall have a field colored a bright red with the word "stop" in white horizontally across the center of said field. Each letter of said word shall be at least six inches in height and of one inch stroke There shall also be two white lines running horizontally across said sign one above and one below the word "stop." Said lines shall be parallel to each other and shall be at least three-eighths inch stroke and the centers thereof shall be eight and seven-eighths inches apart. The inside edge of each of said lines shall be the same distance from the nearest edge of said letters of said word Each such white line shall intersect at both ends with a border which border shall consist of a

white line paralleling the edges of said sign. Said sign may be made of larger dimensions in which event the size and stroke of letters and lines shall be increased in the proper proportion.

(d) Every stop sign shall be located at or near the entrance to the highway or intersection where a stop is required.

472. Curb Markings to Indicate Parking Regulations. Whenever local authorities enact local parking regulations and indicate them by the use of paint upon curbs, the following colors only shall be used and such colors indicate as follows: Curb markings

(a) Red indicates no stopping, standing or parking, whether the vehicle is attended or unattended, except that a bus may stop in a red zone marked or signposted as a bus loading zone.

(b) Yellow indicates stopping only for the purpose of loading or unloading passengers or freight for such time as may be specified by local ordinance.

(c) White indicates stopping only for loading or unloading of passengers for such time as may be specified by local ordinance.

(d) Green indicates time limit parking specified by local ordinance.

Regulations indicated as above provided shall be effective upon such days and during such hours or times as may be prescribed by local ordinances.

473. Display of Unauthorized Signs, Signals and Lights. Unauthorized signs, signals and lights

(a) No person shall place, maintain or display upon, or in view of, any highway any unofficial sign, signal or device or any sign, signal or device which purports to be or is an imitation of, or resembles, an official traffic sign or signal or which attempts to direct the movement of traffic or which hides from view any official traffic sign or signal.

(b) No person shall place or maintain or display upon or in view of any highway any light of any color of such brilliance as to blind or dazzle the vision of drivers upon said highway nor shall any light be placed in such position as to prevent the driver of a vehicle from readily recognizing any official traffic sign or signal.

(c) Every such prohibited sign, signal, device or light is a public nuisance and the State Department of Public Works, members of the California Highway Patrol and local authorities are hereby authorized and empowered without notice to remove the same, or cause the same to be removed, or the director of said department, the chief of said patrol or local authorities may bring an action as provided by law to abate such nuisance.

474. Interference With Official Signs, Signals, Devices, Guides and Markers Prohibited. No person shall without lawful authority deface, injure, knock down or remove, nor shall any person shoot at, any official traffic sign or signal or any device, guide post or historical marker placed or erected as authorized or required by law, nor shall any person without such authority deface, injure or remove, nor shall any Interference with official signs, signals or devices

person shoot at, any inscription, shield or insignia on any such sign, signal, device, guide or marker.

(Amended by Ch. 592, Stats. 1935.)

[ORIGINAL SECTION.]

474. Interference With Official Signs, Signals, Devices, Guides and Markers Prohibited. No person shall without lawful authority deface, injure, knock down or remove any official traffic sign or signal or any device, guide post or historical marker placed or erected as authorized or required by this code.

CHAPTER 4. ACCIDENTS—DUTY TO STOP AND TO REPORT.

Accidents involving personal injuries.

480. Accidents Involving Death or Personal Injuries. The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident and shall fulfill the requirements of section 482 (a) hereof and any person failing to stop or to comply with said requirements under such circumstances is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the State prison for not less than one year nor more than five years or in the county jail for not to exceed one year or by fine of not to exceed five thousand dollars or by both.

(Amended by Ch. 764, Stats. 1935.)

[ORIGINAL SECTION.]

480. Accidents Involving Death or Personal Injuries. The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident and shall fulfill the requirements of section 482 (a) hereof and any person failing to stop or to comply with said requirements under such circumstances is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the State prison for not more than five years or in the county jail for not to exceed one year or by a fine of not to exceed five thousand dollars or by both.

Accidents involving property damage only.

481. Accidents Involving Property Damage Only. (a) The driver of any vehicle involved in an accident resulting only in damage to property shall immediately stop such vehicle at the scene of such accident and shall fulfill the requirements of section 482 (b) hereof and any person failing to stop or to comply with said requirements under such circumstances is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not to exceed six months or by a fine of not to exceed five hundred dollars or by both.

Collision with unattended vehicle.

(b) This section shall have no application where the driver of a vehicle collides with any vehicle which is unattended.

(Amended by Ch. 764, Stats. 1935.)

[ORIGINAL SECTION.]

481. Accidents Involving Property Damage Only. (a) The driver of any vehicle involved in an accident resulting only in damage to property shall immediately stop such vehicle at the scene of such accident and shall fulfill the requirements of section 482 (b) hereof and any person failing to stop or to comply with said requirements under such circumstances is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not to

exceed one year or by a fine of not to exceed five hundred dollars or by both.

(b) This section shall have no application where the driver of a vehicle collides with any vehicle which is unattended.

Duty to render aid and give information

482. Duty to Give Information and Render Aid. (a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall also give his name, address and the registration number of the vehicle he is driving, the name of the owner, and shall upon request and if available exhibit his operator's or chauffeur's license to the person struck or the driver or occupants of any vehicle collided with or shall give such information and exhibit such license to any traffic or police officer at the scene of the accident and shall render to any person injured in such accident reasonable assistance, including the carrying or the making arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

(b) The driver of any vehicle involved in an accident resulting only in damage to property shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's or chauffeur's license, except that when the driver of any vehicle collides with any vehicle which is unattended the provisions of section 483 hereof shall apply.

(c) If the driver does not have his operator's or chauffeur's license in his possession, he shall exhibit other valid evidences of identification to the occupants of a vehicle collided with.

(Amended by Ch. 764, Stats. 1935.)

[ORIGINAL SECTION.]

482. Duty to Give Information and Render Aid. (a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall also give his name, address and the registration number of the vehicle he is driving, the name of the owner, and the names of all passengers, not exceeding five, in such vehicle and shall exhibit his operator's or chauffeur's license to the person struck or the driver or occupants of any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

(b) The driver of any vehicle involved in an accident resulting only in damage to property shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall exhibit his operator's or chauffeur's license, except that when the driver of any vehicle collides with any vehicle which is unattended the provisions of section 483 hereof shall apply.

Duty upon collision with unattended vehicle.

483. Duty Upon Striking Unattended Vehicle. The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle

striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof and shall within twenty-four hours forward a similar notice to the police department of the city wherein the collision occurred or, if the collision occurred in unincorporated territory, then either to the sheriff of the county wherein the collision occurred, or to the local headquarters of the California Highway Patrol.

(Amended by Ch. 764, Stats. 1935.)

[ORIGINAL SECTION]

483. Duty Upon Striking Unattended Vehicle. The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof and shall within twenty-four hours forward a similar notice to the police department of the city wherein the collision occurred or, if the collision occurred in unincorporated territory, then to the sheriff of the county wherein the collision occurred.

Report of accident causing injury or death

484. Duty to Report Accidents. (a) The driver of a vehicle, other than a common carrier vehicle, involved in any accident resulting in injuries to or death of any person shall within twenty-four hours after such accident make or cause to be made a written report of such accident to the department or to any of its branch offices or local headquarters of the California Highway Patrol, except when such accident occurs within a city such report shall be made within said twenty-four hours to the police department of such city.

Report by police

(b) Every police department shall on or before the fifth day of each month forward every such report so filed with it during the previous calendar month, or a copy thereof, to the main office of the department at Sacramento.

Report by owner or driver of common carrier vehicle

(c) The owner or driver of a common carrier vehicle involved in any such accident shall make a like report to the department on or before the tenth day of the month following the accident.

Supplemental reports

(d) The department may require any driver, or the owner of a common carrier vehicle, involved in any accident of which report must be made as provided in this section to file supplemental reports and may require witnesses of accidents to render reports to it whenever the original report is insufficient in the opinion of the department.

When driver incapacitated

485. When Driver Unable to Report. Whenever the driver of a vehicle is physically incapable of making a required accident report and there was another occupant in the vehicle at the time of the accident, such occupant shall make, or cause to be made, said report.

Forms

486. Accident Report Forms. (a) The department shall prepare and upon request supply to police departments, cor-

oners, sheriffs and other suitable agencies or individuals, forms for accident reports required hereunder which reports shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing and the persons and vehicles involved.

(b) Every required accident report shall be made on a form approved by the department.

Coroners' reports

487. Coroners to Report. Every coroner shall on or before the tenth day of each month report in writing to the department the death of any person during the preceding calendar month as the result of an accident involving a motor vehicle and the circumstances of such accident.

Reports confidential

488. Accident Reports Confidential. All required accident reports and supplemental reports shall be without prejudice to the individual so reporting and shall be for the confidential use of the department, except that the department may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident. No such report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department shall furnish upon demand of any person who has, or claims to have, made such a report or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that such a report be made to the department.

(Amended by Ch. 155, Stats. 1935.)

[ORIGINAL SECTION.]

488. Accident Reports Confidential. All required accident reports and supplemental reports shall be without prejudice to the individual so reporting and shall be for the confidential use of the department. No such report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department shall furnish upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that such a report be made to the department.

Accident analyses

489. Department to Tabulate and Analyze Accident Reports. The department shall tabulate and may analyze all accident reports and publish annually or at more frequent intervals statistical information based thereon as to the number and location of traffic accidents. Based upon its findings after such analysis, the department may conduct further necessary detailed research to more fully determine the cause and control of highway accidents. It may further conduct experimental field tests within areas of the State from time to time to prove the practicability of various ideas advanced in traffic control and accident prevention.

CHAPTER 5. FELONIES AND OTHER OFFENSES.

Negligent homicide

500. Negligent Homicide. When the death of any person ensues within one year as the proximate result of injuries

caused by the driving of any vehicle in a negligent manner or in the commission of an unlawful act not amounting to felony, the person so operating such vehicle shall be guilty of negligent homicide, a felony, and upon conviction thereof shall be punished by imprisonment in the county jail for not more than one year or in the State prison for not more than three years

(Added by Ch. 764, Stats. 1935.)

Causing personal injury while driving while intoxicated

501. Person Driving Under Influence of Liquor Guilty of a Felony. Any person who, while under the influence of intoxicating liquor, drives a vehicle and when so driving does any act forbidden by law or neglects any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes bodily injury to any person, is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the State prison for not less than one year nor more than five years or in the county jail for not less than ninety days nor more than one year or by fine of not less than two hundred dollars nor more than five thousand dollars or by both such fine and imprisonment.

(Added by Ch. 764, Stats. 1935.)

Driving while intoxicated.

502. When Person Driving Under Influence of Liquor Guilty of Misdemeanor. It is unlawful for any person who is under the influence of intoxicating liquor to drive a vehicle upon any highway. Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than thirty days nor more than six months or by fine of not less than fifty dollars nor more than five hundred dollars or by both such fine and imprisonment and upon a second or any subsequent conviction by imprisonment in the county jail for not less than ninety days nor more than one year or by a fine of not less than two hundred dollars nor more than one thousand dollars or by both such fine and imprisonment.

(Added by Ch. 764, Stats 1935, which repealed the original section.)

[ORIGINAL SECTION.]

502. Driving While an Habitual User of Narcotic Drugs or Under the Influence of Narcotic Drugs or Intoxicating Liquor. It is unlawful for any person who is an habitual user of narcotic drugs or who is under the influence of intoxicating liquor or narcotic drugs to drive a vehicle on any highway.

Any person violating the provisions of this section shall upon conviction be punished by imprisonment in the county jail for not less than ninety days nor more than one year or by imprisonment in the State prison for not less than one nor more than three years, or by a fine of not less than two hundred dollars nor more than five thousand dollars, and upon every verdict of "guilty" under this section, the jury shall recommend the punishment and the court in imposing sentence shall have no authority to impose a sentence greater than that recommended by the jury.

Theft or taking of vehicle

503. Theft and Unlawful Driving or Taking of a Vehicle. Any person who drives or takes a vehicle not his own, without the consent of the owner thereof and in the absence of the owner, and with intent to either permanently or tem-

porarily deprive the owner thereof of his title to or possession of such vehicle, whether with or without intent to steal the same, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the State prison for not less than one year nor more than five years or in the county jail for not more than one year or by a fine of not more than five thousand dollars or by both such fine and imprisonment. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or driving of such vehicle by the same or a different person. Any person who assists in, or is a party or accessory to or an accomplice in any such driving or unauthorized taking or stealing, is guilty of a felony.

Consent of owner on prior occasion

Accessories and accomplices

(Amended by Ch. 764, Stats. 1935.)

[ORIGINAL SECTION.]

503. Theft and Unlawful Driving or Taking of a Vehicle. Any person who drives or takes a vehicle not his own, without the consent of the owner thereof and in the absence of the owner, and with intent to either permanently or temporarily deprive the owner thereof of his title to or possession of such vehicle, whether with or without intent to steal the same, is guilty of a felony. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or driving of such vehicle by the same or a different person. Any person who assists in, or is a party or accessory to or an accomplice in any such driving or unauthorized taking or stealing, is guilty of a felony.

504. Injuring or Tampering With Vehicle. (a) No person shall either individually or in association with one or more other persons, wilfully injure or tamper with any vehicle or break or remove any part or parts of or from a vehicle without the consent of the owner.

Injury to or tampering with vehicle

(b) No person shall with intent to commit any malicious mischief, injury or other crime climb into or upon a vehicle whether it is in motion or at rest nor shall any person attempt to manipulate any of the levers, starting mechanism, brakes or other mechanism or device of a vehicle while the same is at rest and unattended nor shall any person set in motion any vehicle while the same is at rest and unattended.

(c) Any person who violates this section is guilty of a misdemeanor.

505. Reckless Driving. (a) Any person who drives any vehicle upon a highway in such a manner as to indicate either a wilful or a wanton disregard for the safety of persons or property is guilty of reckless driving and upon conviction thereof shall be punished by imprisonment in the county jail for not less than five days nor more than ninety days or by fine of not less than twenty-five dollars nor more than two hundred fifty dollars or by both such fine and imprisonment, except as provided in subdivision (b) of this section.

Reckless driving

(b) Whenever such reckless driving of a vehicle proximately causes bodily injury to any person, the person so driving such vehicle shall upon conviction thereof be punished by imprison-

Punishment when reckless driving causes personal injury

ment in the county jail for not less than thirty days nor more than six months or by fine of not less than one hundred dollars nor more than five hundred dollars or by both.

(Amended by Ch. 764, Stats. 1935.)

[ORIGINAL SECTION.]

505. Reckless Driving. (a) Any person who drives any vehicle upon a highway in such a manner as to indicate either a wilful or a wanton disregard for the safety of persons or property is guilty of reckless driving and upon conviction thereof shall be punished by imprisonment in the county jail for not less than five days nor more than ninety days or by fine of not less than twenty-five dollars nor more than two hundred fifty dollars or by both.

Driving by narcotic addicts

506. Driving When Addicted to or Under Influence of Narcotic Drugs. It is unlawful for any person who is addicted to the use, or under the influence, of narcotic drugs to drive a vehicle upon any highway. Any person convicted under this section shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in the State prison for not less than one year nor more than five years or in the county jail for not less than ninety days nor more than one year or by a fine of not less than two hundred dollars nor more than five thousand dollars or by both such fine and imprisonment.

(Added by Ch. 764, Stats. 1935.)

CHAPTER 6. SPEED LAWS.

Basic speed law

510. Basic Speed Law. No person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent having due regard for the traffic on, and the surface and width of, the highway, and in no event at a speed which endangers the safety of persons or property.

Prima facie speed limits

511. Prima Facie Speed Limits. The speed of any vehicle upon a highway not in excess of the limits specified in this section is lawful unless clearly proved to be in violation of the basic rule declared in section 510 hereof.

The speed of any vehicle upon a highway in excess of any of the limits specified in this section is prima facie unlawful unless the defendant establishes by competent evidence that any said speed in excess of said limits did not constitute a violation of the basic rule declared in section 510 hereof at the time, place and under the conditions then existing.

The prima facie limits referred to above are as follows:

(a) Fifteen miles per hour:

(1) When passing a school building, or the grounds thereof, contiguous to the highway during school recess or while children are going to or leaving such school during opening or closing hours or while the playgrounds of any such school are in use by school children.

(2) When traversing a grade crossing of a steam, electric or street railway if during the last one hundred feet of the approach to such crossing the driver does not have a clear and unobstructed view of such crossing and of any traffic on such railway for a distance of four hundred feet in both directions along such railway.

(3) When approaching or upon a curve or any other part of a highway in the event the driver's view is obstructed within a distance of one hundred feet along the highway in the direction in which such driver is proceeding.

(4) When traversing any intersection of highways if during the last one hundred feet of his approach to such intersection the driver does not have a clear and unobstructed view of such intersection and of any traffic upon all of the highways entering such intersection for a distance of one hundred feet along all such highways, except upon a through highway or at traffic-controlled intersections, in which event in a business or residence district the district speed shall apply and elsewhere the speed shall be thirty miles per hour.

(b) Twenty miles per hour:

(1) In any business district.

(2) When upon the ground of any public school, State university, State college, or State, county, or municipal institution or building.

(c) Twenty-five miles per hour in any residence district.

(d) Forty-five miles per hour under all other conditions.

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

511. Prima Facie Speed Limits. The speed of any vehicle upon a highway not in excess of the limits specified in this section is lawful unless clearly proved to be in violation of the basic rule declared in section 510 hereof.

The speed of any vehicle upon a highway in excess of any of the limits specified in this section is prima facie unlawful and warrants conviction for illegal speed except that the defendant is entitled to an acquittal in the event it is established by competent evidence that any said speed in excess of said limits did not constitute a violation of the basic rule declared in section 510 hereof at the time, place and under the conditions then existing.

The prima facie limits referred to above are as follows:

(a) Fifteen miles per hour:

(1) When passing a school building, or the grounds thereof, during school recess or while children are going to or leaving such school during opening or closing hours or while the playgrounds of any such school are in use by school children.

(2) When traversing a grade crossing of a steam, electric or street railway if during the last one hundred feet of the approach to such crossing the driver does not have a clear and unobstructed view of such crossing and of any traffic on such railway for a distance of four hundred feet in both directions along such railway.

(3) When approaching or upon a curve or any other part of a highway in the event the driver's view is obstructed within a distance of two hundred feet along the highway in the direction in which such driver is proceeding.

(4) When traversing any intersection of highways if during the last one hundred feet of his approach to such intersection the driver does not have a clear and unobstructed view of such intersection and of any traffic upon all of the highways entering such intersection for a distance of two hundred feet along all such highways.

(b) Twenty miles per hour:

(1) In any business district.

(2) When upon the grounds of a State university or any State, county or municipal institution.

(c) Twenty-five miles per hour in any residence district.

(d) Forty-five miles per hour under all other conditions

Excess speed not prima facie evidence of negligence

513 Exceeding Prima Facie Limit Not Negligence as Matter of Law. In any civil action proof of speed in excess of any

prima facie limit declared in section 511 hereof at a particular time and place shall not establish negligence as a matter of law but in all such actions it shall be necessary to establish as a fact that the operation of a vehicle at such excess speed constituted negligence.

Minimum speed

514. Minimum Speed Law. No person shall drive upon a highway at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or because upon a grade or when the vehicle is a motor truck or motor truck towing another vehicle necessarily or in compliance with law proceeding at reduced speed.

Speed based upon weight and equipment.

515. Speed Law Based on Weight and Tire Equipment. (a) No person shall operate upon any highway any of the following vehicles when equipped entirely with pneumatic tires at any speed in excess of the following:

(1) Any motor truck and trailer—twenty-five miles per hour.

(2) Any motor truck alone or with semitrailer having a gross weight, of vehicle and load or of such vehicles and load of twenty-five thousand pounds or more — thirty miles per hour.

(3) Any motor truck alone or with semitrailer having a gross weight, of vehicle and load or of such vehicles and load of twenty thousand but less than twenty-five thousand pounds—thirty-five miles per hour.

(b) No person shall operate upon a highway any vehicle equipped with any solid tire when such vehicle has a gross weight as set forth in the following table at any speed in excess of the speed set forth opposite such gross weight:

When gross weight of vehicle and load is:	Maximum speed in miles per hour:
10,000 lbs. or more but less than 16,000 lbs.	25
16,000 lbs. or more but less than 22,000 lbs.	15
22,000 lbs. or more	12

(c) No person shall operate upon a highway any vehicle equipped with any metal tire in contact with the surface of the highway at a speed in excess of six miles per hour.

(Amended by Ch. 592, Stats. 1935.)

[AS AMENDED BY CH. 586, STATS 1935.]

515. Speed Law Based on Weight and Tire Equipment. (a) No person shall operate upon any highway any of the following vehicles when equipped entirely with pneumatic tires at any speed in excess of the following:

(1) Any motor truck and trailer—twenty-five miles per hour, except that any motor truck and trailer, both of which are unladen, may be operated at a speed not in excess of thirty miles per hour.

(2) Any motor truck alone or with semitrailer having a gross weight of vehicle and load or of such vehicles and load of more than twenty-six thousand pounds—thirty miles per hour.

(3) Any motor truck alone or with semitrailer having a gross weight of vehicle and load or of such vehicles and load of twenty thousand but not more than twenty-six thousand pounds—thirty-five miles per hour.

(b) No person shall operate upon a highway any vehicle, equipped with any solid tire when such vehicle has a gross weight as set forth in the following table at any speed in excess of the speed set forth opposite such gross weight:

When gross weight of vehicle and load is	Maximum speed in miles per hour
10,000 lbs. or more but less than 16,000 lbs.	25
16,000 lbs. or more but less than 22,000 lbs.	15
22,000 lbs. or more	12

(c) No person shall operate upon a highway any vehicle equipped with any metal tire in contact with the surface of the highway at a speed in excess of six miles per hour.

(d) Subject to the foregoing limitations when applicable, any truck or trailer equipped with other than pneumatic tires which has a manufacturer's rated carrying capacity of four tons or more shall not at any time be driven or moved on any public highway at a speed in excess of fifteen miles per hour.

[ORIGINAL SECTION.]

515. Speed Law Based on Weight and Tire Equipment. (a) No person shall operate upon any highway any of the following vehicles, other than passenger vehicles, when equipped entirely with pneumatic tires at any speed in excess of the following:

(1) Any motor truck and trailer or semitrailer—twenty-five miles per hour.

(2) Any motor truck having a gross weight, of vehicle and load of twenty-five thousand pounds or more—thirty miles per hour.

(3) Any motor truck having a gross weight, of vehicle and load of twenty thousand but less than twenty-five thousand pounds—thirty-five miles per hour.

(b) No person shall operate upon a highway any vehicle, other than a passenger vehicle, equipped with any solid tire when such vehicle has a gross weight as set forth in the following table at any speed in excess of the speed set forth opposite such gross weight:

When gross weight of vehicle and load is:	Maximum speed in miles per hour:
9,000 lbs. or more but less than 12,000 lbs.	25
12,000 lbs. or more but less than 22,000 lbs	15
22,000 lbs. or more	12

(c) No person shall operate upon a highway any vehicle other than a passenger vehicle equipped with any metal tire in contact with the surface of the highway at a speed in excess of six miles per hour.

(d) Subject to the foregoing limitations when applicable, any truck or trailer equipped with other than pneumatic tires which has a manufacturer's rated carrying capacity of four tons or more shall not at any time be driven or moved on any public highway at a speed in excess of fifteen miles per hour.

Speed on bridges or structures

516 Speed on Bridges and Structures. (a) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure.

(b) The State Department of Public Works may, after a public hearing, determine the maximum speed, which shall not be less than five miles per hour, which can be maintained with safety to such bridge or structure. The department shall give notice of the time and place of said hearing by posting upon such bridge or structure at least five days before said hearing. The hearing shall be conducted by one or more engineers appointed by the director of said department. Said engineer or engineers shall hear all evidence presented at the time and place mentioned in the notice and shall report findings made in writing to said director who shall, upon the basis of such findings, declare in writing the maximum speed which can be maintained with safety to such bridge or structure. Thereupon, said department shall erect suitable signs specifying the

speed so declared at a distance of not less than one hundred feet or more than one hundred fifty feet from each end of such bridge or structure or any approach thereto.

(c) Upon the trial of any person charged with a violation of this section, proof of said determination of the maximum speed by said department and the existence of said signs constitutes prima facie evidence of the maximum speed which can be maintained with safety to such bridge or structure.

Tunnel or tube.

(d) All of the provisions of this section shall likewise apply with respect to speed within any tube or tunnel constituing a part of a highway.

(Amended by Ch. 592, Stats. 1935.)

[ORIGINAL SECTION.]

516. Speed on Bridges and Structures and Through Tubes or Tunnels. (a) No person shall drive a vehicle over any bridge or other elevated structure or through any public tube or tunnel constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge, structure, tube or tunnel.

(b) The State Department of Public Works may, after a public hearing, determine the maximum speed, which shall not be less than fifteen miles per hour, which can be maintained with safety to such bridge, structure, tube or tunnel. Said department shall conduct such a public hearing and shall in all other respects carry out the provisions of this section, upon request of the local authorities having jurisdiction over any bridge, structure, tube or tunnel with respect to which the hearing is requested. The department shall give notice of the time and place of said hearing by posting upon such bridge, structure, tube or tunnel at least five days before said hearing. Said department shall hear all evidence presented at the time and place mentioned in the notice and shall declare in writing the maximum speed which can be maintained with safety to such bridge, structure, tube or tunnel. Thereupon, said department shall erect suitable signs specifying the speed so declared at a distance of not less than one hundred feet or more than one hundred fifty feet from each approach thereto.

(c) Upon the trial of any person charged with a violation of this section, the maximum speed indicated on signs erected in accordance with law near the approaches to such bridge, structure, tube or tunnel shall constitute prima facie evidence of the maximum speed which can be maintained with safety to such bridge, structure, tube or tunnel.

Speed of emergency vehicles.

517. Application of Speed Laws to Emergency Vehicles. (a) The speed laws shall not apply to the driver of an authorized emergency vehicle when driving in response to an emergency call or when in the immediate pursuit of an actual or suspected violator of the law, nor to a licensed physician when driving in response to emergency calls.

(b) The provisions of this section shall not relieve any driver of an authorized emergency vehicle or any licensed physician from the duty to drive with due regard for the safety of all persons using the highway nor shall the provisions of this section protect any such driver or any licensed physician from the consequences of an arbitrary exercise of the privileges declared in this section.

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

517. Application of Speed Laws to Emergency Vehicles (a) The speed laws shall not apply to the driver of an authorized emergency vehicle when in the immediate pursuit of an actual or suspected violator of the law or when responding to a fire alarm, nor to a licensed physician when driving in response to emergency calls.

(b) The provisions of this section shall not relieve any driver of an authorized emergency vehicle or any licensed physician from the duty to drive with due regard for the safety of all persons using the highway nor shall the provisions of this section protect any such driver or any licensed physician from the consequences of an arbitrary exercise of the privileges declared in this section.

CHAPTER 7. DRIVING ON RIGHT SIDE OF ROADWAY—OVERTAKING AND PASSING.

Driving on right side of highway

525. Drive On Right Side of Roadway. Upon all roadways of sufficient width a vehicle shall be driven upon the right half of, and as close as practicable to the right-hand curb or edge of, such roadway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.

(b) When placing a vehicle in a lawful position for, and when such vehicle is lawfully making, a left turn.

(c) When the right half of a roadway is closed to traffic while under construction or repair.

(d) Upon a roadway designated and signposted for one-way traffic or upon a roadway divided into three or more clearly marked lanes for traffic

Driving in traffic lanes

526. Driving on Roadways Laned for Traffic. Whenever any roadway has been divided into three or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(a) A vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(b) Upon a roadway which is divided into three lanes a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway ahead is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign posted to give notice of such allocation.

(c) Official signs may be erected directing slow moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and drivers of vehicles shall obey the directions of every such sign.

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

526 Driving On Roadways Laned for Traffic. Whenever any roadway has been divided into three or more clearly marked lanes for traffic the following rules shall apply:

(a) A vehicle shall normally be driven in the lane nearest the right-hand curb or edge of the roadway except when overtaking and passing another vehicle proceeding in the same direction or when placing a vehicle in a lawful position for, and when such vehicle is lawfully making, a left turn or when said lane is closed to traffic while under construction or repair or upon a roadway designated and signposted for traffic in certain directions within certain designated lanes.

(b) A vehicle shall be driven as nearly as is practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

Passing vehicles proceeding in opposite direction

527. Passing Vehicles Proceeding in Opposite Directions. (a) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and, except when a roadway has been divided into traffic lanes, each driver shall give to the other at least one-half of the main traveled portion of the roadway whenever possible.

(b) Whenever upon any grade the width of the roadway is insufficient to permit the passing of vehicles approaching from opposite directions at the point of meeting, the driver of the vehicle descending the grade shall yield the right of way to the vehicle ascending the grade and shall if necessary back his vehicle to a place in the highway where it is possible for the vehicles to pass.

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

527. Passing Vehicles Proceeding in Opposite Directions. (a) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other at least one-half of the main traveled portion of the roadway whenever possible.

(b) Whenever upon any grade the width of the roadway is insufficient to permit the passing of vehicles approaching from opposite directions at the point of meeting, the driver of the vehicle descending the grade shall yield the right of way to the vehicle ascending the grade and shall if necessary back his vehicle to a place in the highway where it is possible for the vehicles to pass.

Overtaking vehicle on left.

528. Overtaking a Vehicle On the Left. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations and exceptions hereinafter stated:

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(b) The driver of a motor vehicle, when traveling outside of a business or residence district and under other conditions where necessary to insure safety, shall give audible warning before overtaking a vehicle proceeding in the same direction.

(c) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

Overtaking vehicle on right.

529. When Overtaking On the Right Is Permitted. (a) The driver of a motor vehicle may pass upon the right a vehicle which is making or about to make a left turn.

(b) Upon a city street with unobstructed pavement of sufficient width for two or more lines of moving traffic in each direction the driver of a vehicle may overtake and, allowing sufficient clearance, may pass another vehicle proceeding in

the same direction either upon the left or right under conditions permitting such movement in safety.

530. Limitations on Overtaking on the Left. (a) Except when a roadway has been divided into three traffic lanes, no vehicle shall be driven to the left side of the center line of a roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred feet of any vehicle approaching from the opposite direction. **Passing on left: Limitations.**

(b) No vehicle shall in overtaking and passing another vehicle be driven to the left side of the roadway when approaching the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed or when approaching within one hundred feet of any bridge, viaduct or tunnel or when approaching within one hundred feet of, or traversing, any intersection or railway right of way. **Passing on hills or curves**

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

530. Limitations On Overtaking On the Left. (a) No vehicle shall be driven to the left side of the center line of a roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred feet of any vehicle approaching from the opposite direction.

(b) No vehicle shall in overtaking and passing another vehicle be driven to the left side of the roadway when approaching the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed or when approaching within one hundred feet of any bridge, viaduct or tunnel or when approaching within one hundred feet of, or traversing, any intersection or railway right of way.

531. Following Too Closely. (a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon, and the condition of, the roadway. **Distance between vehicles**

(b) The driver of any motor truck or motor truck drawing another vehicle when traveling upon a roadway outside of a business or residence district shall not follow within three hundred feet of another motor truck or motor truck drawing another vehicle. The provisions of this subdivision shall not prevent overtaking and passing nor shall the same apply upon any lane especially designated for use by motor trucks. This subdivision shall not apply to motor vehicles drawing highway **Trucks**

construction or maintenance equipment while being used in highway construction or maintenance work.

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

531. Following Too Closely. (a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon, and the condition of, the roadway.

(b) The driver of any motor truck or motor truck drawing another vehicle when traveling upon a roadway outside of a business or residence district shall not follow within one hundred fifty feet of another motor truck or motor truck drawing another vehicle. The provisions of this subdivision shall not prevent overtaking and passing nor shall the same apply upon any lane especially designated for use by motor trucks.

Passing animals.

532. Caution in Passing Animals. The driver of any vehicle approaching any horse drawn vehicle, any ridden animal or any live stock shall exercise proper control of his vehicle and shall reduce speed or stop as may appear necessary or as may be requested by any person driving or riding any animal or by any person in charge of any such live stock in order to avoid frightening and to safeguard any such animal or live stock and to insure the safety of any person driving or riding such animal or in charge of such live stock.

Passing school bus

533. Overtaking and Passing School Bus. (a) The driver of any vehicle upon a highway outside of a business or residence district upon meeting or overtaking any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall bring such vehicle to a stop immediately before passing said school bus but may then proceed past such school bus at a speed not greater than is reasonable or proper but in no event greater than ten miles per hour and with due caution for the safety of pedestrians.

Markings on school bus.

(b) The provisions of this section are applicable only in the event the school bus bears upon the front and rear thereof a plainly visible sign containing the words "school bus" in letters not less than four inches in height.

534. Repealed by Ch. 714, Stats. 1935.

[ORIGINAL SECTION.]

534 General Rule re Passing and Overtaking. In all passing and overtaking, such assistance shall be given by the occupants of each vehicle respectively to the other as the circumstances shall reasonably demand in order to obtain clearance and avoid accident.

CHAPTER 8. TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING.

Turning at intersections.

540. Turning at Intersections. The driver of a vehicle intending to turn at an intersection shall do so as follows:

(a) Both the approach for a right turn and a right turn shall be made from that portion of the roadway as close as practicable to the right hand curb or edge of the highway.

(b) Approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and the left turn shall be made by passing immediately to

the right of the center of the intersection before turning, unless otherwise directed by markers, buttons or signs.

(c) Local authorities in their respective jurisdictions may, by placing markers, buttons or signs within or adjacent to intersections, require and direct that a different course from that prescribed in this section be traveled by vehicles turning, and when markers, buttons or signs are so placed no driver of a vehicle shall make a turn other than as directed and required by such markers, buttons or signs.

Turning in street.

541. Turning in Street Prohibited. (a) No vehicle in a business district shall be turned so as to proceed in the opposite direction, except at an intersection.

(b) No vehicle in a residence district shall be turned so as to proceed in the opposite direction when any other vehicle is approaching from either direction within two hundred feet, except at an intersection.

(c) The provisions of this section shall not apply to officers, members or employees of any police or fire department when operating in the line of duty a vehicle owned or controlled by such a department.

Turning on curve or crest of hill

542. Turning on Curve or Crest of Grade Prohibited. No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of, a grade, where such vehicle can not be seen by the driver of any other vehicle approaching from either direction within two hundred feet.

(Added by Ch. 714. Stats. 1935.)

Starting parked vehicle

543. Starting Parked Vehicle. No person shall start a vehicle stopped, standing or parked on a highway unless and until such movement can be made with reasonable safety.

(Amended by Ch 714, Stats. 1935.)

[ORIGINAL SECTION.]

543. Starting Parked Vehicle. No person shall start a vehicle stopped, standing or parked on a highway unless and until such movement can be made with safety.

Turning, stopping or slowing signals

544. When Signal Required. (a) No person shall turn a vehicle unless and until such movement can be made with reasonable safety and then only after the giving of an appropriate signal in the manner provided herein in the event any other vehicle may be affected by such movement.

(b) Any signal of intention to turn right or left shall be given continuously during the last fifty feet traveled by the vehicle before turning.

(c) No persons shall stop or suddenly decrease the speed of a vehicle on a highway without first giving an appropriate signal in the manner provided in this chapter to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

544. When Signal Required. (a) No person shall turn a vehicle unless and until such movement can be made with reasonable safety and then only after the giving of an appropriate signal in the manner provided herein in the event any other vehicle may be affected by such movement.

(b) Any signal of intention to turn right or left shall be given continuously during the last fifty feet traveled by the vehicle before turning.

(c) No person shall stop or suddenly decrease the speed of a vehicle on a highway without first giving an appropriate signal in the manner provided in this chapter.

Signals: Mechanical devices

545. Signals by Hand and Arm or Signal Device. The signals herein required shall be given either by means of the hand or arm or by a signal lamp or mechanical signal device of a type approved by the department, but when the body of a vehicle or the load thereon extends fifteen inches or more beyond the outside of the driver's cab and a hand and arm signal would not be visible both to the front and rear of such vehicle then said signals must be given by such a lamp or device.

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

545. Signals by Hand and Arm or Signal Device. The signals herein required shall be given either by means of the hand and arm or by a signal lamp or mechanical signal device of a type approved by the department, but when a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle then said signals must be given by such a lamp or device.

Method of signaling

546. Method of Giving Signals. All signals herein required given by hand and arm shall be given from the left side of a vehicle in the following manner and such signals shall indicate as follows:

(a) Left turn—hand and arm extended horizontally beyond the side of the vehicle.

(b) Right turn—hand and arm extended upward beyond the side of the vehicle.

(c) Stop or sudden decrease of speed signal—hand and arm extended downward beyond the side of the vehicle.

CHAPTER 9. RIGHT OF WAY.

Right of way at intersection

550. Vehicle Approaching or Entering Intersection. (a) The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different highway.

(b) When two vehicles enter an intersection from different highways at the same time the driver of the vehicle on the left shall yield the right of way to the driver of the vehicle on the right.

Left turn

551. Vehicle Turning Left at Intersection. The driver of a vehicle within an intersection intending to turn to the left shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard but said

driver having so yielded and having given a signal when and as required by this code may make such left turn and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right of way to the driver making the left turn.

552. Vehicle Entering Through Highway. The driver of any vehicle which has stopped as required by this code at the entrance to a through highway shall yield the right of way to other vehicles which have entered the intersection from the through highway or which are approaching so closely on the through highway as to constitute an immediate hazard, but said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection on the through highway shall yield the right of way to the vehicle so about to enter or cross the through highway. Entering through highway.

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

552. Vehicle Entering Through Highway. The driver of any vehicle shall stop as required by this code at the entrance to an intersection at which a "stop" sign has been erected and shall yield the right of way to other vehicles which have entered the intersection or which are approaching so closely as to constitute an immediate hazard, but said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield the right of way to the vehicle so proceeding into or across the intersection.

553. Vehicle Entering Highway From Private Road or Driveway. The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right of way to all vehicles approaching on said highway. Entering highway from private way.

554. Operation of Vehicles and Street Cars on Approach of Authorized Emergency Vehicles. (a) Upon the immediate approach of an authorized emergency vehicle giving audible signal by siren: Operation on approach of emergency vehicle.

(1) The driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the highway clear of any intersection and thereupon stop and remain in such position until such authorized emergency vehicle has passed, except when otherwise directed by a police or traffic officer. Vehicles

(2) The motorman of every street car shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police or traffic officer. Street cars

(b) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(c) No driver of any authorized emergency vehicle shall sound a siren or assume any other special privilege under this section, except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law. Sounding siren by emergency vehicles

CHAPTER 10. PEDESTRIANS' RIGHTS AND DUTIES.

Pedestrian right of way at marked crossing.

560. Pedestrians' Right of Way at Crosswalks. (a) The driver of a vehicle shall yield the right of way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this chapter.

Passing at intersection

(b) Whenever any vehicle has stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

Pedestrians near tunnel or overhead crossing

561. Rule Where Pedestrian Tunnel or Overhead Crossing. Whenever any pedestrian crosses a roadway other than by means of a pedestrian tunnel or overhead pedestrian crossing, when such tunnel or overhead crossing is located at the place where the pedestrian is crossing the roadway, such pedestrian shall yield the right of way to all vehicles on the highway.

Crossing except at cross walk

562. Crossing at Other Than Crosswalks. (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) The provisions of this section shall not relieve the driver of a vehicle from the duty to exercise due care for the safety of any pedestrian upon a roadway.

Crossing controlled intersections

563. Pedestrians at Controlled Intersections. (a) At intersections where traffic is controlled by a traffic control signal device or by police officers, pedestrians shall not cross the roadway against a red or stop signal.

(b) Between adjacent intersections so controlled pedestrians shall not cross at any place except in a crosswalk.

Pedestrians to walk on left of roadway

564. Pedestrian to Walk on Left Side of Roadway. No pedestrian shall walk upon any roadway outside of a business or residence district otherwise than close to his left hand edge of the roadway.

CHAPTER 11. STREET CARS AND SAFETY ZONES.

Passing street cars on left

570. Passing Street Car on Left Prohibited. The driver of a vehicle shall not overtake and pass upon the left, nor shall any driver of a vehicle drive upon the left side of, any interurban electric or street car proceeding in the same direction whether such interurban electric or street car is actually in motion or temporarily at rest, except:

(a) When so directed by a police or traffic officer.

(b) When upon a one way street.

(c) When upon a street where the tracks are so located as to prevent compliance with this section

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

570. Passing Street Car on Left Prohibited. The driver of a vehicle shall not overtake and pass upon the left, any railway, interurban or street car proceeding in the same direction whether such

railway, interurban or street car is actually in motion or temporarily at rest, except:

(a) When so directed by a police or traffic officer.

(b) When upon a one way street.

(c) When upon a street where the tracks are so located as to prevent compliance with this section.

571. Overtaking and Passing Standing Street Car. (a) The driver of a vehicle overtaking any interurban electric or street car stopped or about to stop for the purpose of receiving or discharging any passenger shall stop such vehicle to the rear of the nearest running board or door of such interurban electric or street car and thereupon remain standing until all passengers have boarded such car or upon alighting have reached a place of safety, except as provided in subdivision (b) hereof. Passing standing street cars

(b) Where a safety zone has been established or at an intersection where traffic is controlled by an officer or a traffic control signal device, a vehicle need not be brought to a stop before passing any such interurban electric or street car but may proceed past such car at a speed not greater than ten miles per hour and with due caution for the safety of pedestrians. Safety zones

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

571. Overtaking and Passing Standing Street Car. (a) The driver of a vehicle overtaking any railway, interurban or street car stopped or about to stop for the purpose of receiving or discharging any passenger shall stop such vehicle to the rear of the nearest running board or door of such railway, interurban or street car and thereupon remain standing until all passengers have boarded such car or upon alighting have reached a place of safety, except as provided in subdivision (b) hereof.

(b) Where a safety zone has been established or at an intersection where traffic is controlled by an officer or a traffic control signal device, a vehicle need not be brought to a stop before passing any such railway, interurban or street car but may proceed past such car at a speed not greater than ten miles per hour and with due caution for the safety of pedestrians.

572. Driving Through Safety Zone Prohibited. No vehicle shall at any time be driven through or within a safety zone. Driving through safety zone

CHAPTER 12. SPECIAL STOPS REQUIRED.

575. Obedience to Signal Indicating Approach of Train. (a) Whenever any person driving a vehicle upon a highway approaches an interurban electric or steam railway grade crossing and a clearly visible electric or mechanical signal device gives warning of the immediate approach of a railway train or interurban car, the driver of such vehicle shall stop within fifty feet but not less than ten feet from the nearest track of such railway but need not remain standing if he can proceed in safety. Obeying signal at grade crossings

(b) The driver of a vehicle shall likewise stop and remain standing and not traverse such a grade crossing when a human flagman gives or continues to give a signal of the approach or passage of a railway train or interurban car. Flagman

Powers of local authorities

(c) No local authority shall by ordinance or any signs or signals require that vehicles stop at any interurban electric or steam railway grade crossing other than as required in obedience to the provisions of this section or in obedience to a sign or signal regulating traffic at an intersection.

Powers of Railroad Commission.

(d) This section does not divest the Railroad Commission of any powers or duties vested in it by law.

Certain vehicles to stop at grade crossings

576. Certain Vehicles Must Stop at All Railway Grade Crossings. (a) The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any motor truck carrying explosive substances or inflammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a steam railway, interurban or suburban electric railway, shall stop such vehicle not less than ten nor more than fifty feet from the nearest rail of such track and while so stopped shall listen, and look in both directions along such track, for any approaching railway train, interurban car or other vehicle using such rails before traversing such crossing, except as hereinafter provided.

Controlled crossings

(b) No stop need be made at any such crossing where an officer is on duty and directs traffic to proceed nor where a stop and go signal is in operation and indicates that traffic may proceed.

In business and residence districts

(c) No stop need be made at street railway tracks within a business or residence district.

Spur tracks

(d) The driver of any motor vehicle carrying passengers for hire need not stop, unless a railway train is approaching at any spur track where, with the approval of the Railroad Commission, distinctive signs are displayed indicating that no stop need be made.

Imputation of negligence to passenger

(e) Failure of the driver of a motor vehicle carrying any passenger for hire to stop as required in this section shall not be imputed to any bona fide passenger for hire in such vehicle.

(f) The violation of any of the provisions of this section is a misdemeanor.

Stopping at stop signs

577. Vehicles Must Stop at Through Highways. The driver of any vehicle upon approaching any entrance of a highway or intersection signposted with a stop-sign as provided in this code shall stop at such sign before entering or crossing such highway or intersection.

CHAPTER 13. STOPPING, STANDING OR PARKING.

Stopping on highways

582. Stopping, Standing or Parking Outside of Business or Residence Districts. Upon any highway outside of a business or residence district no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or improved or main traveled portion of the highway when it is practicable to stop, park or so leave such vehicle off such part or portion of said highway.

Clearance

583. Required Unobstructed Width of Roadway. In no event shall any person stop, park or leave standing any

vehicle, whether attended or unattended, upon any highway outside of a business or residence district unless not less than fifteen feet of the width of the paved or improved or main traveled portion of the highway opposite such stopped, parked or standing vehicle is left clear and unobstructed for the free passage of other vehicles.

584. Restrictions Not Applicable to Disabled Vehicle. The foregoing restrictions in this chapter shall not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle upon such part or portion of said highway. Disabled vehicles

585. Officers Authorized to Remove Illegally Stopped Vehicles. (a) Whenever any peace officer finds a vehicle standing upon a highway in violation of sections 582 or 583 hereof such officer may move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or improved or main traveled portion of such highway. Removal of illegally stopped vehicles from highways

(b) Whenever any peace officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic such officer may provide for the removal of such vehicle to the nearest garage or other place of safety. On bridges, causeways or tunnels

(c) Whenever any member of the California Highway Patrol finds a vehicle upon a highway and such officer has reasonable grounds to believe that such vehicle has been stolen or that the person in charge of such vehicle is physically incapacitated to such an extent as to be unable to provide for its custody or removal, such officer is hereby authorized to remove or secure the removal of such vehicle to the nearest garage or other place of safety. When vehicle stolen or driver incapacitated.

(d) Except as permitted under this section, it is unlawful for any peace officer or any unauthorized person to remove a vehicle from a highway, or from any place adjacent to a highway, to a garage or any other place.

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

585 Officers Authorized to Remove Illegally Stopped Vehicles. (a) Whenever any peace officer finds a vehicle standing upon a highway in violation of sections 582 or 583 hereof such officer may move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or improved or main traveled portion of such highway.

(b) Whenever any peace officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic such officer may provide for the removal of such vehicle to the nearest garage or other place of safety.

(c) Except as permitted under this section, it is unlawful for any unauthorized person to remove a vehicle from a highway, or from any place adjacent to a highway, to a garage.

586. Stopping, Standing or Parking Prohibited in Specified Places. No person shall stop, park or leave standing any vehi- Stopping in certain places

cle whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control signal device, in any of the following places:

(a) Within an intersection except adjacent to curbs as may be permitted by local ordinance.

(b) On a crosswalk.

(c) Between a safety zone and the adjacent curb opposite such zone or along such curb within such distance from a point opposite an end of such safety zone as may be indicated by a sign or red paint on such curb when such sign or paint was erected or placed by local authorities pursuant to ordinance.

(d) Within fifteen feet of the driveway entrance to any fire station.

(e) In front of a public or private driveway.

(f) On a sidewalk.

(g) Alongside or opposite any street or highway excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(h) On the roadway side of any vehicle stopped, parked or standing at the curb or edge of a highway.

(i) Alongside curb space authorized for the loading and unloading of passengers of a bus engaged as a common carrier in local transportation when indicated by a sign or red paint on such curb when such sign or red paint was erected or placed by local authorities pursuant to ordinance.

(j) In a tube or tunnel.

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

586. Stopping, Standing or Parking Prohibited in Specified Places. No person shall stop, park or leave standing any vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control signal device, in any of the following places.

(a) Within an intersection.

(b) On a crosswalk.

(c) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone unless otherwise provided by local authorities.

(d) Within fifteen feet of the driveway entrance to any fire station.

(e) In front of a public or private driveway.

(f) On a sidewalk.

(g) Alongside or opposite any street or highway excavation or obstruction when such stopping, standing or parking would obstruct traffic

(h) On the roadway side of any vehicle stopped, parked or standing at the curb or edge of a highway.

(i) Alongside curb space authorized for the loading and unloading of passengers of common carriers engaged in local transportation

Warning signals for tow cars.

586.5. [Warning Signals to Be Used by Tow Cars.] Every motor vehicle designed and equipped for and exclusively used in the business of towing or otherwise rendering assistance to other vehicles shall at all times be equipped with at least two warning signals.

Such signals shall be of a uniform type prescribed by the department and shall be so designed as to be visible both day and night.

The operator of such a motor vehicle used for the purpose of rendering assistance to other vehicles shall, when the rendering of assistance necessitates the obstruction of any portion of the highway, place warning signals on the highway in such a manner as the department may prescribe.

The owner or operator of any vehicle equipped with the signals prescribed in this section and which displays the same in the manner designated by the department is not guilty of stopping on a highway in violation of provisions of this code.

(Added by Ch. 778, Stats. 1935.)

Parking near fire plug

587. Stopping, Standing or Parking in Front of a Fire Hydrant. No person shall stop, park or leave standing any vehicle within fifteen feet of a fire hydrant except when local authorities indicate a different distance by signs or markings, and except when such vehicle is attended by a licensed operator or chauffeur who is seated in the front seat and who can immediately move such vehicle in case of necessity.

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

587. Stopping, Standing or Parking in Front of a Fire Hydrant. No person shall stop, park or leave standing any vehicle within fifteen feet of a fire hydrant except when local authorities indicate a different distance by signs or markings.

Parking at angle

588. When Parking or Standing at an Angle Prohibited. Except when loading or unloading merchandise, no person shall park or leave standing any vehicle at the curb or edge of a through State highway unless both right wheels of the vehicle are within eighteen inches of the curb or edge of such highway.

(Added by Ch. 714, Stats. 1935.)

589. Repealed by Ch. 714, Stats. 1935.

[ORIGINAL SECTION.]

589. Vehicles on Certain Public Property. (a) No person shall drive any vehicle or animal, nor shall any person stop, park or leave standing any vehicle or animal, whether attended or unattended, upon the driveways or paths or any of the grounds of any public school or any State building or institution, except with the permission of, and upon and subject to such conditions and regulations as may be imposed by, the governing board or officer of such public school, State building or institution.

(b) Every governing board or officer herein referred to shall erect or place appropriate signs giving notice of any special conditions or regulations that may be imposed hereunder and every such board or officer shall also prepare and keep available at the principal administrative office of such board or officer for examination by all interested persons a written statement of any and all such special conditions and regulations adopted hereunder.

(c) When any governing board or officer herein referred to permits public traffic upon the driveways, paths or grounds under their control then, in the absence of any special conditions or regulations applicable to such traffic, all the provisions of this code relating to traffic upon the highways shall be applicable to such traffic upon said driveways, paths or grounds.

Warning devices when commercial vehicle disabled

590. [Display of Warning Devices When Commercial Vehicle Disabled.] Every truck or commercial vehicle, operated on any highway outside the corporate limits of any city or town, shall be equipped with and at all times carry at least two flares, or two red lanterns, or two warning lights or reflectors, which reflectors shall be of a type approved by the department. When such a vehicle is disabled on the highway at any time mentioned in section 618, a warning signal of the character indicated above shall be immediately placed at a distance of approximately two hundred feet in advance of, and two hundred feet to the rear of such disabled vehicle. The warning signals herein mentioned shall be displayed continuously during the times mentioned in section 618 while such vehicle remains disabled upon the highway.

(Added by Ch. 508, Stats. 1935.)

CHAPTER 14. MISCELLANEOUS RULES.

Unattended vehicles

595. Unattended Motor Vehicles. No person driving, or in control of, or in charge of, a motor vehicle shall permit it to stand on any highway unattended without first effectively setting the brakes thereon and stopping the motor thereof.

Obstructing driver

596. Obstruction to Driver's View or Driving Mechanism. No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

596. Obstruction to Driver's View or Driving Mechanism. No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle. No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or interfere with the driver's control over the driving mechanism of the vehicle.

Warnings in mountain driving

597. Mountain Driving. The driver of a motor vehicle traveling through defiles or canyons or upon mountain highways shall hold such motor vehicle under control and as near the right hand edge of the highway as is reasonably possible and upon approaching any curve where the view is obstructed within a distance of two hundred feet along the highway shall give audible warning with the horn of such motor vehicle.

Coasting

598. Coasting Prohibited. The driver of a motor vehicle when traveling on down grade upon any highway shall not coast with the gears of such vehicle in neutral.

Vehicles carrying explosives, etc

599. Signs on Vehicles Carrying Explosives, Inflammables or Poisonous Gases. (a) No person shall operate any motor vehicle, trailer or semitrailer transporting any explosive substance, inflammable liquids or poisonous gases as a cargo or part of a cargo unless at the time of such transportation

there shall be displayed upon each side and the rear of the exterior of such vehicle a sign of at least twelve inches in height and fourteen inches in length with a red or white background upon which shall appear in black letters the word "explosives," or "inflammables," or "poisonous gases," whichever may correctly designate such cargo. Labels

(b) The provisions of this section shall have no application when any such explosive substance, inflammable liquids or poisonous gases are transported in a tank truck or in any trailer or semitrailer attached thereto when such tank truck, and each said trailer and semitrailer so attached thereto, has prominently displayed on each side and the rear of the exterior thereof a trade-mark, trade name, other designating mark, or a legend, substantially descriptive of the cargo of said tank truck, trailer or semitrailer and generally known to the public as being applied to such explosive substance, inflammable liquids or poisonous gases. Exceptions

599.5. Displays. It shall be unlawful to display on any vehicle any sign with the words "fire" or "fire department" thereon, except on vehicles owned and operated by a regularly organized fire department, or fire district, a forestry service, or the State Fire Marshal's office, and on the privately owned vehicles of any regular member of any such fire departments. Use of words "fire" or "fire department"

(Added by Ch. 376, Stats. 1935.)

600. Throwing Lighted Substance From Vehicle. Outside of a business or residence district no person shall wilfully or negligently throw from any vehicle upon a highway any lighted cigarette, cigar, ashes, or any other flaming or glowing substance. Throwing lighted substance from vehicle

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

600. Throwing Lighted Substance From Vehicle. Outside of a business or residence district no person shall wilfully or negligently throw from any vehicle upon a highway any lighted cigarette, cigar, ashes, any other flaming or glowing substance, or any substance or thing which might cause a fire.

601. Putting Glass, Etc., on Highway Prohibited. (a) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, hoops, wire, cans or any other substance likely to injure any person, animal or vehicle upon such highway. Glass, etc., on highway

(b) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause the same to be removed.

602. Limitation on Driving Hours for Certain Persons (a) No person shall drive upon any highway any vehicle transporting persons for compensation for more than ten consecutive hours nor for more than ten hours spread over a total of fifteen consecutive hours. Thereafter, such person Hours of drivers Transporting persons for hire

shall not drive any such vehicle until eight consecutive hours have elapsed.

Transporting property

(b) No person shall drive upon any highway any vehicle transporting merchandise, freight, materials or other property for more than twelve consecutive hours nor for more than twelve hours spread over a total of fifteen consecutive hours. Thereafter, such person shall not drive any such vehicle until eight consecutive hours have elapsed.

Common carriers

(c) This section does not apply to any person driving any vehicle used in the transportation of persons or property as a common carrier for compensation.

Exceptions

(d) This section does not apply in any case of casualty or unavoidable accident or an act of God.

Computation of hours

(e) In computing the number of hours hereunder, any time spent by a person in driving such a vehicle outside this State shall, upon such vehicle entering this State, be included.

(f) Any person who violates any provision of this section is guilty of a misdemeanor and is punishable by a fine of not less than one hundred dollars nor more than five hundred dollars for each offense.

Vehicles and animals on public property

603. Vehicles on Certain Public Property. (a) No person shall drive any vehicle or animal, nor shall any person stop, park or leave standing any vehicle or animal, whether attended or unattended, upon the driveways or paths or any of the grounds of any public school, State university, State college, or State, county or municipal institution or building, except with the permission of, and upon and subject to such conditions and regulations as may be imposed by, the governing board or officer of such public school, State university, State college, or State, county or municipal institution or building.

Signs

(b) Every governing board or officer herein referred to shall erect or place appropriate signs giving notice of any special conditions or regulations that may be imposed hereunder and every such board or officer shall also prepare and keep available at the principal administrative office of such board or officer for examination by all interested persons a written statement of any and all such special conditions and regulations adopted hereunder.

Code applies

(c) When any governing board or officer herein referred to permits public traffic upon the driveways, paths or grounds under their control then, in the absence of any special condition or regulations applicable to such traffic, all the provisions of this code relating to traffic upon the highways shall be applicable to such traffic upon said driveways, paths or grounds

(Added by Ch. 714, Stats. 1935.)

DIVISION IXa. VEHICULAR CROSSINGS.

CHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS.

605. As used in this division:

(a) [Vehicular Crossing.] "Vehicular crossing" means and includes every toll bridge and toll highway crossing and the approaches thereto, constructed or acquired by the Department of Public Works under the provisions of the California Toll Bridge Authority Act. Vehicular crossing

(b) [Approach.] "Approach" means that portion of a State highway leading to or from a toll bridge or toll highway crossing which lies between one end of such bridge or crossing and the nearest intersection of a street or highway with such State highway. A ramp or other structure designed exclusively for use in connection with a toll bridge or toll highway crossing shall not be deemed an intersecting street or highway but is a part of the approach. Approach

(Added by Ch. 847, Stats. 1935.)

605.2. [Code Applies to Crossings.] All of the provisions of this code not inconsistent with the provisions of this division shall be applicable to vehicular crossings; as to provisions of this code which are inconsistent with any provision of this division, this division shall control. Code applies

(Added by Ch. 847, Stats. 1935.)

605.4. [Violations.] The violation of any provision of this division is a misdemeanor.

(Added by Ch. 847, Stats. 1935.)

CHAPTER 2. POLICING.

606. [Policing of Vehicular Crossings by Highway Patrol.] The California Highway Patrol shall have the authority and it shall be its duty to provide for proper and adequate policing of all vehicular crossings to insure the enforcement thereon of this code and of any other law relating to the use and operation of vehicles upon highways or vehicular crossings, and of the rules and regulations of the Department of Public Works in respect thereto, and to cooperate with the Department of Public Works to the end that such vehicular crossings be operated at all times in such manner as to carry traffic efficiently. Such authority of the California Highway Patrol is exclusive except as to the authority conferred by law upon the Department of Public Works in respect to such vehicular crossings. Policing vehicular crossing

(Added by Ch. 847, Stats. 1935.)

606.2. [Police Authority of Toll Takers on Vehicular Crossing.] The employees of the Department of Public Works, designated or classified as toll takers, shall have all the power of peace officers while so employed on any vehicular crossing or as may be necessary to the performance of their duties as toll takers while not upon such vehicular crossing. Such employees shall wear, while on duty, a uniform which shall Toll takers as peace officers

be distinctly different from that of the California Highway Patrol, to be specified by the Director of Public Works.

(Added by Ch. 847, Stats. 1935.)

CHAPTER 3. TOLLS AND OTHER CHARGES.

Signs

607. [Signs Indicating Entrance to Vehicular Crossing.] The Department of Public Works shall erect appropriate signs at each entrance to a vehicular crossing to notify traffic that it is entering upon a vehicular crossing.

(Added by Ch. 847, Stats. 1935.)

Liability for tolls

607.1. [Vehicles Liable for Toll Charges.] Every vehicle which enters into or upon any vehicular crossing immediately becomes liable for such tolls and other charges as may from time to time be prescribed by the California Toll Bridge Authority.

(Added by Ch. 847, Stats. 1935.)

Evading tolls

607.2. [Evasion of Toll Charges Unlawful.] It is unlawful for any person to refuse to pay or to evade or attempt to evade the payment of such tolls or other charges. It is prima facie evidence of a violation of this section for any person to enter upon any vehicular crossing without lawful money of the United States in his immediate possession in an amount sufficient to pay the prescribed tolls due from such person.

(Added by Ch. 847, Stats. 1935.)

Towing vehicles on crossings

607.4. [Unauthorized Towing Prohibited.] No person other than an employee of the Department of Public Works shall commence to tow any vehicle or other object on any vehicular crossing. No person shall by means of pushing with another vehicle propel any vehicle or object on a vehicular crossing. No person other than an employee of the Department of Public Works shall on any vehicular crossing, tow any vehicle or other object except a vehicle or object constructed and designed to be towed by a vehicle of a type similar to that being used for such purpose. The Director of Public Works may grant a special permit to any person to tow any vehicle or object over and completely across any vehicular crossing when in his judgment the towing vehicle is so constructed and equipped that the vehicle or object can be towed across such vehicular crossing without endangering persons or property and without interrupting the orderly traffic across such vehicular crossing.

(Added by Ch. 847, Stats. 1935.)

Towing service by Department of Public Works

607.6. [Department of Public Works to Maintain Towing Service.] A towing service shall be maintained on each vehicular crossing by the Department of Public Works and said department shall furnish such service as is necessary to permit the orderly flow of traffic upon such crossing. The Department of Public Works shall prescribe and collect reasonable rates for towing services furnished. When any vehicle or object on any vehicular crossing is stopped for any reason and is obstructing or may obstruct traffic, such vehicle

or object shall be towed by the towing service maintained as herein provided to the nearest terminus of said vehicular crossing and beyond to the property of the California Toll Bridge Authority designated for parking or storing of vehicles, except that the Department of Public Works may furnish and deliver fuel to vehicles, the supply of which is exhausted, and may charge a reasonable sum for the delivery and furnishing thereof. If the Department of Public Works deems it safe and advisable, and the owner or operator of such vehicle or object so requests, it may be so towed to either terminus thereof.

(Added by Ch. 847, Stats. 1935.)

Liens for charges

607.8. [Liens for Toll and Towing Charges.] The Department of Public Works shall have a lien, as provided in Chapter 1 of Division VIII of this code, for all tolls and charges provided by this chapter, and may enforce said lien as provided in Chapter 1 of Division VIII.

(Added by Ch. 847, Stats. 1935.)

CHAPTER 4. SPECIAL TRAFFIC REGULATIONS.

Special permits on crossings

608. [Animals and Certain Vehicles Not Permitted on Vehicular Crossing.] Except where a special permit has been obtained from the Department of Public Works under the provisions of section 710, none of the following shall be permitted on any vehicular crossing:

(a) Animals while being led or driven, even though tethered or harnessed.

(b) Bicycles.

(c) Vehicles carrying explosives in any amount or carrying more than 10 gallons of corrosive liquids.

(d) Vehicles having a total width of vehicle or load exceeding 102 inches.

(Added by Ch. 847, Stats. 1935.)

Pedestrians

608.2. [Pedestrians Not Permitted on Vehicular Crossing.] Pedestrians shall not be permitted upon any vehicular crossing.

(Added by Ch. 847, Stats. 1935.)

Compliance with signals

608.4. [Persons Using Vehicular Crossing to Comply With Lawful Orders and Signals.] All persons in or upon any vehicular crossing must at all times comply with any lawful order, signal or direction by voice or hand of any member of the California Highway Patrol or an employee of the Department of Public Works who is a peace officer When traffic is directed or controlled by traffic lights, signs, or by mechanical or electric signals, such lights, signs, and signals shall be obeyed unless a member of the California Highway Patrol or, as to lights, signs, and signals at a toll house, unless a member of the California Highway Patrol or an employee of the Department of Public Works who is a peace officer directs otherwise.

(Added by Ch. 847, Stats. 1935.)

Driving on right of roadway

608.6 [Driving Rules on Vehicular Crossing.] Unless otherwise directed by a member of the California Highway Patrol, vehicles shall at all times stay to the right of the center of all roadways; slow moving vehicles shall remain as close as possible to the right hand edge or curb of the roadway; and where a roadway is marked with traffic lanes, vehicles shall not cross the markings except when overtaking and passing other vehicles. No vehicle shall cross any such marking unless such crossing can be made with safety.

(Added by Ch. 847, Stats. 1935.)

Stopping on roadway

608.8. [Stopping, Standing or Parking on Vehicular Crossing.] No vehicle shall stop, stand, or be parked in or upon any vehicular crossing except:

(a) When necessary to avoid injury or damage to persons or property.

(b) In compliance with the direction of a member of the California Highway Patrol or an employee of the Department of Public Works who is a peace officer or with the direction of a sign or signal.

(c) In such places as may be designated by the Director of Public Works.

(Added by Ch. 847, Stats. 1935.)

Rules and regulations

609. [Traffic Rules on Vehicular Crossing.] The Department of Public Works may adopt rules and regulations not inconsistent with this division for the control of traffic on any vehicular crossing to aid and insure the safe and orderly flow of traffic, and shall so far as practicable notify the public of such rules and regulations by signs on such vehicular crossing.

(Added by Ch. 847, Stats. 1935.)

Posting laws relating to crossings

609.2. [Publication and Distribution of Traffic Rules.] The Department of Public Works shall cause to be published and made available to the public at the toll gates of each vehicular crossing copies of those traffic laws and rules and regulations particularly applicable thereto.

(Added by Ch. 847, Stats. 1935.)

Violation

609.4. [Violation of Traffic Rules a Misdemeanor.] The violation of any rules or regulation provided for in section 609, notice of which has been given either by a sign on a vehicular crossing or by publication as provided in section 609.2, is a misdemeanor.

(This division embracing sections 605 to 609.4 added by Ch. 847, Stats. 1935.)

DIVISION X. EQUIPMENT.

CHAPTER 1. SCOPE AND EFFECT OF REGULATIONS.

Unlawful to operate vehicle unless properly equipped

615. Unlawful to Violate Division. It is a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which does not contain those

parts or is not at all times or at those times specifically stated herein equipped with such lamps and other equipment as are required in this division or which is equipped in any manner in violation of this division or for any person to do any act forbidden or fail to perform any act required under this division

616 Division Refers to Vehicles Upon Highways. The provisions of this division refer exclusively to the equipment of vehicles when operated upon the highways. Applicable only to vehicles on highways

CHAPTER 2. REQUIRED LIGHTING EQUIPMENT.

618. When Vehicles Must Be Equipped. Every vehicle upon a highway at any time from a half hour after sunset to a half hour before sunrise or at any other time when there is not sufficient light to render clearly discernible any person, vehicle, or other substantial object on the highway at a distance of two hundred feet shall be equipped with lighted lamps as respectively provided in this chapter for different classes of vehicles, subject to the exceptions set forth in this chapter. Times when lights required

(Effective until October 1, 1935. See following section.)

618. When Vehicles Must Be Equipped. (a) Every vehicle upon a highway at any time from a half hour after sunset to a half hour before sunrise and at any other time when there is not sufficient light to render clearly discernible any person or vehicle on the highway at a distance of two hundred feet shall be equipped with lighted lamps and lighting devices as respectively provided in this chapter for different classes of vehicles subject to the exceptions set forth in this chapter.

(b) Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render a person or vehicle visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in subdivision (a) of this section directly ahead upon a straight level unlighted highway under normal atmospheric conditions unless a different time, direction or condition is expressly stated.

(Amended by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

619. Headlamps on Motor Vehicles. Every motor vehicle other than a motorcycle, at the times specified in section 618 hereof, shall be equipped with two lighted headlamps, no more and no less, mounted on opposite sides of the front of said vehicle, and, except as to vehicles registered prior to January 1, 1930, they must be located directly above or in advance of the front axle of said vehicle. Said headlamps shall be located at a height measured from the center of the headlamps of not more than forty-two inches nor less than thirty inches above the level surface upon which said vehicle stands, except, if the said vehicle was registered prior to August 14, 1929, said head- Two headlamps on vehicles Location

lamps may be located at a height so measured of not more than fifty-four inches above the level surface upon which such vehicle stands.

Headlamps on motorcycles

620. Headlamps on Motorcycles. Every motorcycle at the times specified in section 618 hereof shall be equipped with at least one and not more than two lighted headlamps which shall conform as to construction and distribution of light with the requirements of this division relative to headlamps on other motor vehicles except that when only one headlamp is used on a motorcycle such headlamp need project only half the candlepower of light specified in subdivisions (b), (e) and (f) of section 646 relative to the quantity and distribution of light.

Rear lamps

621. Rear Lamps and Reflectors. (a) Every motor vehicle and every vehicle which is being drawn at the end of a train of vehicles at the times specified in section 618 hereof shall be equipped with a lighted rear lamp exhibiting a red light plainly visible under normal atmospheric conditions from a distance of five hundred feet to the rear.

(b) Such rear lamp shall be so constructed and placed as to illuminate with a white light the rear license plate and render it clearly legible under normal atmospheric conditions from a distance of fifty feet to the rear.

(Effective until October 1, 1935. See following section.)

Rear lamps

621. Rear Lamps and Reflectors. (a) Every motor vehicle and every vehicle which is being drawn at the end of a train of vehicles at the times specified in section 618 hereof shall be equipped with at least one or not to exceed two lighted rear lamps exhibiting red light plainly visible from a distance of 500 feet to the rear except that every vehicle or the vehicle at the end of a train of vehicles which vehicle or train of vehicles is subject to the special speed regulations in section 515 shall be equipped with two such lighted rear lamps which shall be mounted at the left and right side respectively on the rear of the vehicle.

Illumination of license plates

(b) Either such a rear lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear license plate and render it clearly legible from a distance of 50 feet to the rear. When the rear license plate is illuminated by a lamp other than a required rear lamp said two lamps shall be turned on or off only by the same control switch at all times and the light source of the additional lamp shall have a minimum of 3 standard candlepower and a maximum of 15 standard candlepower.

Lenses

(c) Every red rear lamp upon a vehicle or the vehicle at the end of a train of vehicles which vehicle or train of vehicles is subject to the special speed regulations in section 515 shall be equipped with red glass lenses not less than 2 and $\frac{7}{8}$ inches in diameter or six and one-half square inches in area and the light source shall not be less than three nor more than 15 standard candlepower and the voltage at any socket of light source as required in sections 621 and 625 shall not be less

Candlepower

than eighty-five per cent of the design voltage of the battery supplying the current to such light source.

Reflectors

(d) Every vehicle or the vehicle at the end of a train of vehicles which vehicle or train of vehicles is subject to the special speed regulations in section 515 shall also be equipped with two red reflectors not less than three inches in diameter or seven square inches in area mounted on the left and right side respectively on the rear of the vehicle at a height not to exceed 42 inches nor less than 24 inches above the ground and so designed and maintained as to be visible at night from all distances within 500 feet from such vehicle when directly in front of a motor vehicle displaying lawful lighted headlamps, not depressed. The engineering requirements for these reflectors shall be governed by specifications to be determined and publicized by the department.

(e) Every motor truck weighing unladen three thousand pounds or more and operated outside the limits of incorporated cities and not hereinbefore required to be equipped with reflectors shall be equipped with a reflector on the rear thereof which reflector shall comply with the requirements of this section.

(f) Any reflector of the button or other multiple unit type shall contain not less than seven such units with a total of not less than three square inches of reflecting surface. The red reflectors herein required may be separate units or a part of the red rear lamps, but in either event such red reflectors and tail lamps shall comply with all of the requirements of this section, and any said reflector constituting an integral part of a rear lamp shall comply with all photometric requirements applicable to a separate reflector.

(Amended by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

Lamps on bicycles

622. Lamps on Bicycles. Every bicycle at the times specified in section 618 hereof shall be equipped with a lamp emitting a white light visible under normal atmospheric conditions from a distance of three hundred feet in front of such bicycle and with a red reflector on the rear so designed and located as to be visible for at least two hundred feet when directly in front of a motor vehicle displaying lawful undimmed headlights or with a rear lamp exhibiting a red light visible from a distance of two hundred feet to the rear.

Exemptions

623. Exemptions. The foregoing provisions of this chapter shall not apply to implements of husbandry or special mobile equipment or road construction or maintenance equipment but any such vehicle or equipment shall be subject to the provisions of section 624 hereof.

(Effective until October 1, 1935. See following section.)

Exemptions of implements and mobile equipment

623. Exemptions. The foregoing provisions of this chapter shall not apply to implements of husbandry or special mobile equipment but any such vehicle or equipment shall be subject to the provisions of section 624 hereof.

(Amended by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

Exemptions of highway equipment

623.5. Exemptions of Highway Equipment. None of the provisions of Chapters 1, 2 and 3 of this division, except those of section 624, requiring or restricting the types or use of lights, shall apply to highway construction or maintenance equipment, nor to motor trucks equipped with snow removal devices, but shall apply to motor trucks and automobiles used independently of such equipment.

(Added by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

Lamps on nonexempt vehicles not provided for

624. Lamps on Other Vehicles. All vehicles not heretofore mentioned in this chapter shall at the times specified in section 618 hereof be equipped with at least one lighted lamp exhibiting a white light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle and with a lamp exhibiting a red light visible under like conditions from a distance of five hundred feet to the rear of such vehicle.

Clearance lamps

625. Side Clearance Lamps on Wide Vehicles. (a) Every vehicle having a body or load width in excess of eighty inches, at the times specified in section 618 hereof, shall be equipped with two lighted clearance lamps. Upon each such vehicle one clearance lamp shall be placed at or near the front of the left side of the vehicle which lamp shall display a blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front and left side of the vehicle and a second clearance lamp shall be placed at or near the rear of said left side which latter lamp shall display a blue light visible under like conditions from a distance of five hundred feet to the rear and to the left side of the vehicle, except as provided in subdivision (b) hereof.

(b) On a passenger common carrier motor vehicle the left front clearance lamp shall display a green light and the left rear clearance lamp shall display a red light each of which shall conform as to visibility to the requirements of subdivision (a) hereof.

(c) No clearance lamp shall emit any glaring light.

(d) The provisions of this section shall not apply to implements of husbandry, road machinery or road rollers.

(Effective until October 1, 1935. See following section.)

625. Side Clearance Lamps on Wide Vehicles. (a) Every vehicle having a body or load width in excess of 80 inches, at the times specified in section 618 hereof, shall be equipped with at least four clearance lamps, one on each side near the front and one on each side near the rear. Said lamps shall each display a green light visible from a distance of 500 feet to the front and rear and to the side of the vehicle on which it is located. The provisions of this section shall not apply to passenger common carrier vehicles.

(b) The light source of clearance lamps shall not be less than 3 nor more than 6 standard candlepower. Candlepower

(Amended by Ch. 765, Stats. 1935, which contains the following section. "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

626. Lamp or Flag on Projecting Load. (a) Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme end of the load at the times specified in section 618 hereof, in addition to the required rear light, two red lights plainly visible under normal atmospheric conditions from a distance of at least five hundred feet to the sides and rear. At any other time there shall be displayed at the extreme end of such load a red flag or cloth not less than sixteen inches square. Lamp or flag on projecting load

(b) Whenever the load upon any vehicle extends from the left side of such vehicle one foot or more to the left of the front hub cap on the left side there shall be displayed at the extreme left side of such load at the times specified in section 618 hereof a lighted lantern or other light plainly visible under normal atmospheric conditions from a distance of at least three hundred feet to the left side and the front and rear of such vehicle.

(c) No lamp on any load as required by this section shall project a light of more than four apparent candlepower.

627. Lamps on Parked Vehicles. (a) Within a business or residence district whenever there is sufficient light within the lateral boundaries of a highway to reveal a vehicle at a distance of two hundred feet no lights need be displayed upon a vehicle parked or standing upon such highway with a right-hand wheel within twelve inches of the right-hand curb Parking lights

(b) Under conditions not hereinbefore covered the head lamps upon a motor vehicle need not be lighted when said motor vehicle is parked or standing with right-hand wheels within twelve inches of the right-hand curb or edge of the roadway on any highway.

(c) Outside of a business or residence district and during the times mentioned in section 618 hereof a rear light meeting the requirements of section 621 hereof must be displayed upon any vehicle parked or standing upon a highway.

CHAPTER 3. ADDITIONAL OR ALTERNATE PERMISSIBLE LIGHTING EQUIPMENT.

632. Alternate Acetylene Headlamps (a) Any motor vehicle other than a motorcycle equipped with lighted acetylene headlamps shall be deemed to comply with the provisions of this code concerning lighted headlamps when such motor vehicle has two lighted acetylene headlamps of approximately equal candlepower mounted upon the front thereof and fitted with clear plane glass fronts and bright six-inch spherical mirrors and standard acetylene five-eighths or three-quarters foot burners, not more and not less, projecting sufficient light Acetylene lamps

ahead to reveal any vehicle, person or substantial object upon the roadway within two hundred feet.

(b) Any motorcycle equipped with one lighted acetylene headlamp shall be deemed to comply with the provisions of this code concerning lighted headlamps on motorcycles when such acetylene headlamp is fitted with a clear plane glass front and a bright six-inch spherical mirror and a standard acetylene one-half or five-eighths foot burner, projecting sufficient light ahead to reveal any vehicle, person or substantial object upon the roadway within a distance of one hundred fifteen feet.

(c) No acetylene lamp shall emit any glaring light.

Spotlamps

633. Spotlamps. (a) Any motor vehicle may be equipped with not to exceed two spotlamps which shall not be used in substitution of headlamps.

(b) Every spotlamp mounted upon a motor vehicle shall be located with the center of such lamp at a height not less than thirty nor more than seventy-two inches above the level surface upon which the vehicle stands and every spotlamp shall be so constructed and arranged that no portion of the main substantially parallel beam of light when measured one hundred feet or more directly ahead of the vehicle will rise or be capable of being raised to more than thirty inches above the level surface of the highway upon which the vehicle stands.

(c) No spotlamp shall be equipped with any bulb exceeding thirty-two standard candlepower.

(d) No spotlamp shall project any glaring light into the eyes of an approaching driver.

(e) The provisions of this section shall not apply to spotlamps on police or fire department vehicles.

(Effective until October 1, 1935 See following section.)

633. Spotlamps. (a) Any motor vehicle may be equipped with not to exceed two spotlamps which shall not be used in substitution of headlamps.

(b) Every spotlamp mounted upon a motor vehicle shall be located with the center of such lamp at a height not less than thirty nor more than seventy-two inches above the level surface upon which the vehicle stands and every spotlamp shall be so directed when in use:

(1) That no portion of the main substantially parallel beam of light will strike the roadway to the left of the prolongation of the left side line of the vehicle; and

(2) That the top of the beam will not strike the roadway at a distance in excess of three hundred feet from the vehicle.

(c) No spotlamp shall be equipped with any lamp source exceeding thirty-two standard candlepower.

(d) No spotlamp shall project any glaring light into the eyes of an approaching driver.

(e) The provisions of this section shall not apply to spotlamps on publicly owned police or fire department vehicles.

(Amended by Ch. 765, Stats. 1935, which contains the following section. "SEC. 22 This act shall go into effect at midnight on September 30, 1935.")

Auxiliary or fog lamps

634. Auxiliary Driving and Fog Lamps. (a) Any motor vehicle may be equipped with not to exceed three fixed or movable auxiliary driving or fog lamps mounted upon the front below the level of the centers of the headlamps. If any motor vehicle is equipped with two or more such lamps, two of them shall be located on opposite sides of the front of the motor vehicle. Said auxiliary driving or fog lamps shall be located at a height measured from the center of such lamps of not less than sixteen inches above the level surface upon which the vehicle stands.

(b) Auxiliary driving or fog lamps shall not be used in substitution of headlamps except under conditions of rain or fog rendering disadvantageous the use of headlamps.

(c) In no event shall more than two auxiliary driving or fog lamps mounted on the front of the vehicle be lighted for use upon a highway when the headlamps are lighted.

(d) Every auxiliary driving or fog lamp used upon a motor vehicle shall be so adjusted and aimed that the top of the main substantial portion of the beam will strike the roadway at approximately seventy-five feet in advance of the vehicle.

(e) No auxiliary driving or fog lamp shall emit a glaring light.

(Effective until October 1, 1935. See following section.)

634. Auxiliary Driving and Fog Lamps. (a) Any motor vehicle may be equipped with not to exceed three fixed or movable auxiliary driving or fog lamps mounted upon the front below the level of the centers of the headlamps. Said auxiliary driving or fog lamps shall be located at a height measured from the center of such lamps of not less than sixteen inches above the level surface upon which the vehicle stands.

(b) Auxiliary driving or fog lamps shall not be used in substitution of headlamps except under conditions of rain or fog rendering disadvantageous the use of headlamps.

(c) Whenever auxiliary driving or fog lamps are used in substitution of headlamps as permitted herein then two such auxiliary driving or fog lamps mounted on opposite sides of the front of the vehicle must be lighted.

(d) In no event shall more than two auxiliary driving or fog lamps mounted on the front of the vehicle be lighted for use upon a highway when the headlamps are lighted.

(e) Every auxiliary driving or fog lamp used upon a motor vehicle shall be so adjusted and aimed that the top of the main substantial portion of the beam will strike the roadway at a distance not in excess of 125 feet in advance of the vehicle.

(f) No auxiliary driving or fog lamp shall emit a glaring light into the eyes of an approaching driver.

(Amended by Ch. 765, Stats. 1935, which contains the following section "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

Side cowl or fender lamps

635. Side Cowl or Fender Lamps. Any motor vehicle may be equipped with not more or less than two side cowl or fender lamps. The bulbs in such lamps shall not exceed three standard candlepower and shall emit a white light without glare. Such lamps may not be used simultaneously with headlamps.

(Effective until October 1, 1935. See following section.)

635. Side, Cowl or Fender Lamps. Any motor vehicle may be equipped with not more than two lighted side, cowl or fender lamps but the light source in any such lamps shall not exceed three standard candlepower and shall emit diffused amber or white light without glare.

(Amended by Ch. 765, Stats. 1935 which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

Courtesy lamps

636. Running Board Courtesy Lamps. Any motor vehicle may be equipped with running board courtesy lamps. The bulbs in such lamps shall not exceed three standard candlepower and shall emit either a green or white light without glare. The beams of such lamps shall not be visible to the front or rear of the vehicle.

Signal lamps and devices

637. Signal Lamps and Signal Devices. (a) Any vehicle of a type subject to registration hereunder may be equipped with one or more signal lamps of a type approved by the department.

(Effective until October 1, 1935. See following section.)

637. Signal Lamps and Signal Devices. (a) Any vehicle of a type subject to registration hereunder may be equipped with one or more signal lamps or mechanical signal devices adequate to give at the times mentioned in section 618 hereof a signal of intention to stop or suddenly decrease the speed of said vehicle plainly visible from a distance of at least 100 feet to the rear of said vehicle or a signal of intention to turn so visible both to the front and rear of said vehicle.

(b) Any mechanical signal device on a vehicle shall be illuminated when in use at the times mentioned in section 618 hereof either by a light or reflex mirrors rendering likewise visible the signals given thereby as specified in subdivision (a) of this section.

(Amended by Ch. 765, Stats. 1935 which contains the following section. "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

Back-up lamps

638. Back-up Lamps. (a) Any motor vehicle may be equipped with a back-up lamp either separately or in combination with another lamp. Said back-up lamp shall be so directed as to project a white or amber light illuminating the highway to the rear of the vehicle for a distance not to exceed seventy-five feet.

(b) No back-up lamp shall exceed a diameter of six inches measured across the lens or face thereof nor shall any such lamp be lighted on any vehicle moving forward or otherwise except when such vehicle is about to be or is backing on a highway.

(Added by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

639. Identification Lamps and Termini and Identification Signs. Any passenger common carrier motor vehicle may be equipped with one or more identification lamps displaying a green light to the front of such vehicle. Common carrier lamps

(Effective until October 1, 1935. See following section.)

639. Identification Lamps and Termini and Identification Signs. (a) Any passenger common carrier motor vehicle may be equipped with identification lamps, clearance lamps, illuminated termini sign or any said lamps which shall not project any glaring light.

(c) Any commercial vehicle other than a passenger common carrier motor vehicle, shall not be equipped with an illuminated identification sign upon the front thereof which exceeds twenty-four inches in length or eight inches in width or which is lighted by other than a diffused white light which does not project any glaring light.

(Amended by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

640. Regulations Governing the Color of Lights. The following regulations shall apply to the color of lights upon a vehicle operated upon any highway: Color of lights.

(a) All lights visible from in front of a vehicle, other than from a clearance or identification lamp thereon, shall be white or amber, except that an authorized emergency vehicle may display red light visible from in front thereof.

(b) All lights visible from the rear of a vehicle, other than the light illuminating the rear license plate and the light from a clearance lamp thereon, shall be red, except that in addition to a red light as otherwise required hereunder, a light of distinctive color, which color has been approved by the department, may be visible from the rear of a vehicle operated by a police or traffic officer while in the actual performance of his duties as such officer.

(c) This section shall apply to the color of any lamp whether lighted or unlighted and to any reflector exhibiting or reflecting perceptible light.

(d) This section shall not apply to the color of lights in signal lamps or signal devices approved by the department.

(Effective until October 1, 1935. See following section.)

640. Regulations Governing the Color of Lights. The following regulations shall apply to the color of lights upon a vehicle operated upon any highway:

(a) All lights visible from in front of a vehicle, other than from a clearance, or identification or signal lamp or signal device shall be white or amber, except that an authorized emergency vehicle may display red light visible from in front thereof.

(b) All lights visible from the rear of a vehicle, other than the light illuminating the rear license plate and the light from a clearance or back-up lamp or signal lamp or signal device thereon, shall be red, except that in addition to a red light as otherwise required hereunder, a light of distinctive color, which color has been approved by the department, may be visible from the rear of a vehicle operated by a police or traffic officer while in the actual performance of his duties as such officer.

(c) This section shall apply to the color of any lamp whether lighted or unlighted and to any reflector exhibiting or reflecting perceptible light.

(d) Public utility repair vehicles necessarily parked other than adjacent to the curb in a highway for purposes of repairing public utility services, may be equipped with red lights displayed to the front, sides and rear, but these lights shall not be lighted when headlights are lighted.

(Amended by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

CHAPTER 4. TEST AND APPROVAL OF LAMPS, LAMP EQUIPMENT AND SIGNAL DEVICES.

Article 1. Headlights and Headlight Equipment.

Headlights

645. Headlight Requirements. The headlights of motor vehicles shall be so constructed, arranged and adjusted that they will at all times mentioned in section 618 and under normal atmospheric conditions, produce ample driving light for the use of the operator of such vehicle but will not project a glaring light to persons approaching such lights or to persons whom such headlights may approach.

Headlights are presumed to comply with this division if they comply with the following requirements and limitations when the vehicle upon which they are affixed is fully loaded and if such headlights are affixed to such vehicle in the manner required by this division and are of a type, or are equipped with lenses, reflectors or control devices which meet such requirements and limitations by the laboratory test provided in this chapter and when used in accordance with the instructions of the testing agency.

Projection of light.

*646. Required Projection of Light. The light projected by such headlights shall be as follows:

* Repealed by Ch. 765, Stats. 1935. Repeal effective October 1, 1935. See Ch. 4, Div. X, immediately following.

(a) In the median vertical plane parallel to the lamps on a level with the centers of the lamps, not less than one thousand eight hundred apparent candlepower.

(b) In the median vertical plane, one degree of arc below the level of the center of the lamps, not less than seven thousand two hundred apparent candlepower and there shall not be less than seven thousand two hundred apparent candlepower anywhere on the horizontal line through this point one degree to the left or to the right of this point.

(c) In the median vertical plane, one degree of arc above the level of the center of the lamps not more than fifteen hundred, nor less than five hundred apparent candlepower.

(d) Four degrees of arc to the left of the median vertical plane and one degree of arc above the level of the center of the lamps, not more than eight hundred apparent candlepower.

(e) One and one-half degrees of arc below the level of the center of the lamps and three degrees of arc to the left and to the right, respectively, of the median vertical plane, not less than five thousand apparent candlepower nor less than this amount anywhere on the line connecting these two points.

(f) Three degrees of arc below the level of the center of the lamps and six degrees of arc to the left and to the right, respectively, of the median vertical plane, not less than two thousand apparent candlepower nor less than this amount anywhere on the line connecting these two points.

(g) The maximum beam shall not exceed fifty thousand candlepower nor shall the maximum intensity exist lower than two degrees of arc below the level of the lamps.

Variation from requirements

*647. Variations from Minimum Requirements. It is lawful, when all other requirements and limitations are complied with, to so construct or equip the headlights of motor vehicles as to permit that the beams of light projected therefrom be depressed downward not more than three degrees of arc below the level otherwise required under this division, but without diminishing the amount of light projected from the lamp bulb when so depressed. When the department determines that any such device when so operated during the times and under the conditions mentioned in section 618 will project a glaring or dazzling light to persons in front of such headlights or that such headlights when equipped or constructed with such device fail to produce ample driving light for the use of the driver of such vehicle, the department shall refuse approval for the use thereof.

Refusal of approval of unsafe equipment.

The department may refuse approval to any device which will be in actual use unsafe or impractical as to mechanical construction, or mounting on a vehicle. Upon such refusal the department must furnish the applicant a detailed statement setting forth the reasons for such refusal.

Tests.

*648. Test of Headlights and Headlight Control Devices. (a) Before any headlight or headlight control device intended

* Repealed by Ch 765, Stats 1935 Repeal effective October 1, 1935 See Ch 4, Div X, immediately following

to enable a headlight to comply with the provisions of this division is used upon any motor vehicle, such headlight or headlight control device shall first be submitted to and tested by a testing agency appointed by the department and a certificate of approval as hereinafter specified procured from such testing agency.

(b) The department shall appoint skilled deputies or agents possessing proper qualifications and laboratory equipment to carry out the tests specified in this division.

Application for test.

(c) Any person may submit to the department a headlight or headlight control device and make application that the same be tested as to conformity with the requirements of this division.

Fee for test

*649. Procedure Upon Application for Test; Fee. Upon an application for a test the department shall, upon notice to the applicant, submit such device to a testing agency appointed by the department with the request that such device be tested as to conformity with the provisions of this division when used separately or in connection with approved headlamps or headlight control devices. Each applicant shall upon the filing of his application pay to the department a fee of fifty dollars. All such fees shall be paid by the department into the motor vehicle fund.

Method of testing

*650. Mechanics of Test. The testing agency shall adjust each device in accordance with the printed instructions of the manufacturer thereof and conduct an exact scientific and laboratory test of every device submitted to it, to determine whether or not the device submitted will conform with the requirements of this division. Each device submitted shall be tested with twenty-one standard candlepower lamp or bulb, thirty-two standard candlepower lamp or bulb, and any standard candlepower lamp or bulb between these two limits. If all the provisions of sections 645, 646 and 647 hereof are complied with by any headlight, and in addition thereto such headlight is so constructed that the light source thereof is not visible at any point above a horizontal plane through the top of the aperture of such headlight when the same is mounted in accordance with this division, and no reflected light of any greater intensity than eight hundred apparent candlepower except as specified in subdivision (c) of section 646 is projected by such headlight in any direction above the horizontal plane above described, a standard bulb of any candlepower to be certified and approved by the testing agency for use in such headlight, may be used in such headlight.

Reports of testing agency

*651. Reports of Tests. The testing agency shall submit in duplicate a detailed report of each such test to the department. Such report shall give in detail the apparent candlepower of light projected at each point of the test, the candlepower of the lamp or bulb used to produce the amount of light nearest the maximum requirement of sections 645, 646 and 647, any

* Repealed by Ch. 765, Stats. 1935. Repeal effective October 1, 1935. See Ch. 4, Div. X, immediately following.

particular adjustments required by the testing agency which are not included in the manufacturer's printed instructions, together with the reasons for such additional requirements, and a statement as to whether or not the device is approved and will conform with the requirements of this division when used in accordance with the instructions of the testing agency. Each such report shall be signed by the person who made the test and by an officer of the institution under which said test has been made. Reports of all such tests shall be accessible to the public and a copy thereof shall be furnished by the department to the applicant for the test.

Certificate of approval

*652. Department to Issue Certificate of Approval. Whenever the department receives from the testing agency a report that a particular device has been tested and approved, together with instructions as to the candlepower lamp or bulb and any particular adjustments to be used in connection with such device, the department shall issue to the applicant a certificate of approval, together with a copy of the instructions of the testing agency relative to the use of such device.

Distribution of copies of certificate

*653. Distribution of Copies of Certificate by Department. The department shall transmit a copy of every certificate of approval of a headlight device, together with a copy of the instructions of the testing agency in connection therewith, to the county clerk of every county in this State, who shall file the same, and to every city, town or county police department, whose duty it is to enforce the provisions of this code.

Retesting

*654. Retests After Complaint. Whenever the department receives a written complaint that any headlight lens, reflector or headlight control device sold commercially which has been approved by the department does not under ordinary conditions of use comply with the requirements of this division, the department in its discretion may, upon notice to the manufacturer thereof, require that such headlight lens, reflector or headlight control device be retested by a testing agency appointed by the department. Upon any such retest the testing agency shall determine whether or not such headlight lens reflector, or headlight control device meets the requirements of this division. If the same is approved, the department shall issue a certificate of approval to the manufacturer thereof. No fee shall be charged for any such retest.

Sale of unapproved headlight equipment

*655. Unlawful to Sell or Offer for Sale Headlights or Headlight Equipment Not Approved. It is unlawful to sell or offer for sale any headlight lamp or headlight equipment unless it is of a type which has been approved by the department, and unless such device is accompanied by a printed sheet of instructions describing the device in detail, its method of mounting and adjustment, candlepower limits of lamps to be used and any other adjustment that may be necessary to insure its conformity with the requirements of this division, and with the conditions specified in the report of the testing

* Repealed by Ch. 765 Stats. 1935. Repeal effective October 1, 1935. See Ch. 4, Div. X, immediately following.

agency appointed by the department to test such headlight control device. Such instructions shall be printed with photographs of the (a) control device, (b) pattern of light from one headlight thrown on regulation testing screen, showing the relation of the patterns of light as projected to a horizontal cross line placed across the face of such screen at a height equal to the height of the center of such headlight, and with the headlight adjusted for tilt and focus exactly as required to conform to the requirements of this division. It is unlawful to sell or offer for sale any new motor vehicle equipped with headlights which do not comply with the provisions of this division.

Article 2. Auxiliary Lighting Equipment.

Auxiliary or fog lamp requirements

*656. Requirements for Auxiliary Lamps and Fog Lamps. Every auxiliary lamp and every fog lamp sold for use upon or used upon a motor vehicle shall be of a type submitted to and approved by the department upon payment of the same fees as are paid for test of headlamps, and shall be substantially constructed and shall meet the following laboratory test as to light intensity and distribution within reasonable tolerances.

(a) In the median vertical plane, one degree of arc above the level of the centers of the lamps, not more than eight hundred apparent candlepower.

(b) Four degrees of arc to the left of the median vertical plane and one degree of arc above the level of the centers of the lamps, not more than four hundred apparent candlepower.

(c) Three degrees of arc to the left and to the right, respectively, of the median vertical plane and one and one-half degrees of arc below the level of the centers of the lamps, not more than two thousand nor less than eight hundred apparent candlepower.

(d) Six degrees of arc to the left and to the right, respectively, of the median vertical plane and three degrees of arc below the level of the centers of the lamps, not less than two thousand apparent candlepower, nor less than this amount anywhere on the line connecting these two points.

(e) In no direction shall there be more than twenty-five thousand apparent candlepower.

Article 3. Signal Devices.

Test of signal devices

*657. Signal Devices to Be Tested; Fee. Any person may submit a mechanical or electrical signal device to the department for its inspection and approval. The department shall charge and collect a fee of fifty dollars for examining any such signal device which is manufactured for sale. All such fees shall be paid by the department into the motor vehicle fund. No fee shall be charged for examining a device not manufactured for sale.

* Repealed by Ch 765, Stats 1935. Repeal effective October 1, 1935 See Ch 4, Div X, immediately following.

*658. Approval of Signal Devices. The department shall not approve any stop signal device unless such signal when used upon a vehicle gives a stop signal plainly visible during the times specified in section 618, for a distance of at least one hundred feet to the rear of such vehicle, or any device intended to give a signal that the vehicle upon which it is used is about to turn, unless such device, when used upon a vehicle, clearly indicates the direction in which such vehicle is to be turned, which signal shall be plainly visible at least one hundred feet to the rear of the vehicle upon which the same is used. Approval of signal devices

Whenever the department approves a signal device as meeting the above requirements, it shall give to the applicant a certificate of approval.

CHAPTER 4. TEST AND APPROVAL OF LAMPS, LAMP EQUIPMENT AND SIGNAL DEVICES.

**645. What Lamps and Devices Must Be Tested and Approved Before Sale or Use. No person shall sell or offer for sale for use upon or as part of the equipment of a motor vehicle, trailer or semi-trailer, nor shall any persons use upon any such vehicle any lamp or device referred to in this section unless of a type which has been submitted to and approved by the department. Testing and approval of lights

This section shall apply to every electric headlamp, auxiliary driving or fog lamp, every rear or tail lamp, every signal lamp or signal device and any lamp equipment regulating the light emitted from any such lamp or the light source therein, also to clearance lamps, and red reflectors required on any commercial vehicle except any rear or tail lamp in use on or prior to December 1, 1935.

**646. Application for Test and Approval. (a) Any person desiring approval of any lamp or device subject to approval by the department shall submit to the department two units of each type of such lamp or device for which approval is desired, together with the proper fee as follows: Application for test and approval

For any headlamp, auxiliary or fog lamp
2 beam $50
3 beam $75
For any rear or tail lamp or red reflector $25
For any clearance lamp $10
For any lamp equipment regulating the light emitted from a lamp or signal lamp or signal device $50

(b) With any such lamp or device the applicant shall submit a statement as to the adjustment of the same deemed appropriate and the candlepower of the light source intended to be used therewith and any other information relative thereto requested by the department.

**647. Laboratory Tests. The department shall make or cause to be made such scientific laboratory test of every lamp Laboratory tests

* Repealed by Ch. 765, Stats. 1935. Repeal effective October 1, 1935 See Ch. 4, Div. X, immediately following

** Added by Ch. 765, Stats. 1935, which contains the following section "SEC 22. This act shall go into effect at midnight on September 30, 1935."

or device submitted for approval as the department determines is appropriate or as may be required herein to determine whether or not the same will conform to the requirements of this act. The department shall report its approval or disapproval of the same within sixty days after submission of such lamp or device for approval accompanied by the proper fee.

The department may reconsider any disapproval within sixty days thereafter without receiving a new application and without further fee.

Method of test

"648. Method of Test of Lamps. (a) Upon every such test, any lamp or lamps submitted for test shall be mounted singly or in pairs as intended to be used upon a motor vehicle and for purposes of test shall be adjusted in accordance with any request of the applicant

(b) Every headlamp and auxiliary lamp shall be tested with standard lamps or bulbs of twenty-one and thirty-two candlepower or any other candlepower not exceeding fifty requested by the applicant to determine the candlepower of lamp or bulb which shall give the maximum efficient result in compliance with the specifications set forth in this code governing intensity and distribution of projected light

Specifications for headlamps

** 649. Laboratory Specifications Governing Headlamps The department shall determine whether any pair of headlamps submitted for test will in actual use, when mounted upon a motor vehicle as provided in this code, produce ample light to reveal any vehicle or person within a distance of approximately one hundred seventy-five feet but without projecting above the horizontal plane passing through the centers of such lamps any glaring light and as a means of determining such qualities every pair of headlamps before receiving approval shall meet the following laboratory test as to intensity and distribution of light.

The light projected by such headlights shall be as follows:

(a) In the median vertical plane parallel to the lamps on a level with the centers of the lamps, not less than 3000 apparent candlepower.

(b) In the median vertical plane, one degree of arc below the level of the center of the lamps, not less than 15,000 apparent candlepower and there shall not be less than 15,000 apparent candlepower anywhere on the horizontal line through this point one degree to the left or to the right of this point.

(c) In the median vertical plane, one degree of arc above the level of the center of the lamps not more than one thousand five hundred, nor less than five hundred apparent candlepower.

(d) Four degrees of arc to the left of the median vertical plane and one degree of arc above the level of the center of the lamps, not more than eight hundred apparent candlepower.

(e) One and one-half degrees of arc below the level of the center of the lamps and three degrees of arc to the left and to

** Added by Ch. 765, Stats. 1935, which contains the following section "Sec. 22. This act shall go into effect at midnight on September 30, 1935."

the right, respectively, of the median vertical plane, not less than 10,000 apparent candlepower nor less than this amount anywhere on the line connecting these two points.

(f) Three degrees of arc below the level of the center of the lamps and six degrees of arc to the left and to the right, respectively, of the median vertical plane, not less than two thousand apparent candlepower nor less than this amount anywhere on the line connecting these two points

(g) The maximum beam shall not exceed 60,000 candlepower nor shall the maximum intensity exist lower than two degrees of arc below the level of the lamps

Specifications for auxiliary or fog lamps

"650. Laboratory Specifications Governing Auxiliary Driving or Fog Lamps. The department shall determine whether any pair of auxiliary driving or fog lamps or any such lamp intended to be used as a single unit will in actual use when mounted upon a motor vehicle as provided in this code produce ample light to reveal any vehicle or person within a distance of approximately seventy-five feet but without projecting above the horizontal plane passing through the centers of such lamps any glaring light and as a means of determining such qualities every pair of auxiliary driving or fog lamps or any such lamp intended to be used as a single unit before receiving approval shall meet the following laboratory test as to intensity and distribution of light.

(a) In the median vertical plane, one degree of arc above the level of the centers of the lamps, not more than eight hundred apparent candlepower.

(b) Four degrees of arc to the left of the median vertical plane and one degree of arc above the level of the centers of the lamps, not more than four hundred apparent candlepower.

(c) Three degrees of arc to the left and to the right, respectively, of the median vertical plane and one and one-half degrees of arc below the level of the centers of the lamps, not more than two thousand nor less than eight hundred apparent candlepower.

(d) Six degrees of arc to the left and to the right, respectively, of the median vertical plane and three degrees of arc below the level of the centers of the lamps, not less than two thousand apparent candlepower nor less than this amount anywhere on the line connecting these two points.

(e) In no direction shall there be more than twenty-five thousand apparent candlepower.

Test of equipment regulating light source

"651 Test of Lamp Equipment Regulating Light Emitted From Light Source. The department shall make or cause to be made such tests as it may deem appropriate with reference to any lamp equipment regulating the light emitted from the light source in a lamp in order to determine whether such equipment when used in connection with lamps on motor vehicles would be practical and efficient and of aid in enabling lamps to conform to the requirements of this code or whether such equipment would detract from the performance of such lamps.

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* Added by Ch. 765, Sess. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935."

Grounds for disapproval

**652. Grounds for Disapproval. The department shall disapprove any such lamp, lamps, device, lamp equipment or red reflector if it determines:

(a) That any of the same will not conform to the requirements hereof.

(b) That any lamp or lamps will not meet the laboratory specifications declared herein.

(c) That any lamp equipment is impractical, inefficient or does not enable the lamp to conform to the requirements hereof or detracts from the performance of such lamp even though the resultant performance might be within the maximum and minimum candlepower laboratory specifications declared herein.

(d) That any of the same are not so constructed as to be safe or practical in actual use, even though the same may meet the laboratory specifications or other tests declared herein.

(e) That any of the same are impractical as to mechanical construction or for mounting on a motor vehicle, even though the same may meet the laboratory specifications or other tests declared herein.

(f) That the manufacturer of any of the same makes a common practice of using misleading statements in advertising the effect or results obtained therefrom, even though the same may meet the laboratory specifications or other tests declared herein.

Report of test

**653. Report of Test. (a) Whenever the test of any such lamp or device subject to approval is completed, the department shall prepare or cause to be prepared a report in duplicate approving or disapproving such lamp or device.

(b) Any report disapproving such lamp or device, shall state in detail the reasons therefor.

(c) Any report approving any lamp or lamps shall include or be accompanied by a statement of any particular methods of mounting or adjustment as to focus or aim necessary for compliance with this code, the candlepower of the light source to be used therewith and any other instructions determined by the department. Any report approving any lamp equipment, red reflector or other device subject to approval may be accompanied by such written instructions as the department may deem necessary.

(d) Every such report shall be signed in duplicate by the person who made the test and by an officer of the department One copy of said report shall remain on file in the department as a matter of public record and the other copy shall be delivered by the department to the applicant for the test.

Certificate of approval and instructions

**654. Issuance and delivery of Certificate of Approval and Instructions. (a) The department upon approving any such lamp or device, shall issue to the applicant a certificate of approval together with any instructions included in or accompanying its report approving the same.

(b) Upon request of any police department, the Department shall forward a copy of any such certificate of approval together with any said instructions to such police department.

** Added by Ch. 765, Stats. 1935, which contains the following section "Sec. 22. This act shall go into effect at midnight on September 30, 1935."

*655. Printed Instructions to Accompany Sale. No person shall sell or offer for sale either separately or as a part of the equipment of a new motor vehicle any lamp or device subject to approval and approved by the department unless such lamp or device bears thereon the trade-mark or name under which it is approved so as to be legible when installed and is accompanied by printed instructions when required by the department as to candlepower of the light source to be used therewith and any particular methods of mounting or adjustment as to focus or aim necessary for compliance with this code and any other instructions as determined by the department. Instructions to accompany sale

**656. Revocation of Certificate of Approval. Whenever the department receives information that any lamp or device of a type sold commercially and which has been approved by the department does not under ordinary conditions of use comply with the requirements of this code the department in its discretion may upon thirty days' notice to the manufacturer thereof require that such lamp or device be retested by the department. For such retest the department may purchase in the open market one or more units of such approved lamp or device. In the event such lamp or device upon such retest fails to meet the requirements of this code the department shall have authority to suspend or revoke the certificate of approval previously issued therefor. No fee shall be charged for any such retest. Revocation of certificate

CHAPTER 5. REGULATION OF LAMPS.

660. Adjustment of Lamps in Use. Headlamps and auxiliary driving or fog lamps upon a motor vehicle upon a highway shall be so adjusted and maintained as to conform as nearly as practical with the requirements of sections 649 and 650 hereof respectively, relative to the intensity and distribution of light projected therefrom and shall be mounted and adjusted in accordance with the instructions of the department. Adjustment

(Added by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935 ")

661. Road Test for Glare. As a practical means of determining whether headlamps or auxiliary driving or fog lamps glare the following test shall apply: Any such lamp shall be deemed to be glaring if any part of the main bright portion of the beam strikes the body of a person, vehicle, screen or other object higher than the lamp centers twenty-five feet or more ahead of the vehicle. Glare.

(Repealed by Ch. 765, Stats 1935. Repeal effective October 1, 1935. See following section.)

661. Road Test for Glare. As a practical means of determining whether headlamps or auxiliary driving or fog lamps glare the following test shall apply: Any such lamp shall be deemed to be glaring if any part of the main bright portion of the beam strikes the body of a person, vehicle, screen or

** Added by Ch 765, Stats 1935, which contains the following section "SEC. 22. This act shall go into effect at midnight on September 30, 1935."

other object higher than the lamp centers twenty-five feet or more ahead of the vehicle and in no event shall the main bright portion of the beam be higher than forty-two inches at a distance of seventy-five feet ahead of the vehicle.

(Added by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

Inspection of lamps

662. Members of Highway Patrol May Inspect Lamps. Any member of the California Highway Patrol having reasonable grounds to believe that any headlamp or auxiliary driving or fog lamp upon a vehicle emits a glaring light as defined in section 661 hereof or otherwise fails to comply with the requirements of this code may require the driver of such vehicle to stop and submit such lamp to an inspection or test.

Glaring lamps

In the event any headlamp or auxiliary driving or fog lamp emits a glaring light as defined in section 661 hereof or otherwise fails to comply with this code, the officer making the inspection may give said driver a notice of arrest and further require said driver of the vehicle to produce in court satisfactory evidence that such lamp or lamps have been made to conform with the requirements of this code.

(Repealed by Ch. 765, Stats. 1935. Repeal effective October 1, 1935. See following two sections.)

Depression of beams

662. Use of Upper and Lower Beams. It shall be permissible for headlamps to be so equipped as to permit a driver by operating a switch to depress the beams of light projected therefrom or in place of the upper beams temporarily to substitute lower beams but in no event shall such depressed or lower beams be more than two and one-half degrees of arc below the level otherwise required under this code.

(Added by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

Inspection

663. Members of Highway Patrol May Inspect Lamps. Any member of the California Highway Patrol having reasonable grounds to believe that any headlamp or auxiliary driving or fog lamp or any device subject to approval upon a vehicle emits a glaring light as defined in section 661 hereof or otherwise fails to comply with the requirements of this code may require the driver of such vehicle to stop and submit such lamp to an inspection or test. In the event any such lamp or device is not of a type which has been approved by the department, the officer making such inspection shall require the driver of such vehicle to remove such illegal lamp within twenty-four hours and may arrest such driver and give him a notice to appear and may further require such driver or the owner of the vehicle to produce in court satisfactory evidence of the removal of such illegal lamp.

Removal of illegal lamps

Adjustment of approved lamps

In the event any headlamp or auxiliary driving or fog lamp of a type which has been approved by the department by reason of faulty adjustment or otherwise emits a glaring light as defined in section 661 hereof or otherwise fails to comply with this code, the officer making the inspection shall direct the driver to make such lamp or lamps conform to the require-

ments of this code within forty-eight hours. Such officer may also arrest such driver and give him a notice to appear and further require said driver or the owner of the vehicle to produce in court satisfactory evidence that such lamp or lamps have been made to conform with the requirements of this code.

(Added by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

Inspection and test of lamps

663. Driver Must Stop and Submit to Inspection or Test of Lamps. Whenever the driver of a vehicle is directed by a member of the California Highway Patrol to stop and submit such lamps upon said vehicle to an inspection or test under the conditions stated in the last preceding section it shall be the duty of such driver to stop and submit to such inspection or test and a failure or refusal so to do is a misdemeanor.

(Renumbered to be section 664 by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935." See following section.)

664. Driver Must Stop and Submit to Inspection or Test of Lamps. Whenever the driver of a vehicle is directed by a member of the California Highway Patrol to stop and submit such lamps upon said vehicle to an inspection or test under the conditions stated in the last preceding section it shall be the duty of such driver to stop and submit to such inspection or test and a failure or refusal so to do is a misdemeanor.

(Renumbered to be section 664 from section 663 by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

CHAPTER 6. LAMP AND BRAKE TESTING STATIONS.

Official lamp and brake testing establishments

665. Official Lamp and Brake Testing Stations. (a) The department may designate, furnish instructions to and supervise official stations for adjusting headlamps, auxiliary driving or fog lamps or brakes upon vehicles to conform with the provisions of this code. The department may prescribe the qualifications of any such station as a condition of such designation and further may suspend or revoke any such designation upon determining that the business of such station is improperly conducted.

(b) Whenever any such station upon an inspection or after an adjustment, made in conformity with the instructions of the department, determines that the headlamps, auxiliary driving or fog lamps or the brakes upon any vehicle conform with the requirements of this code, said station shall issue to the owner or operator of such vehicle a certificate of adjustment on a form prescribed by the department which certificate shall contain the date of issuance, the make and registration number of the vehicle, the name of the owner of the vehicle and the official designation of said station.

CHAPTER 7. OTHER EQUIPMENT.

Brakes.

670. Brakes. (a) No person shall operate on any highway any motor vehicle or combination of motor vehicle and other vehicle or vehicles of a type subject to registration hereunder unless such motor vehicle or at least one unit of any such combination of vehicles is equipped with brakes adequate to bring such motor vehicle or combination of vehicles to a complete stop when operated upon dry asphalt or concrete pavement surface where the grade does not exceed one per cent at the speeds set forth in the following table within the distances set opposite such speeds:

Miles per hour	Stopping distances
10	9.3 feet
15	20.8 feet
20	37.0 feet

Tests

(b) No member of the California Highway Patrol shall require a test of any vehicle for brake efficiency upon a highway at a speed in excess of twenty miles per hour.

(c) If a vehicle is equipped with more than one system of brakes, each shall be maintained in good working order.

Application of section

(d) The provisions of this section shall not apply to implements of husbandry, special mobile equipment nor equipment operated under special permit as authorized in this code nor shall the stopping distances above specified apply to any chassis without body or load but such chassis shall be equipped with brakes adequate to reasonably control such vehicle.

(Effective until October 1, 1935. See following section.)

Brakes

670. Brakes. (a) No person shall operate on any highway any motor vehicle or combination of motor vehicle and other vehicle or vehicles of a type subject to registration hereunder unless such motor vehicle or at least one unit of any such combination of vehicles is equipped with brakes adequate to bring such motor vehicle or combination of vehicles to a complete stop when operated upon dry asphalt or concrete pavement surface where the grade does not exceed one per cent at the speeds set forth in the following table within the distances set opposite such speeds:

Miles per hour	Stopping distances
10	9.3 feet
15	20.8 feet
20	37.0 feet
25	58.0 feet
30	83.3 feet
35	113.0 feet
40	148.0 feet
45	188.0 feet

Tests

(b) No member of the California Highway Patrol shall require a test of any vehicle for brake efficiency upon a highway at a speed in excess of twenty miles per hour.

(c) If a vehicle is equipped with more than one system of brakes, each shall be maintained in good working order.

Application of section

(d) The provisions of this section shall not apply to implements of husbandry, special mobile equipment nor equipment operated under special permit as authorized in this code nor shall the stopping distances above specified apply to any chassis without body or load but such chassis shall be equipped with brakes adequate to reasonably control such vehicle.

Refusal to submit to test

(e) The driver of any vehicle who fails or refuses to stop and submit the vehicle to a brake test when so instructed by an officer of the California Highway Patrol is guilty of a misdemeanor.

(Amended by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

Horns or warning devices

671. Horns or Warning Devices. (a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet but no horn shall emit an unreasonably loud or harsh sound. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.

Sirens

(b) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren except as otherwise permitted in this subdivision. Any authorized emergency vehicle may be equipped with a siren of a type approved by the department but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law in which said latter events the driver of such vehicle shall sound said siren when necessary to warn pedestrians and other drivers of the approach thereof.

Sirens and speed of escorts

672. Sirens and Illegal Speed of Escorts. Every police and traffic officer is hereby expressly prohibited from using a siren or driving at an illegal speed when serving as an escort of any vehicle or vehicles on a highway.

Mufflers

673. Mufflers—Prevention of Noise. Any motor vehicle on a highway shall at all times be equipped with a muffler in constant operation to prevent any excessive or unusual noise and no such muffler shall be equipped with a cut out, by-pass or similar device which can be operated by the driver or any occupant of such vehicle. All exhaust pipes shall be directed parallel to the ground or upward.

Rear view mirrors

674. Mirrors. Any motor vehicle which is so constructed or loaded as to obstruct the driver's view to the rear thereof from the driver's position, shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle.

Windshields

675. Windshield Required On Commercial Vehicles. Every commercial vehicle shall be equipped with an adequate windshield.

Safety glass required after Jan. 1, 1936

675.5 Safety Glass Required. (1) On and after January 1, 1936, no person shall sell any new motor vehicle nor shall any new motor vehicle be registered thereafter, nor shall any person operate any motor vehicle sold as a new motor vehicle in this State after January 1, 1936, unless such motor vehicle is equipped with safety glass wherever glass is used in partitions, doors, windows, or windshields.

Definition

(2) The term "safety glass," as used in this code shall be construed as meaning glass so treated or combined with other materials as to reduce, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from external sources or by glass when the glass is cracked or broken.

Approval

(3) The Department of Motor Vehicles shall approve and maintain a list of the approved types of glass, conforming to recognized specifications, tests and requirements for safety glass as defined in this section and shall not register any new motor vehicle after January 1, 1936, unless such motor vehicle is equipped with an approved type of safety glass.

Affidavit

(4) On and after January 1, 1936, every application for the original registration of a new motor vehicle sold in this State shall be accompanied by an affidavit of the transferer of the vehicle indicating the type of glass used in the partitions, doors, windows, and windshields thereof.

(Added by Ch. 332, Stats. 1935.)

Obstructing windshields and windows

676. Windshield and Windows Must Be Unobstructed. (a) No motor vehicle upon a highway shall have any sign, poster, card, sticker or other nontransparent material upon the windshield, side wings, or side or rear windows of the vehicle, except that such signs, posters, cards, stickers or other materials may be placed on said windshield within a seven inch square in the lower corner farthest removed from the driver's position.

(b) The provisions of this section shall not apply to direction, destination or termini signs upon a passenger common carrier motor vehicle.

Signs on mobile equipment

677. Signs Required On Special Mobile Equipment. Special mobile equipment, when upon a highway, shall have permanently attached to or conspicuously painted upon each unit thereof a sign, not less than two inches in height, giving the name and address of the owner.

(Repealed by Ch. 765, Stats. 1935. Repeal effective October 1, 1935. See following section.)

Defective windshields

677. Defective Windshields Prohibited. It shall be unlawful to operate any motor vehicle upon a highway when the windshield is in such a defective condition as to impair the driver's vision.

In the event any windshield fails to comply with this code the officer making the inspection shall direct the driver to

make such windshield conform to the requirements of this code within forty-eight hours. The officer may also arrest said driver and give him a notice to appear and further require said driver or the owner of the vehicle to produce in court satisfactory evidence that said windshield has been made to conform to the requirements of this code.

(Added by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

678. Restrictions As to Tire Equipment. (a) When any vehicle is equipped with any solid tire, such solid tire shall have a minimum thickness of resilient rubber as follows: Tires

(1) Width of tire three inches but less than six inches, one inch thick.

(2) Width of tire six inches but not more than nine inches, one and one-fourth inches thick.

(3) Width of tire more than nine inches, one and one-half inches thick.

(b) Every solid tire shall meet the above requirements as to thickness of resilient rubber measured between the surface of the roadway and the nearest metal part of the base flange to which the tire is attached at the point where the concentrated weight of the vehicle bears upon the surface of the roadway and shall have said thickness of rubber upon the entire traction surface above the edge of the flange on its entire periphery. Furthermore, the entire solid tire shall be securely attached to the channel base and shall be without flat spots or bumpy rubber.

(c) With respect to dual solid rubber tires there shall not be an average difference greater than one-eighth inch between the outside diameters of each of the single tires composing said dual tire.

(d) No tire on any vehicle upon any State highway shall have on its periphery any block, stud, flange, cleat, ridge, bead or any other protuberance of metal or wood which projects beyond the tread of the traction surface of the tire. This subdivision shall not prohibit the use of tire chains of reasonable size to prevent skidding when upon wet surfaces or when upon snow or ice nor shall the restrictions of this subdivision apply to vehicles operated upon unimproved roadways when necessary in the construction or repair of highways nor to traction engines or tractors when operated under the conditions of a permit first obtained from the State Department of Public Works.

679. Unlawful to Operate Vehicle Without Required Equipment or in Unsafe Condition. No person shall operate or move on any highway any motor vehicle or any combination of vehicles unless said vehicle or combination of vehicles is equipped as required by this code and is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon the highway. Unsafe vehicles

Inspection of vehicles and equipment

680. Members of Highway Patrol May Inspect Vehicle and its Equipment. (a) Any member of the California Highway Patrol having reasonable cause to believe that any vehicle or combination of vehicles is not equipped as required by this code or is in such unsafe condition as to endanger the driver or other occupant or any person upon the highway, may require the driver thereof to stop and submit such vehicle or combination of vehicles to an inspection of the mechanical condition or equipment thereof and such test with reference thereto as may be appropriate.

Proceedings when vehicle is unsafe

(b) In the event such vehicle or combination of vehicles is found to be in an unsafe mechanical condition or is not equipped as required by this code the officer making the inspection may give such driver a notice of arrest and further require said driver or the owner of the vehicle to produce in court satisfactory evidence that such vehicle or its equipment has been made to conform with the requirements of this code. Every officer giving such directions or a notice of arrest as above provided shall mail a copy or otherwise give notice thereof to the owner and any legal owner of such vehicle if other than the driver.

Operation of unsafe vehicles after notice.

(c) No person shall operate any vehicle or combination of vehicles after notice of such unsafe condition or that the vehicle is not equipped as required herein, except as may be necessary to return such vehicle or combination of vehicles to the residence or place of business of the owner or driver or to a garage until said vehicle and its equipment has been made to conform with the requirements of this code.

Submission to tests

(d) Whenever the driver of a vehicle is directed by a member of the California Highway Patrol to stop and submit the mechanical condition of the vehicle or its equipment to an inspection or test under the conditions stated in this section it shall be the duty of such driver to stop and submit to such inspection or test and a failure or refusal so to do is a misdemeanor.

Armored cars

681. Regulations Governing Armored Cars. No person shall operate on any highway any armored car unless a special permit to operate such car has first been obtained from the director. The director may issue a permit for the necessary and legitimate operation of an armored car and may revoke such permit if any unnecessary or illegal use is made of the armored car for which issued.

The director shall maintain a record of all such permits issued and of all such permits revoked.

Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail for not to exceed six months or by both such fine and imprisonment.

(Added by Ch. 156, Stats. 1935.)

DIVISION XI. SIZE, WEIGHT AND LOADING OF VEHICLES.

CHAPTER 1. SCOPE AND EFFECT OF REGULATIONS.

690. Unlawful to Violate Provisions of Division. It is a misdemeanor for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or vehicles of a size, or weight, or with a load, exceeding or otherwise failing to comply with the limitations or requirements stated in this division. Violation of provisions as to size, weight and loading

691. Division Refers to Vehicles Upon Highways. The provisions of this division refer exclusively to the size and weight of, and loads upon, vehicles when operated upon the highways.

692. Exemptions. None of the provisions of this division shall apply to highway construction or maintenance equipment or to motor trucks equipped with snow removal devices. Such provisions shall, however, apply to all motor trucks and motor vehicles used independently of any such equipment. Exemptions

(Added by Ch. 765, Stats. 1935, which contains the following section: "SEC. 22. This act shall go into effect at midnight on September 30, 1935.")

693. The Maximum Size and Weight of Vehicles to Be Uniform. The maximum size and weight of vehicles herein specified shall be uniform throughout this State and local authorities shall have no power or authority to alter said limitations or requirements except as express authority may be granted in this code. Maximum size and weight uniform throughout State

(Added by Ch. 592, Stats. 1935.)

CHAPTER 2. REGULATIONS GOVERNING SIZE, WEIGHT AND LOAD

694. Width of Vehicles. (a) The total outside width of any vehicle or the load thereon shall not exceed ninety-six inches, except as otherwise provided in this section. Width

(b) When any vehicle is equipped with pneumatic tires the maximum width from the outside of one wheel and tire to the outside of the opposite outer wheel and tire shall not exceed one hundred inches, but in such event the outside width of the body of such vehicle or the load thereon shall not exceed ninety-six inches.

(c) When any vehicle carries a load of loosely piled material in bulk but not crated, baled, boxed or sacked, such load of loosely piled material and any loading racks retaining the same shall not exceed one hundred twenty inches in width.

(d) When any vehicle was registered in this State prior to August 31, 1923, the total outside width of such vehicle or the load thereon shall not exceed one hundred two inches.

(e) The above limitations as to width shall not apply to implements of husbandry incidentally operated or moved over a highway nor to special mobile equipment.

(f) Any city organized under a freeholders' charter may by ordinance permit a total outside width of vehicle and load in excess of the limits set forth in this section when such vehicle is used exclusively within the boundary limits of such city.

(Amended by Ch. 714, Stats. 1935.)

[ORIGINAL SECTION.]

694. Width of Vehicles. (a) The total outside width of any vehicle or the load thereon shall not exceed ninety-six inches, except as otherwise provided in this section.

(b) When any vehicle is equipped with pneumatic tires the maximum width from the outside of one wheel to the outside of the opposite wheel shall not exceed one hundred inches.

(c) When any vehicle carries a load of loosely piled material in bulk but not crated, baled, boxed or sacked, such load of loosely piled material and any loading racks retaining the same shall not exceed one hundred twenty inches in width.

(d) When any vehicle was registered in this State prior to August 31, 1923, the total outside width of such vehicle or the load thereon shall not exceed one hundred two inches.

(e) The above limitations as to width shall not apply to implements of husbandry incidentally operated or moved over a highway nor to special mobile equipment.

(f) Any city organized under a freeholders' charter may by ordinance permit a total outside width of vehicle and load in excess of the limits set forth in this section when such vehicle is used exclusively within the boundary limits of such city.

Projecting loads

695. Projecting Loads on Passenger Vehicles. No passenger type vehicle shall be operated on any highway with any load carried thereon extending beyond the line of the hub caps on its left side or more than six inches beyond the line of the hub caps on its right side.

Tires on front of vehicles

696. Carrying Tires on Front of Vehicles. No person shall drive a motor vehicle upon a highway with any tire fastened in front of the vehicle, except that a commercial vehicle may be so driven when such tire is securely mounted in a tire carrier firmly attached to the vehicle.

(Amended by Ch. 714, Stats 1935.)

[ORIGINAL SECTION.]

696. Carrying Tires on Front of Vehicles. No person shall drive a motor vehicle upon a highway with any tire fastened in front of the radiator.

Height and length

697. Height and Length of Vehicles. (a) No vehicle unladen or with load shall exceed a height of thirteen feet and six inches.

(b) No vehicle shall exceed a length of thirty-three feet.

(c) No combination of vehicles coupled together shall exceed a total length of sixty feet.

Length of loads

698. Length of Loads. (a) The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, shall not extend more than three feet beyond the front wheels of such vehicle or the front bumper of such vehicle if it is equipped with such a bumper.

(b) The load upon any vehicle shall not extend to the rear beyond the last point of support for a greater distance than that equal to two-thirds of the length of the wheel base of the vehicle carrying such load.

(c) The load upon any combination of vehicles, except loads of poles or pipes, shall not exceed seventy-five feet measured from the front extremity of the front vehicle or load to the rear extremity of the last vehicle or load.

699. Exceptions to Height and Length Limitations. The limitations of sections 697 and 698 hereof as to height and length of vehicles and loads shall not apply to special mobile equipment, pole or pipe dollies, road construction or repair equipment, nor to implements of husbandry incidentally operated or moved over a highway.

Exceptions as to certain vehicles and equipment

700. Spilling Loads on Highways Prohibited. No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its contents or load other than clear water from dropping, sifting, leaking or otherwise escaping therefrom.

Spilling loads on highways

701. Trailers and Towed Vehicles. (a) When one vehicle is towing another the drawbar or other connection shall not exceed fifteen feet from one vehicle to the other.

Trailers and towed vehicles

(b) When one vehicle is towing another, there shall be an additional connection between said vehicles sufficient to hold the vehicle being towed in the event the drawbar or other regular connection should break or become disconnected.

(c) When one vehicle is towing another and the connection consists of a chain, rope or cable, there shall be displayed upon such connection a red flag or cloth not less than twelve inches square.

(d) The foregoing provisions of this section shall not apply to the drawbar or other connection between a motor vehicle and a pole or pipe dolly.

(e) No person shall operate a train of vehicles when any trailer, semitrailer or other vehicle being towed whips or swerves from side to side dangerously or unreasonably or fails to follow substantially in the path of the towing vehicle.

702. Gross Weight of Vehicles With Two Axles. The gross weight of any vehicle and load shall not exceed twenty-two thousand pounds when the vehicle is equipped with two axles which are not in the same vertical transverse plane and with four or more wheels running on the highway, except as follows:

Weight of vehicles with two axles

(a) With respect to any passenger type vehicle having two axles and six wheels equipped with low pressure tires on all wheels the weight upon the rear axle shall not exceed seventeen thousand pounds and the weight upon the front axle shall not exceed two-thirds of the permissible weight upon the rear axle.

(b) When a semitrailer is equipped with two rear axles which said axles are not over forty-eight inches nor less than forty inches apart, the gross weight shall not exceed twenty-six thousand pounds.

(c) With respect to any truck or trailer equipped with two axles which are not in the same vertical transverse plane and with four or more wheels running on the highway, and when

such axles are spaced not less than thirteen feet apart measured lengthwise with the vehicle, twenty six thousand pounds.

(Amended by Ch. 524, Stats. 1935.)

[ORIGINAL SECTION.]

702. Gross Weight of Vehicle With Two Axles. The gross weight of any vehicle and load shall not exceed twenty-two thousand pounds when the vehicle is equipped with two axles which are not in the same vertical transverse plane and with four or more wheels running on the highway, except as follows:

(a) With respect to any passenger type vehicle having two axles and six wheels equipped with low pressure tires on all wheels the weight upon the rear axle shall not exceed seventeen thousand pounds and the weight upon the front axle shall not exceed two-thirds of the permissible weight upon the rear axle.

(b) When a semitrailer is equipped with two rear axles which said axles are not over forty-eight inches nor less than forty inches apart, the gross weight shall not exceed twenty-six thousand pounds.

Weight of vehicles with three axles

703. Gross Weight of Vehicle With Three Axles. (a) The gross weight of any vehicle and load shall not exceed thirty-four thousand pounds when such vehicle is equipped with three or more axles, no two of which are in the same vertical transverse plane, and with six or more wheels running on the highway nor shall the gross weight of a four-wheel motor vehicle and a two-wheel semitrailer and any load exceed thirty-four thousand pounds.

(b) When the gross weight of any vehicle first registered after January 1, 1930, and its load exceeds twenty-two thousand pounds, and such vehicle is equipped with two or more rear axles such axles shall be spaced not less than forty inches apart measured lengthwise with the vehicle from the centers of said axles.

Weight on one axle

704. Vehicles Registered Before January 1, 1930. As to vehicles first registered prior to January 1, 1930, the gross weight upon any one axle shall not exceed eighteen thousand pounds nor shall the weight upon any one wheel resting upon the roadway exceed eleven thousand pounds. As to vehicles first registered after January 1, 1930, the gross weight upon any one axle of a vehicle shall not exceed seventeen thousand pounds nor shall the gross weight upon any one wheel resting upon the roadway exceed ten thousand pounds.

Ratio of weight to length

705. Ratio of Weight to Length. The gross weight of any combination of vehicles coupled together and any load or loads thereon shall not exceed sixty-eight thousand pounds. With respect to length, the gross weight shall not be more than the total of one thousand seven hundred fifty pounds multiplied by (L plus 8) in which L is the distance in feet between the first and last axle of a vehicle or of a combination of vehicles coupled together and operated upon the highway. The gross weight of any motor truck and load shall not exceed three times the unladen weight of such vehicle. In no case shall the weight of a vehicle or of a vehicle and load exceed the maximum weight limit prescribed therefor by any applicable provision of this code.

(Amended by Ch. 390, Stats. 1935.)

[ORIGINAL SECTION.]

705. Ratio of Weight to Length The gross weight of any combination of vehicles coupled together and any load or loads thereon shall not exceed sixty-eight thousand pounds. With respect to length, the gross weight shall not be more than the total of one thousand seven hundred fifty pounds multiplied by (L plus 8) in which L is the distance in feet between the first and last axle of a vehicle or of a combination of vehicles coupled together and operated upon the highway.

706. Excess Gross Weight and Axle or Wheel Weight One Offense. Whenever the gross weight and any axle or wheel weight of a vehicle are in excess of the limits set forth in the foregoing sections, such excess weights shall be deemed one offense in violation of this code. Excess weight

707. Elevated Wheels Permitted Only on Motorcycles and Semitrailers. No vehicle other than a motorcycle shall be provided with means for the lifting or raising of any wheel or wheels from the roadway except that a detachable semitrailer may have a wheel or wheels which rest upon the ground only when such vehicle is being loaded or unloaded. Elevated wheels.

708. Gross Weight per Inch Width on Certain Tires. (a) The gross weight upon a solid tire upon a vehicle shall not exceed six hundred pounds upon any inch of the channel base width of such tire. Gross weight on solid or metal tires

(b) The gross weight of any vehicle and load resting upon any metal tire in contact with the roadway shall not exceed five hundred pounds upon any inch of the width of such tire but this limitation shall not apply to traction engines or tractors, the propulsive power of which is not exerted through wheels resting upon the roadway but by means of a flexible band or chain, known as a movable track, when the portions of the movable tracks in contact with the surface of the roadway present plane surfaces.

709. Officers May Weigh Vehicles and Require Removal of Excess Loads. (a) Any peace officer having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same either by means of portable or stationary scales and may require that such vehicle be driven to the nearest public scales in the event such scales are within five miles. Weighing of vehicles

(b) Whenever an officer upon weighing a vehicle and load as above provided determines that the weight is unlawful, such officer may require the driver to stop in a suitable place and remove such portion of the load as may be necessary to reduce the gross weight of such vehicle to those limits permitted under this code. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator. Removal of excess load

(c) Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by an officer upon a weighing of the vehicle to stop and otherwise comply with the provisions of this section, is guilty of a misdemeanor. Refusal to permit weighing

Permits for increased size, weight, etc.

710. Permits for Increased Size, Weight, Etc. (a) The State Department of Public Works with respect to highways under its jurisdiction and local authorities with respect to highways under their jurisdiction may at their discretion upon application in writing and if good cause appears issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this code, or to use corrugations on the periphery of the movable tracks on a traction engine or tractor the propulsive power of which is not exerted through wheels resting upon the roadway but by means of a flexible band or chain, or, under emergency conditions, to operate or move a type of vehicle otherwise prohibited hereunder, upon any highway under the jurisdiction of the party granting such permit and for the maintenance of which said party is responsible.

(b) The application for any such permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular highways over which permit to operate is requested, and whether such permit is requested for a single trip or for continuous operation.

(c) The State Department of Public Works or local authority is authorized to issue or withhold such permit at its discretion; or, if such permit is issued, to limit the number of trips, or to establish seasonal or other time limitations within which the vehicle or vehicles described may be operated on the highways indicated, or otherwise to limit or prescribe conditions of operation of such vehicle or vehicles when necessary to assure against undue damage to the road foundations, surfaces or structures, and may require such undertaking or other security as may be deemed necessary to protect the highways and bridges from injury, or to provide indemnity for any injury resulting from such operation.

(d) Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection of any peace officer or traffic officer, any authorized agent of the Department of Public Works or any other officer or employee charged with the care or protection of such highways.

(e) It is a misdemeanor for any person to violate any of the terms or conditions of any such special permit.

Increase of weight limits by Department of Public Works

711. When State Department of Public Works May Increase Weight Limits. The State Department of Public Works, whenever it determines after an engineering investigation that any highway under its jurisdiction will with safety to itself sustain vehicles and loads weighing more than the maximum weight limits set forth in this code, shall have authority to so declare and to fix a weight limit for such highway greater than the maximum weight limit set forth in this code. Thereupon and thereafter it shall be lawful to operate or move vehicles and loads of a gross weight upon such high-

ways so designated by said department equal to but not in excess of the maximum weight limit fixed by said department.

712. When Local Authorities May Increase Weight Limits. (a) The legislative body of any county, city and county or city shall have power by ordinance to permit the operation and moving of vehicles and loads upon highways under their respective jurisdictions of a maximum gross weight in excess of the maximum gross weight of vehicles and loads specified in this code. Increase by local authorities

(b) This section shall have no application to highways in the State highway system.

713. When Cities May Reduce Weight Limits. (a) Any incorporated city, or city and county may by ordinance prohibit the use of a street to be described in said ordinance by any commercial vehicle or by any vehicle exceeding a maximum gross weight limit to be specified in the ordinance, except with respect to any vehicle which is subject to the provisions of section 50¼ of the Public Utilities Act. Reduction of weight limits by cities

(b) No such ordinance shall be effective until appropriate signs are erected indicating either those streets affected by such ordinance or those streets not so affected as such local authority may determine will best serve to give notice of such ordinance.

(c) Except as permitted in this section, no city, or city and county shall have any authority to impose limitations upon the weight of vehicles and loads less than those set forth in this code.

(d) This section shall have no application to highways in the State highway system.

(Amended by Ch. 592, Stats. 1935.)

[ORIGINAL SECTION.]

713. When Cities May Reduce Weight Limits. (a) Any incorporated city, county, or city and county may by ordinance prohibit the use of a street to be described in said ordinance by any vehicle exceeding a maximum gross weight limit to be specified in the ordinance, except with respect to any vehicle which is subject to the provisions of section 50¼ of the Public Utilities Act.

(b) No such ordinance shall be effective until appropriate signs are erected indicating either those streets affected by such ordinance or those streets not so affected as such local authority may determine will best serve to give notice of such ordinance.

(c) Except as permitted in this section, no city, county, or city and county shall have any authority to impose limitations upon the weight of vehicles and loads less than those set forth in this code.

(d) This section shall have no application to highways in the State highway system.

714. When Supervisors May Reduce Weight Limits. (a) Boards of supervisors in their respective counties may by ordinance reduce the permissible weight of vehicles and loads upon unimproved county highways or upon county bridges. Reduction of weight limits by counties

(b) Boards of supervisors may also by ordinance reduce the permissible weight of vehicles and loads upon improved county highways, subject to the limitations hereinafter set forth. For the purposes of this section, an improved county highway means a highway paved with cement concrete or

Same

asphaltic concrete, or a highway with a roadway of hard surface not less than four inches thick made up of a mixture of rock, sand or gravel bound together by an artificial binder other than natural soil.

Said boards of supervisors may by ordinance reduce the permissible weights upon those improved highways only which by reason of deterioration will be destroyed unless such weights are reduced but no such reduction shall extend for a period of more than ninety days unless actual repair of such highway is begun within such time and thereafter continuously carried on to completion.

In the event any person protests in writing to the clerk of such board of supervisors within fifteen days after the adoption of an ordinance reducing the permissible gross weight upon an improved highway, then such reduction in weight shall not become final unless and until the State Department of Public Works after a hearing approves such action of said board of supervisors in such reduction. Said hearing shall be held in the county in which such highway is located within twenty-five days after a request therefor, and shall be conducted by one or more engineers of the department to be designated by the director of the department. The engineer or engineers shall hear all evidence presented and report its findings in writing to the director. The director shall, upon the basis of such findings, declare in writing the appproval or disapproval of the reduction.

(c) Whenever any weight limit different from those specified in this code is fixed in accordance with this section, the board of supervisors shall cause signs indicating the weight so fixed to be erected at all entrances to such highway upon which the permissible gross weight is altered.

(Amended by Ch. 592, Stats. 1935.)

[ORIGINAL SECTION.]

714. When Supervisors May Reduce Weight Limits. (a) Boards of supervisors in their respective counties may by ordinance reduce the permissible weight of vehicles and loads upon unimproved county highways or upon county bridges.

(b) Boards of supervisors may also by ordinance reduce the permissible weight of vehicles and loads upon improved county highways, subject to the limitations hereinafter set forth. For the purposes of this section, an improved county highway means a highway paved with cement concrete or asphaltic concrete, or a highway with a roadway of hard surface not less than four inches thick made up of a mixture of rock, sand or gravel bound together by an artificial binder other than natural soil.

Said boards of supervisors may by ordinance reduce the permissible weights upon those improved highways only which by reason of deterioration will be destroyed unless such weights are reduced but no such reduction shall extend for a period of more than ninety days unless actual repair of such highway is begun within such time and thereafter continuously carried on to completion.

In the event any person protests in writing to the clerk of such board of supervisors within fifteen days after the adoption of an ordinance reducing the permissible gross weight upon an improved highway, then such reduction in weight shall not become final unless and until the State Department of Public Works after a hearing approves such action of said board of supervisors in such reduction. Said hearing shall be held in the county in which such highway is located within

twenty-five days after a request therefor. Five days' notice thereof shall be given the protestants.

(c) Whenever any weight limit different from those specified in this code is fixed in accordance with this section, the board of supervisors shall cause signs indicating the weight so fixed to be erected at each end of the portion of such highway upon which the permissible gross weight is altered.

Weight on bridges, etc.

715. Unlawful to Exceed Weight Capacity of Bridge or Other Structure. (a) No person shall drive a vehicle over any bridge, causeway, viaduct, trestle or dam constituting a part of a highway when the weight of such vehicle and load thereon is greater than the maximum weight which such bridge or other structure with safety to itself will sustain.

(b) Whenever in the judgment of the State Department of Public Works any such bridge or other structure over which it has jurisdiction will not sustain with safety to itself the maximum weights permitted under this code or upon request of any board of supervisors or other body having jurisdiction over any such bridge or other structure, said department shall determine after a public hearing the maximum weight which such bridge or other structure with safety to itself will sustain.

Said department shall cause an engineering investigation to be made and shall hear all evidence presented and declare in writing the maximum weight which such bridge or other structure with safety to itself will sustain. Thereupon, said department shall erect suitable signs specifying the weight so declared at a distance of not less than one hundred feet or more than one hundred fifty feet from each end of such bridge or other structure or any approach thereto.

(c) Upon the trial of any person charged with violating this section, proof of said determination of the maximum weight by said department and the existence of said signs shall constitute prima facie evidence of the maximum weight which such bridge or other structure with safety to itself will sustain.

Weight on secondary highways.

715.5. Reduction of Weights on Certain Highways. (a) No person shall drive a vehicle having a total weight of vehicle and load on any secondary State highway as defined by law when the weight of such vehicle and load is greater than the maximum weight which such highway will sustain.

(b) Whenever in the judgment of the Department of Public Works any secondary State highway will not with safety to itself sustain the maximum weights permitted under this code for such highway, the department shall determine, after a public hearing, the maximum weight which such highway will sustain. Said department shall give notice of the time and place of said hearing by posting a notice in the county seat of each county in which any affected portion of such highway is located and shall also post copies of said notice at intervals of not more than one mile along said highway and a notice at each end of the affected portion thereof. Notice of said hearing shall be given for not less than ten days and the hearing shall be had at the county seat of the county in which such affected

highway is situated or at some other place convenient to the portion of the highway affected. The hearing shall be conducted by one or more engineers appointed by the Director of Public Works. Said engineer or engineers shall hear all evidence presented at the time and place mentioned in the notice and shall report findings made in writing to the Director of Public Works. Upon the basis of such findings the Director of Public Works shall declare in writing the maximum weight which can be maintained with safety upon such secondary State highway. In no event shall such weight be less than sixteen thousand pounds. Thereupon the Department of Public Works shall erect suitable signs at each end of the affected portion of the highway and at such other points as the department deems necessary to give adequate notice of such weight limits.

(c) Upon the trial of any person charged with a violation of this section, proof of the determination and the maximum weight by the Department of Public Works and the existence of the signs constitutes prima facie evidence of the maximum weight which such secondary State highway will sustain.

(Added by Ch. 384, Stats. 1935.)

Damages to highway or bridge

716. Liability for Damage to Highway or Bridge. (a) Any person driving any vehicle, object or contrivance over a highway or bridge shall be liable for all damages which said highway or bridge may sustain as a result of any illegal operation, driving or moving of such vehicle, object or contrivance or as a result of operating, driving or moving any vehicle, object or contrivance weighing in excess of the maximum weight specified in this code but authorized by a special permit issued as provided in this division.

(b) Whenever such driver is not the owner of such vehicle, object or contrivance but is so operating, driving or moving the same with the express or implied permission of said owner then said owner and driver shall be jointly and severally liable for any such damage.

(c) Such damage may be recovered in a civil action brought by the authorities in control of such highway or bridge.

DIVISION XII. PARTIES, PROCEDURE, EVIDENCE AND PENALTIES IN CRIMINAL CASES.

CHAPTER 1. PARTIES.

Unlawful operation

731. Offenses by Persons Owning or Controlling Vehicles. It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require the operation of such vehicle upon a highway in any manner contrary to law.

CHAPTER 2. PROCEDURE UPON ARREST AND REPORTS OF COURTS.

Arrest for felony

735. Procedure Upon Arrest for Felony. Except as provided in this chapter, whenever a person is arrested for any

violation of this code declared herein to be a felony such person shall be dealt with in like manner as upon arrest for the commission of any other felony.

Taking before magistrate

736. When Person Arrested Must Be Taken Immediately Before a Magistrate. Whenever any person is arrested for any violation of this code, not declared herein to be a felony, the arrested person shall be immediately taken before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense and is nearest or most accessible with reference to the place where the arrest is made in any of the following cases:

(a) When the person arrested fails to exhibit his operator's or chauffeur's license or other satisfactory evidence of his identity.

(b) When the person arrested refuses to give his written promise to appear in court.

(c) When the person arrested demands an immediate appearance before a magistrate.

(d) When the person arrested is charged with violating section 480 or section 502 hereof.

(Amended by Ch 764, Stats. 1935.)

[ORIGINAL SECTION.]

736. When Person Arrested Must Be Taken Immediately Before a Magistrate. Whenever any person is arrested for any violation of this code, not declared herein to be a felony, the arrested person shall be immediately taken before a magistrate in the township in which the offense charged is alleged to have been committed in any of the following cases:

(a) When the person arrested fails to exhibit his operator's or chauffeur's license or other satisfactory evidence of his identity.

(b) When the person arrested refuses to give his written promise to appear in court.

(c) When the person arrested demands an immediate appearance before a magistrate.

Option of arresting officer to take before magistrate

737. When Officer Has Option to Take Arrested Person Immediately Before a Magistrate. Whenever any person is arrested for any of the following offenses and the arresting officer is not required as hereinbefore provided to take such person immediately before a magistrate, the arrested person shall, in the judgment of the arresting officer, either be given a five days' notice to appear as herein provided or be immediately taken before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense and is nearest or most accessible with reference to the place where said arrest is made.

(a) Section 504, relating generally to injuring or tampering with a vehicle.

(b) Section 505, relating to reckless driving, when such offense causes injury to any person.

(c) Section 662, relating to a failure or refusal of the driver of a vehicle to stop and submit to an inspection or test of the lamps upon such vehicle under section 663 hereof, which is punishable as a misdemeanor.

(d) Section 670e, relating to a failure or refusal of the driver of a vehicle to stop and submit to a brake test which is punishable as a misdemeanor.

(e) Section 709e, relating to refusal to submit vehicle and load to a weighing which is punishable as a misdemeanor.

(Amended by Ch. 764, Stats. 1935.)

[ORIGINAL SECTION.]

737. When Officer Has Option to Take Arrested Person Immediately Before a Magistrate. Whenever any person is arrested for any of the following offenses and the arresting officer is not required as hereinbefore provided to take such person immediately before a magistrate, the arrested person shall, in the judgment of the arresting officer, either be given a five days' notice to appear as herein provided or be immediately taken before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense and is nearest or most accessible with reference to the place where said arrest is made:

(a) Section 502, relating to driving while an habitual user of narcotic drugs or while under the influence of intoxicating liquor or narcotic drugs.

(b) Section 504, relating generally to injuring or tampering with a vehicle.

(c) Section 505, relating to reckless driving, when such offense causes injury to any person.

(d) Section 662, relating to a failure or refusal of the driver of a vehicle to stop and submit to an inspection or test of the lamps upon such vehicle under section 663 hereof, which is punishable as a misdemeanor.

Procedure upon arrest

738. Court Procedure Where Person Arrested for Misdemeanor Is Immediately Taken Before Magistrate. (a) Whenever a person is arrested for a misdemeanor and is immediately taken before a magistrate, the arresting officer shall file with said magistrate a complaint stating the offense with which such person is charged.

(b) The person so taken before a magistrate shall be entitled to at least five days' continuance of his case in which to plead and prepare for trial and said person shall not be required to plead or be tried within said five days unless he waives such time in writing or in open court.

(c) The person so taken before a magistrate shall thereupon be released from custody upon his own recognizance or upon such bail as the magistrate may fix.

(Amended by Ch. 764, Stats. 1935.)

[ORIGINAL SECTION.]

738. Court Procedure Where Person Arrested for Misdemeanor Is Immediately Taken Before Magistrate. (a) Whenever a person is arrested for a misdemeanor and is immediately taken before a magistrate, the arresting officer shall file with said magistrate a complaint stating the offense with which such person is charged.

(b) The person so taken before a magistrate shall be entitled to at least five days' continuance of his case in which to plead and prepare for trial and said person shall not be required to plead or be tried within said five days unless he waives such time in writing or in open court.

(c) The person so taken before a magistrate shall thereupon be released from custody upon his written promise to appear at such time and place as the court may fix, or, upon his refusal to give such promise, upon such bail as the magistrate may fix.

739. When Person Arrested to be Given Notice to Appear in Court. (a) Whenever a person is arrested for any violation of this code, not declared herein to be a felony, and such person is not immediately taken before a magistrate as hereinbefore required or permitted, the arresting officer shall prepare in duplicate a written notice to appear in court containing the name and address of such person, the license number of his vehicle if any, the offense charged and the time and place when and where such person shall appear in court. Notice to appear in court.

(b) The time specified in said notice to appear must be at least five days after such arrest.

(c) The place specified in said notice to appear shall be either:

(1) Before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where said arrest is made; or

(2) Upon demand of the person arrested, before a municipal court judge or other magistrate having jurisdiction of such offense at the county seat of the county in which such offense is alleged to have been committed or before a magistrate in the township in which the offense is alleged to have been committed.

(3) Before an officer authorized by the city, county, or city and county, to receive a deposit of bail.

(d) Said officer shall deliver one copy of said notice to appear to the arrested person and said arrested person in order to secure release must give his written promise so to appear in court by signing the duplicate notice which shall be retained by said officer. Thereupon the arresting officer shall forthwith release the person arrested from custody.

(Added by Ch. 764, Stats. 1935, which repealed the original section.)

[ORIGINAL SECTION.]

739. When Person Arrested to Be Given Notice to Appear in Court. (a) Whenever a person is arrested for any violation of this code, and such person is not immediately taken before a magistrate as hereinbefore required or permitted, the arresting officer shall prepare in duplicate a written notice to appear in court containing the name and address of such person, the license number of his vehicle if any, the offense charged and the time and place when and where such person shall appear in court.

(b) The time specified in said notice to appear must be at least five days after such arrest.

(c) The place specified in said notice to appear must be either.

(1) Before a magistrate within the township in which the offense charged is alleged to have been committed who has jurisdiction of the offense.

(2) Upon demand of the person arrested, before a magistrate of the township in which the county seat is located, at the county seat of the county in which such offense is alleged to have been committed.

(3) In any county in which there is a municipal court at the county seat before any magistrate in the county.

(d) The arrested person in order to secure release must give his written promise so to appear in court by signing in duplicate the written notice prepared by the arresting officer. The original of said notice shall be retained by said officer and the copy thereof delivered to the person arrested. Thereupon, said officer shall forthwith release the person arrested from custody.

Speeding charges

740. Speed Charged to Be Specified. Every notice to appear and every complaint or information charging a violation of any provision of this code regulating the speed of vehicles upon a highway shall specify the approximate speed at which the defendant is alleged to have driven and exactly the prima facie speed limit specified in section 511 at the time and place of the alleged offense.

Appearance by counsel.

741. Appearance by Counsel Sufficient. A written promise to appear in court may be complied with by an appearance by counsel.

Violation of promise

742. Violation of Promise to Appear. (a) Any person wilfully violating his written promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

(b) Whenever any person has for a period of fifteen or more days wilfully violated his written promise to appear in court, the magistrate or clerk of the court before whom the defendant so promised to appear shall give notice of such fact to the department. Whenever thereafter the case in which such promise was given is adjudicated the magistrate or clerk of the court hearing such case must file with the department a certificate showing that said case has been adjudicated.

Change of venue

743. Change of Venue to Municipal Court Judge or Other Magistrate at County Seat. (a) Whenever any person has given his written promise to appear before a magistrate who is other than a municipal court judge, or other magistrate at the county seat of the county wherein the offense is alleged to have been committed said person may at any time before trial demand a transfer of the case in which such promise was given for trial before a municipal court judge or other magistrate having jurisdiction of such offense at said county seat upon filing with the magistrate before whom said person has so promised to appear an affidavit that he believes that a fair trial without excessive penalties can not be had before such magistrate.

(b) Thereupon the magistrate with whom such affidavit is filed shall be without jurisdiction to proceed with said case but must immediately transfer said case and all papers in connection therewith for further proceedings before a municipal court judge or other magistrate having jurisdiction of such offense at said county seat.

(c) The foregoing method of securing a change of venue shall not be exclusive of any other method provided by law for obtaining a change of venue.

(Amended by Ch. 764, Stats. 1935.)

[ORIGINAL SECTION.]

743. Change of Venue to Municipal Court Judge or Other Magistrate at County Seat. (a) Whenever any person has given his written promise to appear before a magistrate who is other than a municipal court judge or a justice of the peace, said person may at any time before, or at the time of, arraignment demand a transfer of the case in which such promise was given for trial before a municipal court judge or other magistrate having jurisdiction of such offense at said county seat upon filing with the magistrate before whom said person has so prom-

ised to appear an affidavit that he believes that a fair trial without excessive penalties can not be had before such magistrate.

(b) Thereupon the magistrate with whom such affidavit is filed shall be without jurisdiction to proceed with said case but must immediately transfer said case and all papers in connection therewith for further proceedings before a municipal court judge or other magistrate having jurisdiction of such offense at said county seat.

Procedure upon arrest

743.5. Procedure Upon Arrest. The foregoing provisions of this chapter shall govern all peace officers in making arrests for violations of this code without a warrant for offenses committed in their presence but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for an offense of like grade.

(Added by Ch. 764, Stats. 1935.)

Notice to appear

743.6. Procedure Upon Arrest Discretionary in Certain Cases. Whenever any person is arrested by any member of the California Highway Patrol for any violation of any State law regulating the operation of vehicles or the use of the highways declared to be a misdemeanor but which offense is not specified in this code, such person shall, in the judgment of the arresting officer, either be given a five-day notice to appear in the manner hereinbefore provided or be immediately taken before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense and is nearest or most accessible with reference to the place where said arrest is made, or, upon demand of the person arrested, before a magistrate in the township in which the offense is alleged to have been committed.

(Added by Ch. 764, Stats 1935.)

Report of convictions

744. Convictions to Be Reported to Department. (a) Every justice of the peace, magistrate or judge of a court not of record and every clerk of a court of record shall keep a full record of every case in which a person is charged with any violation of this code.

(b) Within ten days after the conviction of a person for any violation of this code, every justice of the peace, magistrate or judge of a court not of record and every clerk of a court of record in which such conviction was had, shall prepare and immediately forward to the department at its office at Sacramento an abstract of the record of said court covering the case in which said person was so convicted which abstract must be certified by the person so required to prepare the same to be true and correct.

(c) Said abstract must be made upon a form furnished by the department and shall contain all necessary information as to the parties to the case, the nature of the offense, the date of hearing, the plea, the judgment and the amount of the fine or forfeiture, as the case may be.

(d) The failure, refusal or neglect of any such judicial officer to comply with any of the requirements of this section

shall constitute misconduct in office and shall be ground for removal therefrom.

(e) The department shall keep all abstracts received hereunder at its office in Sacramento and the same shall be open to public inspection during reasonable business hours.

(f) For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

CHAPTER 3. ILLEGAL EVIDENCE.

Uniforms of officers

750. Color of Vehicle and Uniform To Be Used by Enforcement Officers. Every member of the California Highway Patrol and every other peace officer while on duty for the exclusive or main purpose of enforcing the provisions of Division IX of this code shall wear a full distinctive uniform and if such officer while so on duty uses a motor vehicle such vehicle must be painted a distinctive color specified by the department.

Color of vehicles

Speed traps

751. Speed Trap Prohibited. (a) No peace officer or other person shall use a speed trap in arresting, or participating or assisting in the arrest of, any person for any alleged violation of Division IX of this code nor shall any speed trap be used in securing evidence as to the speed of any vehicle for the purpose of an arrest or prosecution under this code.

(b) A speed trap within the meaning of this chapter is a particular section of a highway measured as to distance and with boundaries marked, designated or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes said vehicle to travel such known distance.

(c) No evidence as to the speed of a vehicle upon a highway shall be admitted in any court upon the trial of any person for an alleged violation of Division IX of this code when such evidence is based upon or obtained from or by the maintenance or use of a speed trap.

Officer incompetent as witnesses in certain cases

752. When Officer or Person Is Incompetent as a Witness. (a) In any prosecution under Division IX of this code upon a charge involving the speed of a vehicle every officer or other person shall be incompetent as a witness if the testimony of such officer or person is based upon or obtained from or by the maintenance or use of a speed trap.

(b) Every officer arresting, or participating or assisting in the arrest of, a person so charged while such officer was on duty for the exclusive or main purpose of enforcing the provisions of Division IX of this code is incompetent as a witness if such officer at the time of such arrest was not wearing a full distinctive uniform or was using a motor vehicle not painted the distinctive color specified by the department.

Effect of illegal evidence

753. Admission of Illegal Testimony or Evidence Divests Court of Jurisdiction to Render Judgment. Every court shall be without jurisdiction to render a judgment of conviction against any person for a violation of Division IX of this code involving the speed of a vehicle if such court admits any

evidence or testimony secured in violation of, or which is inadmissible under, the foregoing provisions of this chapter.

754. Record of Suspension or Revocation of Driving License or Privilege Inadmissible in a Civil Action. No record of the suspension or revocation of an operator's or chauffeur's license or of a nonresident's driving privilege by the department, nor any testimony of or concerning or produced at the hearing terminating in such suspension or revocation, shall be admissible as evidence in any court in any civil action.

Record of suspension or revocation inadmissible in civil action.

755. Record of Conviction Inadmissible in a Civil Action. No record of the conviction of any person for any violation of this code, nor any testimony of or concerning or produced at the trial terminating in such conviction, shall be admissible as evidence in any court in any civil action.

Record of conviction for code violation inadmissible in civil action.

CHAPTER 4. PRESUMPTIONS.

758. Presumption as to Character of District. Every highway shall be conclusively presumed to be outside of a business or residence district unless its existence within a business or residence district is established by clear and competent evidence as to the nature of the district and unless such district is duly signposted when and as required by this code.

Presumption that highway is outside business or residence district

CHAPTER 5. PENALTIES.

760. Unlawful Acts Constitute Misdemeanors Unless Otherwise Expressly Provided. It is unlawful and constitutes a misdemeanor for any person to violate any provision of this code unless such violation is under the provisions of this code expressly declared to be a felony or a public offense which is punishable either as a felony or misdemeanor.

Violation of code provisions.

761 Penalty for Felony. Unless a different penalty is expressly provided by this code, every person convicted of a felony for a violation of any provision of this code shall be punished by a fine of not less than one thousand dollars or more than five thousand dollars or by imprisonment in the State Penitentiary for not less than one year or more than five years or by both such fine and imprisonment.

Penalty for felony.

762. Penalties for Misdemeanors Under Divisions IX, X, and XI. Every person convicted of a misdemeanor for a violation of any of the provisions of Divisions IX, X or XI of this code, except where a different penalty is expressly provided in said divisions, shall be punished upon a first conviction by a fine not exceeding fifty dollars or by imprisonment in the county jail for not exceeding five days and for a second conviction within a period of one year by a fine of not exceeding one hundred dollars or by imprisonment in the county jail for not exceeding ten days or by both such fine and imprisonment and for a third or any subsequent conviction within said period of one year by a fine of not exceeding five hundred dollars or by imprisonment in the county jail

Penalty for certain misdemeanors

for not exceeding six months or by both such fine and imprisonment.

Penalty for other misdemeanors

763. Penalty for Misdemeanor. Unless a different penalty is expressly provided by this code, every person convicted of a misdemeanor for a violation of any of the provisions of this code shall be punished by a fine of not exceeding five hundred dollars or by imprisonment in the county jail for not exceeding six months or by both such fine and imprisonment.

Imprisonment for fine

764. Imprisonment Until Fine Satisfied. A judgment that a person convicted of any violation of this code be punished by a fine may also order, adjudge and decree that such person be imprisoned until said fine be satisfied. In every such case, the judgment must specify the extent of such imprisonment which shall not exceed one day for every two dollars of fine nor extend in any such case beyond the term for which the defendant might be sentenced to imprisonment for the offense of which he was convicted.

DIVISION XIII. DISPOSITION OF FEES, FINES AND FORFEITURES.

CHAPTER 1. FINES AND FORFEITURES.

Disposition of fines and forfeitures by cities

770. Disposition by Cities of Certain Fines and Forfeitures. All fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by an officer employed by a city, shall be paid into the treasury of such city and deposited in a special fund to be known as the "street improvement fund."

Disposition of other fines and forfeitures

771. Disposition of Other Fines and Forfeitures. All fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by any officer employed by the State or by a county shall be paid into the treasury of such county in which is located the court imposing such fine or forfeiture and all such money shall be deposited in a special fund to be known as the "special road fund."

Failure to make deposit.

772. Penalty for Disobedience by Officials. Failure, refusal or neglect on the part of any judicial or other officer or employee receiving or having custody of any fine or forfeiture in this chapter mentioned either before or after deposit in said respective fund to comply with the foregoing provisions of this chapter shall constitute misconduct in office and shall be ground for removal therefrom.

CHAPTER 2. MOTOR VEHICLE FUND.

Deposit of funds

776. Report and Deposit of Money. The department shall file daily with the State Controller a report of all money received by the department and at the same time deposit all such money with the State Treasurer, who shall place the same to the credit of "the motor vehicle fund" which fund is hereby created in the State treasury. The department shall also file with the Controller, on or before February 1 and

August 1 of each year, a detailed account of the receipts and disbursements of the department for the six months next preceding. Such accounts shall be open to public inspection when filed.

Appropriation

777. Appropriation for Maintenance of Department. There is hereby appropriated out of such motor vehicle fund all moneys received as transfer fees, operators' and chauffeurs' license fees and duplicate operators' and chauffeurs' license fees and all fees for the test of headlights, headlight control devices, auxiliary lighting equipment and signal devices, and in addition thereto such portion of the remainder of such motor vehicle fund not exceeding in any registration year thirty-five per cent thereof as may be necessary for the maintenance of the department to be expended by the department in carrying out the provisions of this code and in enforcing any other laws regulating the operation of vehicles or the use of the highways. All salaries and expenses of the department shall be paid from such appropriation. There shall be deducted from the sums which the department is allowed to expend hereunder such amount as may be allowed to said department in each calendar year under budget appropriation. The department may draw, without at the time furnishing vouchers and itemized statements, sums not to exceed in the aggregate one hundred thousand dollars, said sums so drawn to be used as a revolving fund where cash advances are necessary. At the close of each fiscal year the moneys so drawn must be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the Department of Finance and by the State Controller.

Net receipts

778. Balance of Motor Vehicle Fund Known as "Net Receipts." The balance of the motor vehicle fund after the expenditure of so much thereof as may be permitted by this code for the maintenance and support of the department shall be known as the "net receipts" and shall be devoted to the purposes, and used in the manner, hereinafter provided.

Apportionment to counties

779. Apportionment to Counties. (a) One-half of such net receipts from the motor vehicle fund is hereby appropriated and shall be paid to the counties of this State and the State Controller shall in the months of February and August of each year draw his warrants upon said net receipts in favor of the county treasurer of each county for the amount to which each said county is entitled hereunder. Said payments shall be made to the counties in proportion to the number of vehicles registered in such counties as determined by the places of residence of the owners to whom the registration cards are issued.

(b) In the event the actual domicile, residence or place of abode of an owner of any vehicle registered hereunder is in a county other than the county which the owner has designated as his place of residence in his application for registration and as shown by the records of the department, then the county auditor of the county receiving such funds from

the State as hereinabove provided may draw his warrant in favor of the county wherein is located the actual domicile, residence or place of abode of such owner. Such warrant when so drawn shall be in such total sum as to cover all such vehicles as may properly be attributed to the latter county hereunder in order to secure payment to each county of sums in proportion to registration of vehicles therein according to the actual residences of the owners thereof.

County road funds.

780. No Payments to Counties Until Road Fund Established and Reports Made. The State Controller shall not draw his warrant upon the motor vehicle fund in favor of the county treasurer of any county which has not established a road fund as required by law, or which has failed, neglected or refused to file the report required by law showing the amount of money theretofore received by such county from the motor vehicle fund and the disposition thereof until such county has established such road fund and until such county has made all reports required by law.

State highway fund.

781. Remainder of Motor Vehicle Net Receipts Deposited in the State Highway Fund. All moneys remaining in the net receipts in the motor vehicle fund after the expenditures hereinbefore authorized, shall be paid into a fund to be known as the "State highway fund," to be expended in accordance with law.

DIVISION XIV. EFFECTIVE DATE AND REPEALS.

Effective date of certain provisions.

801. Effective Dates of Several Divisions. (a) The following provisions of this code shall go into effect at midnight on December 31, 1935.

(1) Division III, relating to the registration of vehicles.

(2) Division VI, relating to registration and license fees.

(b) All other provisions of this code not mentioned in subdivision (a) of this section, shall go into effect at the time otherwise prescribed by law.

Repeals.

802. Repeals. Subject to the provisions of section 803, the following acts and sections, together with all amendments thereof and all acts supplementary thereto are hereby repealed:

GENERAL LAWS.

Year	Chapter	Page	
1901	149	324	
1923	266	517	[See sec. 803, post.]
1929	263	568	
1931	478	1040	
1933	208	686	
1933	801	2127	

CIVIL CODE.

Section

1714¼

1714½

PENAL CODE.

Section
367c
388
396
499c
537d
590b

POLITICAL CODE.

Section	Section	Section
360	360f	2933
360a	360g	2934
360b	360h	2935
360c	360i	2936
360d	2931	2937
360e	2932	

803. Conditional Repeals. (a) The repeal of those provisions of the California Vehicle Act, Statutes 1923, Chapter 266, page 517, covering substantially the same subject matter as Divisions III and VI of this code shall take effect at midnight on December 31, 1935. Conditional repeals.

(b) The repeal of sections 159 and 160 of said California Vehicle Act is contingent upon the taking effect of the Streets and Highways Code. In the event said act takes effect the repeal of said sections shall take effect simultaneously therewith. Stats 1935, Ch 29

(c) Except as expressly provided in Section 802, this code does not repeal any existing statute, nor any sentence or clause thereof.

CHAPTER 28.

An act making an appropriation to meet a deficiency in the appropriation for legislative printing, binding, etc., declaring the urgency thereof, and providing that this act shall take effect immediately.

[Approved by the Governor March 25, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The sum of two hundred thousand dollars ($200,000.00) is hereby appropriated out of any money in the State treasury not otherwise appropriated to meet a deficiency in the appropriation for legislative printing, binding, etc. The sum herein appropriated shall be available for legislative printing, binding, etc., incurred in connection with the fifty-first session of the Legislature, or with any special session. Appropriation. Deficiency legislative printing

SEC. 2. Inasmuch as this act makes an appropriation for the usual current expenses of the State it is hereby declared an urgency measure and shall, under the provisions of section 1 of Article IV of the Constitution, take effect immediately. Current expenses

CHAPTER 29.*

"Streets and Highways Code."

An act to establish a Streets and Highways Code, thereby consolidating and revising the law relating to public ways and all appurtenances thereto, and to repeal certain acts and parts of acts specified herein.

[Approved by the Governor March 27, 1935. In effect September 15, 1935.]

Note—This chapter contains all the amendments made thereto during the fifty-first session of the Legislature, namely, by Chapters 140, 144, 263, 274, 360, 426, 427, 429, 513, 514, 626, 629 630, 631, 641, 642, 656, 689, 784, 805 and 837.

Said amendatory chapters become effective September 15, 1935, but note that although Chapter 360 becomes effective on the aforesaid date as an amendment to this Chapter 29, it becomes effective June 25, 1935, as a new act.

For the approval dates see the respective chapters in their numerical sequence.

The people of the State of California do enact as follows:

GENERAL PROVISIONS.

Title.

1. This act shall be known as the Streets and Highways Code.

Construction and effect.

2. The provisions of this code, in so far as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

3. All persons who, at the time this code goes into effect, hold office under any of the acts repealed by this code, which offices are continued by this code, continue to hold the same according to the former tenure thereof.

4. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code, but all procedure thereafter taken in such action or proceeding shall conform to the provisions of this code so far as possible.

5. Unless the particular provision or the context otherwise requires, the definitions, rules of construction, and general provisions hereinafter set forth shall govern the construction of this code.

Headings.

6. Division, part, chapter, article, and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any division, part, chapter, article or section hereof.

Delegation of authority.

7. Whenever any power or authority is given to, or any duty is imposed upon, any person by any provision of this code it may be exercised or performed by any deputy or person authorized by him unless it is expressly provided that it shall be exercised in person.

Written documents.

8. Whenever any notice, report, petition, permit, statement or record is required by this code, it shall be made in writing in the English language.

* A cross-reference table showing the origin of each section appears in the appendix to this volume

9. Whenever any reference is made to any portion of this code or of any other law, such reference shall apply to all amendments and additions thereto. References

10. "Section" means a section of this code unless some other statute is specifically mentioned. Definitions.

11. The present tense includes the past and future tenses; and the future, the present.

12. The masculine gender includes the feminine and neuter.

13. The singular number includes the plural, and the plural the singular.

14. "County" includes "city and county."

15. "City" includes "city and county" and "incorporated town."

16. "Shall" is mandatory and "may" is permissive.

17. "Oath" includes affirmation.

18. "Signature" or "subscription" includes mark when the signer or subscriber can not write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

19. "Person" means any person, firm, partnership, association, corporation, organization or business trust.

20. "Department" means the Department of Public Works of this State.

21. "Director" means the director of the department.

22. Unless the particular provision or the context otherwise requires, "commission" means the California Highway Commission.

23. As used in this code, unless the particular provision or the context otherwise requires, "highway" includes bridges, culverts, curbs, drains, and all works incidental to highway construction, improvement, and maintenance. "Highway."

24. As used in this code, "State highway" means any highway which is acquired, laid out, constructed, improved or maintained as a State highway pursuant to constitutional or legislative authorization. "State highway."

25. As used in this code, "county highway" means any highway which is: "County highway."

(a) Laid out or constructed as such by the county.

(b) Laid out or constructed by others and dedicated or abandoned to or acquired by the county.

(c) Made a county highway in any action for the partition of real property.

(d) Made a county highway pursuant to law.

26. As used in the General Provisions and in Divisions I and II of this code, unless the context or a specific provision otherwise requires, "acquire," or any of its variants, when used with reference to real property or any interest therein, includes but is not restricted to: "Acquire."

(a) Taking by condemnation, purchase or lease.

(b) Receiving by donation or dedication.

(c) Taking or receiving in or by any manner by which any right, title or interest in or to real property is capable of being transferred.

"Maintenance."

27. As used in the general provisions and in Divisions I and II of this code, "maintenance" includes:

(a) The preservation and keeping of rights of way, and each type of roadway, structure, and facility, in the safe and usable condition to which it has been improved or constructed, but does not include reconstruction or other improvement.

(b) The necessary provision for special safety conveniences and devices.

(c) The general utility services such as roadside planting and weed control.

(d) The special or emergency maintenance or repair necessitated by accidents or by storms or other weather conditions, slides, settlements or other unusual or unexpected damage to a roadway, structure or facility.

(e) Such illumination of streets, roads, highways and bridges which in the judgment of the body authorized to expend such funds is required for the safety of persons using the said streets, roads, highways and bridges.

The degree and type of maintenance for each highway, or portion thereof, shall be determined in the discretion of the authorities charged with the maintenance thereof, taking into consideration traffic requirements and moneys available therefor.

(Amended by Ch 263, Stats. 1935.)

[ORIGINAL SECTION.]

27. As used in the General Provisions and in Divisions I and II of this code, and particularly with reference to the expenditure of State highway fund money, "maintenance" includes:

(a) The preservation and keeping of rights of way, and each type of roadway, structure, and facility, in the safe and usable condition to which it has been improved or constructed, but does not include reconstruction or other improvement.

(b) The necessary provision for special safety conveniences and devices.

(c) The general utility services such as roadside planting.

(d) The special or emergency maintenance or repair necessitated by accidents or by storms or other weather conditions, slides, settlements or other unusual or unexpected damage to a roadway, structure or facility.

Constitutionality.

28. If any provision of this code, or the application thereof to any person or circumstance, is held invalid, the remainder of the code, or the application of such provision to other persons or circumstances, shall not be affected thereby.

DIVISION I. STATE HIGHWAYS.

CHAPTER 1. ADMINISTRATION.

Article 1. The Division of Highways.

Division of Highways

50. There is in the department the Division of Highways.

51. The Division of Highways is in charge of a chief, designated as the State Highway Engineer, who is appointed by the director. State Highway engineer.

52. The State Highway Engineer shall receive a salary of ten thousand dollars per annum and shall give a bond in the sum of twenty thousand dollars for the faithful performance of the duties of his office, which bond shall be filed as provided by law. Salary and bond

53. The Division of Highways may pay from the State highway fund its pro rata share of the administrative expenses of the department, the amount of such share to be determined by the director, subject to the approval of the Director of Finance. Administrative expenses

Article 2. The California Highway Commission.

70. There is in the department the California Highway Commission, consisting of five members appointed by, and holding office at the pleasure of, the Governor. The chairman of the commission shall be designated by, and remain chairman at the pleasure of, the Governor. The Governor shall fill vacancies in the membership of the commission. The members shall receive their actual necessary traveling expenses incurred in the discharge of their duties. Each member of the commission shall take the oath of office prescribed for other State officers. California Highway Commission

71. The commission may alter or change the location of any State highway if in the opinion of the commission such alteration or change is for the best interest of the State. Powers. Change location.

(Amended by Ch. 514, Stats. 1935.)

[ORIGINAL SECTION.]

71. The commission may alter or change the location of any highway under the jurisdiction of the department, or may abandon any portion of such highway, if in the opinion of the commission such alteration, change or abandonment is for the best interest of the State.

72. The commission may abandon any easement or portion thereof which has been acquired for State highway purposes, and which by reason of change in location of a State highway, is no longer necessary for such purposes. Abandon easements

(Amended by Ch. 514, Stats. 1935.)

[ORIGINAL SECTION.]

72. The commission may abandon any real property or interest therein which has been acquired by the State for State highway purposes Abandonment shall be by resolution, a copy of which may be recorded, without acknowledgment, certificate of acknowledgment or further proof, in the office of the county recorder of the county where such real property or interest therein is located. The county recorder shall charge no fee for such recordation. Upon such recordation, the title to the real property or interest therein so abandoned shall revert to the owner of the fee.

73. The commission may relinquish to any county or city any portion of any State highway within such county or city which has been superseded by relocation, for use as a county Relinquish superseded highways

highway or city street, as the case may be. Relinquishment shall be by resolution, a certified copy of which shall be filed with the board of supervisors or the city clerk, as the case may be.

(Amended by Ch. 514, Stats. 1935.)

[ORIGINAL SECTION.]

73. The commission may relinquish to any county or city any portion of any State highway within such county or city for use as a county highway or city street as the case may be.

74. (Repealed by Ch. 360, Stats. 1935.)

[ORIGINAL SECTION.]

74. All moneys received by the State Treasurer from the United States government under project agreements relating to Federal aid road work shall be credited by the State Controller to such funds for highway purposes as the commission designates, and shall not be expended other than in the manner and for the purposes provided by law for expenditures from the fund designated.

75. Except as otherwise provided by law, the commission at any time and from time to time may:

Locate highways.

(a) Select, adopt, and determine the location for State highways on routes authorized by law.

Allocate money.

(b) Allocate, from the funds available therefor, moneys for the construction, improvement or maintenance of the various highways or portions thereof under the jurisdiction of the department. The commission may determine in each case the maximum sum of money that shall be made available therefor.

Authorize surveys.

(c) Authorize preliminary surveys to determine the advisability of including in or excluding from the State highway system any highway or portion thereof.

Acceptance of Federal grants.

76. There is hereby delegated to the commission by the Legislature of the State of California full power and authority to accept on behalf of the State of California any grant or grants or modifications of grants made by the Secretary of War pursuant to authority in him vested by section 6 of the act of Congress approved July 5, 1884 (23 Stat. 104), whereby rights of way for the extension, maintenance or operation of State roads or bridges across a military reservation have been granted to the State of California or to any political subdivision thereof.

(Added by Ch. 144, Stats. 1935.)

Retrocession of jurisdiction Application

77. Whenever the commission shall have by appropriate resolution accepted a grant or modification of a grant of a right of way for any of the roads mentioned in section 76, across a military reservation, the said acceptance on behalf of the State of California shall obligate the State of California, through its Legislature, to make application to the Congress of the United States for a retrocession of jurisdiction over the rights of way as granted or relocated by such grant or modification or amendment thereof, in any case where the State of California has ceded its jurisdiction to the United States over such military reservation, and shall obligate the said State in

case such retrocession of jurisdiction is granted by Congress to accept such retrocession of jurisdiction and to assume the responsibility for managing, controlling, policing and regulating traffic thereon, subject to the following limitations and to such other limitations as Congress may prescribe: Acceptance.

(a) That nothing in said grant or permit contained shall be construed to give to the State of California or any of its agents, authority at any time to regulate traffic of military personnel or vehicles upon the said bridge or roads. All traffic upon said highways and upon said bridge shall be free from any tolls, charges or any form of obstruction by State or other agencies, against military and naval personnel and their dependents, civilians of the army and navy traveling on government business under military authority, and government traffic. Limitations.

(b) That whenever in the judgment of the Secretary of War or his authorized representative any emergency exists which justifies it, he may assume exclusive control and management of any such bridge or roads and may then in his discretion prohibit, limit or regulate traffic thereon.

(c) That nothing in said grant or permit contained shall be construed to confer upon the State courts the right to try persons subject to military law for crimes or offenses committed on said roads, or upon any bridge within the boundaries of the respective military reservations involved, but the courts of the United States or military tribunals as now or hereafter provided by law, shall retain exclusive jurisdiction to try such persons for such offenses.

(Added by Ch. 144, Stats. 1935.)

78. Any of the said grants received by the State of California and accepted by the commission, or relocations of such rights of way so received in any military reservation, shall by the acceptance thereof become a part of the system of public highways of the State. Grants become public highways

(Added by Ch. 144, Stats. 1935.)

79. This delegation of power to the commission shall not be deemed exclusive, but any of the powers herein enumerated may continue to be exercised by the Legislature itself while in session Delegation not exclusive

(Added by Ch. 144, Stats. 1935.)

Article 3. The Department of Public Works.

100. The department shall have full possession and control of all State highways. The department is authorized and directed to lay out and construct all State highways between the termini designated by law and on the most direct and practicable locations as determined by the commission, and to improve and maintain such highways as provided in this code. The department shall maintain any existing traversable highway which is between the termini of, and approximately on, any route included in the State highway system. The department may do any act necessary or proper for the Department of Public Works: Duties generally

construction, improvement, maintenance or control of all highways and properties which are under its control, including the construction, improvement, and maintenance of detours.

Ferry connections.

100.5. Whenever the location of a State highway is such that a ferry must be used to completely traverse said highway, and there is no existing ferry furnishing service to traffic on said highway, the department may construct, maintain and operate such a ferry, or may, by cooperative agreement, delegate the construction, maintenance or operation thereof to a county, or if the termini of a ferry are within one or more cities, to the cities concerned. Whenever a highway between the termini of which a publicly owned ferry is used, is declared to be a State highway, the title to the ferry and all appurtenances thereto vests in the State. The department is authorized to promulgate reasonable rules and regulations governing the hours of operation of such ferries. It is unlawful to operate on any such ferries or the approaches thereto, a vehicle of a size or weight or at a speed, greater than that which any such ferry or its approaches, with safety to itself and to the traveling public, will permit. The department shall determine the maximum size, weight and speed of vehicles which with safety can be permitted on such ferries and shall by appropriate signs notify the public of its determination. It is prima facie evidence of violation of this section to exceed the limit specified by the department upon such signs. The department is authorized to recover by civil action any damages done to such ferries or the approaches thereof by reason of a failure to comply with the provisions of this section and a violation of the limits specified on the signs erected by the department is prima facie evidence of such violation.

Regulations

Violations

(Added by Ch. 514, Stats. 1935.)

Historical place markers

101. The department shall keep in repair all objects or markers adjacent to a State highway which have been erected to mark registered historical places and shall keep such markers free from vegetation which may obscure them from view.

State lands: Reservation for State highway purposes

101.5. The department may file for record with the Division of State Lands of the Department of Finance such maps as are necessary to furnish an accurate description of any ungranted swamp, overflow, tide or submerged lands, the bed of any navigable channel, stream, river, creek, lake, bay or inlet, or other sovereign lands of the State of California which, in the opinion of the department are needed as a right of way for and for the protection of any State highway, or as a source of materials for the construction, maintenance or improvement of any such highway. Upon the approval of such map by the chief of said Division of State Lands, the lands described therein are reserved for such use by the department and the department is thereupon authorized to enter upon, occupy and use such lands for such pur-

pose or purposes. Any subsequent grant or permission to use such lands shall be subordinate to such reservation. Any such reservation may be released by the written certificate of the director filed with said Division of State Lands. This section shall not apply to State school lands.

Subsequent grants.

School lands exempt.

(Added by Ch. 514, Stats. 1935.)

102. In the name of the people of the State of California, the department may condemn for State highway purposes, under the provisions of the Code of Civil Procedure relating to eminent domain, any real property or interest therein which it is authorized to acquire. The department shall not commence any such proceeding in eminent domain unless the commission first adopts a resolution declaring that public interest and necessity require the acquisition, construction or completion by the State, acting through the department, of the improvement for which the real property or interest therein is required and that the real property or interest therein described in such resolution is necessary for the improvement.

Condemnation of real property

Resolution of commission

103. The resolution of the commission shall be conclusive evidence:

Effect of resolution

(a) Of the public necessity of such proposed public improvement.

(b) That such real property or interest therein is necessary therefor.

(c) That such proposed public improvement is planned or located in a manner which will be most compatible with the greatest public good and the least private injury.

104. The department may acquire, either in fee or in any lesser estate or interest, any real property which it considers necessary for State highway purposes. Real property for such purposes includes, but is not limited to, real property considered necessary for any of the following purposes:

Acquisition of real property

Purposes enumerated

(a) For rights of way, including those necessary for State highways within cities.

(b) For the purposes of exchanging the same for other real property to be used for rights of way. Real property may be acquired for such purposes only when the owner of the property needed for a right of way has agreed in writing to the exchange and when, in the opinion of the commission, an economy in the acquistion of the necessary right of way can be effected thereby.

(c) For rock quarries, gravel pits, or sand or earth borrow pits.

(d) For offices, shops, or storage yards.

(e) For parks adjoining or near any State highway.

(f) For the culture and support of trees which benefit any State highway by aiding in the maintenance and preservation of the roadbed, or which aid in the maintenance of the attractiveness of the scenic beauties of such highway.

(g) For drainage in connection with any State highway.

(h) For the maintenance of an unobstructed view of any portion of a State highway so as to promote the safety of the traveling public.

(i) For the construction and maintenance of stock trails approximately paralleling any State highway. The right of way of any existing State highway superseded by relocation may be retained for stock trail purposes.

(Amended by Ch. 514, Stats. 1935.)

[ORIGINAL SECTION.]

104. The department may acquire, either in fee or in any lesser estate or interest, any real property which it considers necessary for State highway purposes. Real property for such purposes includes, but is not limited to, real property considered necessary for any of the following purposes:

(a) For rights of way, including those necessary for State highways within cities.

(b) For rock quarries, gravel pits, or sand or earth borrow pits.

(c) For offices, shops, or storage yards.

(d) For parks adjoining or near any State highway.

(e) For the culture and support of trees which benefit any State highway by aiding in the maintenance and preservation of the roadbed, or which aid in the maintenance of the attractiveness of the scenic beauties of such highway.

(f) For drainage in connection with any State highway.

(g) For the maintenance of an unobstructed view of any portion of a State highway so as to promote the safety of the traveling public.

(h) For the construction and maintenance of stock trails approximately paralleling and adjoining any State highway. The right of way of any existing State highway superseded by relocation may be retained for stock trail purposes.

Conveyances of real property.

104.5. The director is authorized to execute in the name of the people of the State of California all necessary conveyances of any real property or lesser estate or interest therein which has been acquired by the department for the purposes of exchange.

(Added by Ch. 514, Stats. 1935.)

Stock trails.

105. The department shall post notices upon such stock trails, and upon each highway at the entrances of such trails, directing all persons to drive all untethered stock thereon.

Any person who drives any untethered stock upon any State highway which is paralleled by such a stock trail is guilty of a misdemeanor, and, in addition thereto, is liable for all damage thereby done to said highway.

Cooperative agreements re bridges. Purpose.

106. Whenever in its opinion the public convenience and necessity require it for State highway purposes, the department may enter into a cooperative agreement:

(a) To construct a bridge across any river, stream, or inlet of the sea.

(b) To reconstruct or replace an existing, privately owned bridge over any river, stream or inlet of the sea, which bridge is used for highway purposes by the public and the owner.

(c) To acquire an existing bridge, or a right of way over the location of such bridge, whenever the acquisition of such bridge or right of way by the State alone would ordinarily require an excessive expenditure of State highway money.

Parties.

107. Any such agreement may be:

(a) With any person for the construction of a new bridge and the use of any such bridge thereafter jointly by such person and the public.

(b) With the owner of any existing bridge for the reconstruction thereof, or for the replacement thereof by a new bridge, and the use of any such bridge thereafter jointly by such owner and the public.

Contents.

108. Any agreement made under the authority of sections 106 and 107 may provide:

(a) Either for apportionment of the expense of any such construction, reconstruction, replacement, improvement, or maintenance between such owner or person and the State, or for the surrender to the State of the rights and property of the owner and the construction, reconstruction, replacement, improvement, or maintenance of any such bridge partly or wholly at the expense of the State.

(b) For the terms and conditions upon which the owner may use such bridge jointly with the public after the construction, reconstruction, replacement or improvement thereof.

(c) For other pertinent matters to give effect to sections 106 and 107.

Becomes State bridge

109. Any such bridge acquired, constructed, reconstructed replaced or improved in the manner provided in sections 106, 107 and 108 is a part of the State highway system and title thereto shall vest in the State. Any funds which, without such cooperative agreement, would be available for the construction, reconstruction, replacement, improvement or maintenance of a bridge at such location on the State highway system, shall be available for a similar use under such cooperative agreement.

Counties or cities Contributions by

110. Nothing in this article shall prohibit any county or city from contributing to the State, in the manner provided by law, funds or real property or interests therein for the acquisition, construction, reconstruction, replacement, improvement or maintenance of any such bridge as is provided for by sections 106, 107 and 108, nor prohibit the relinquishment of any such bridge by the department to any county or city. Upon relinquishment such bridge shall be under the supervision and control of the county or city to which it is relinquished.

Relinquishment to.

Connecting portions through cities.

111. Whenever the natural course of a State highway passes into or through any city and a State highway route through or around such city is not specifically described by law, the commission shall determine the location of the connecting portion necessary to make the State highway continuous. Such location may be either through or around such city, depending upon the commission's determination as to which location will be of the greatest benefit to through traffic upon such State highway.

Any portion of any street or highway, within the limits of such city, may be adopted by the commission as a part of the State highway system without compensation to the city.

112. (Repealed by Ch. 514, Stats. 1935.)

[ORIGINAL SECTION.]

112. Upon completion any such connecting portion or part thereof may be retained and maintained as a part of the State highway system, or may be relinquished to such city.

Powers of city: Acquire property

113. Upon a request from the department the governing body of any city may acquire any real property or interest therein needed for State highway purposes and lying within such city. The title to such real property or interest therein may be taken in the name of the State or of the city.

Contribute.

Any such city may aid in the construction, improvement or maintenance of any State highway within its boundaries by contributing any part of the expense thereof to the department out of any city funds available or to become available for construction, improvement or maintenance of streets within the city.

Cooperative agreement with city

114. When the commission has allocated any funds for the construction, improvement or maintenance of any portion of a State highway within a city, the department may enter into a cooperative agreement with such city for the performance of any such work by the department or by such city, or for the apportionment of the expense of such work between the department and such city.

Approval of work

115. All work performed pursuant to any provisions of sections 111, 113 and 114 shall be performed to the satisfaction of and subject to the approval of the department.

Delegation of powers to city.

116. The department may delegate to any such city any part of the powers and jurisdiction vested by law in the department, except the power of approval, with respect to any portion of any such State highway within such city, and may withdraw such delegation.

Highway property Permits for structures

117. Any right of way over any real property for State highway purposes, acquired by the department after August 21, 1933, includes the right of the department to issue, under the provisions of Chapter 3 of this division, permits for the location in such right of way of any structures or fixtures necessary to telegraph, telephone or electric power lines, or of any ditches, pipes, drains, sewers, or underground structures.

Sale or exchange

118. Whenever the department determines that any real property or interest therein, heretofore or hereafter acquired by the State for highway purposes, is no longer necessary for such purposes, the department may sell or exchange such real property or interest therein in the manner and upon the terms and conditions approved by the commission. Any such conveyance shall be executed on behalf of the State by the director and the purchase price shall be paid into the State treasury to the credit of any fund, available to the department for highway purposes, which the commission designates.

Any such real property or interest therein may in like manner be exchanged, either as whole or part consideration, for any other real property or interest therein needed for State highway purposes.

Reconveyance.

119. Any real property or interest therein which has passed to the State and has been accepted on behalf of the State by the department for highway purposes, inadvertently or by mistake, may be reconveyed to the persons entitled thereto. The reconveyance of any such real property or interest therein shall be executed by the director on behalf of the State. Such reconveyance shall not be made until the consideration originally received therefor by the grantor is first refunded or reconveyed to the State, or to any other party entitled thereto.

Abandonment of railroad crossings.

120. With the consent and approval of the Railroad Commission, the department may abandon that portion of any State highway which crosses the tracks or right of way of any railroad or street railroad, and may close such crossing.

Highways on State controlled property.

121. With the exception of those in property which is a part of the University of California, and with the exception of those within State prison grounds, any of the following highways which existed on August 21, 1933, shall be maintained, and any of them constructed after that date shall be both constructed and maintained, by the department acting through the Division of Highways:

(a) Highways in property which is part of any institution to the support of which the State, but no political subdivision or city, contributes.

(b) Highways in property which is part of the California Polytechnic School.

(c) Highways in property which is part of the California School for the Deaf.

(d) Highways in property which is part of the California School for the Blind.

(e) Highways in property which is part of a State teachers' college.

(f) Highways in National Guard camp grounds.

Nothing in this section shall constitute any such highway a State highway or add it to the State highway system.

Highways in State parks.

122. Whenever jurisdiction over any highway within a State park has been relinquished to the authority charged by law with the management and control of such park, the department may construct, improve or maintain such highway. Any construction, improvement or maintenance of highways, other than State highways, within State parks shall be subject to the approval of the park authority.

123. The provisions of section 122 shall neither affect nor limit the department's authority, possession or control of any State highway even though any portion of such State highway is located within a State park.

Closing or restriction of use.

124. The department may restrict the use of, or close, any State highway whenever the department considers such closing or restriction of use necessary:

(a) For the protection of the public.

(b) For the protection of such highway from damage during storms or during construction, improvement or maintenance operations thereon.

Notice to public.

125. To notify the public that a State highway is closed or its use restricted, the department may:

(a) Erect suitable barriers or obstructions upon such highway.

(b) Post warnings and notices of the condition of any such highway.

(c) Post signs for the direction of traffic upon it, or to or upon any other highway or detour open to public travel.

(d) Place warning devices on such highway.

Penalty.

126. Any person who wilfully fails to observe any type of warning or notice placed or posted in accordance with the provisions of section 125, or who otherwise wilfully violates the provisions of section 125, is guilty of a misdemeanor.

Enforcement.

127. The California Highway Patrol shall cooperate with the department in the enforcement of the closing, or restriction of use, of any State highway.

Highway maps and sheets. Filing for record.

128. The department may file for record, in the office of the recorder of the county in which any State highway is located, detailed layout sheets and right of way maps showing the boundaries of such State highway and also general route maps of such highway or blueprints of any such sheets or maps, which the county recorders of the several counties shall accept and file for record without fee. No certificate need be attached thereto other than the usual title of the department showing the approval of such sheets or map by the proper officer or engineer of the department.

129. Each county recorder shall keep all such State highway maps and sheets, or blueprints thereof, filed in separate map books provided by the department for that purpose and each designated "State Highway Map Book No. ---, ------ County." Each such map or sheet, or blueprint thereof, shall be numbered in the order of filing and indexed in a separate index showing the number and the date of filing.

Cooperative agreements re highways

130. The department may enter into a contract with any county, city or joint highway district, or with any combination of them, in respect to the proportion of the expense of the acquisition, construction, improvement or maintenance of any State highway to be borne by the respective parties to such contract. Any such contract may provide for the acquisition of rights of way and for the doing of the work, or any portion thereof, by any party to the contract, pursuant to the laws governing such party with reference to such type of acquisition or such character of work.

State cooperation with governmental units

131. Upon the application of the governing authority of any of the following governmental units, to wit: any county, city, permanent road division, or road or boulevard district, the department may:

(a) Aid in establishing grades and drainage systems for highways.

(b) Advise with any such authority as to the construction, improvement or maintenance of highways.

(c) Prepare plans, specifications, or estimates for the construction, improvement or maintenance of highways.

(d) Act as the consulting engineer for any such authority.

(e) Accept moneys from any such governmental unit for deposit in the State treasury to the credit of any State fund which the department designates. The department shall use such moneys for the construction, improvement or maintenance of highways situated within such governmental unit, in accordance with the plans, specifications, and terms agreed upon. The governing authority of any such governmental unit may pay into the State treasury, as provided in this subdivision, any moneys raised by tax levy or the issuance of bonds, which moneys are available for use by such authority for highway purposes.

Same Expense.

132. For any cooperation rendered under the provisions of subdivisions (a), (b), (c) or (d) of section 131, the department may require the applicant to pay any portion of the expense, and in such event the department shall determine what amount such applicant shall pay.

Any expense incurred in carrying out the objects of any provision of section 131 is part of the administrative expense of the department.

133. (Repealed by Ch. 837, Stats. 1935.)

[ORIGINAL SECTION.]

133. As used in this section, the term "high-type paving" includes only asphalt concrete pavement and Portland cement concrete pavement as designed by the Division of Highways.

Whenever any high-type paving work is to be done by contract under the control and direction of the department and such work is to be paid for in whole or in part with moneys coming out of the State highway fund, and in the judgment of the department the conditions do not require the use of a particular type of pavement, the department shall cause to be prepared alternate plans and specifications contemplating the use of asphalt concrete pavement and Portland cement concrete pavement. The department shall then advertise and call for bids for the doing of such work based on the use of such alternate materials and upon receipt of such bids shall proceed to the award of a contract to the lowest qualified bidder.

134. (Repealed by Ch. 360, Stats. 1935.)

[ORIGINAL SECTION.]

134. All cooperative highway work engaged in by the State with the United States government shall be done under the department. With respect to such highway work:

(a) The department shall approve and file in the office of the department all plans, estimates, and specifications.

(b) The department may determine the kind, quality, and extent of such work.

(c) On behalf of the State the department shall enter into all agreements in reference to such work.

Removal or relocation of structures on rights of way.

135. The department may enter into contracts for the removal or relocation of structures or improvements situated upon real property over which a right of way for State highway purposes has been or is to be acquired, in lieu of the payment to the owner of such property of the expense of such

removal or relocation, and in lieu of any damages which will accrue by reason thereof.

(Amended by Ch. 514, Stats. 1935.)

[ORIGINAL SECTION.]

135. The department may enter into contracts for the removal or relocation of structures or improvements situated upon real property over which a right of way for State highway purposes has been or is to be acquired, in lieu of the payment to the owner of such property of the expense of such removal or relocation, and in lieu of any damages which will accrue by reason thereof.

Such contract is not subject to the provisions of the State Contract Act, except that the department may require of the contractor a faithful performance bond executed as provided in section 13 of the State Contract Act. If the total consideration of such contract exceeds the sum of five hundred dollars, such contract shall be subject to the provisions of that certain act entitled, "An act to secure the payment of the claims of persons employed by contractors upon public works, and the claims of persons who furnish materials, supplies, teams, implements or machinery used or consumed by such contractors in the performance of such works, and prescribing the duties of certain public officers with respect thereto," approved May 10, 1919, Statutes of 1919, page 487. The department need not retain at any time any percentage of the sums payable on account of any contract authorized under this section, except on a claim verified and filed as provided in said act approved May 10, 1919.

Leasing of equipment

136. The department may enter into contracts for the leasing or renting of tools or equipment for State highway purposes.

(Amended by Ch. 514, Stats. 1935.)

[ORIGINAL SECTION.]

136. The department may enter into contracts for the leasing or renting of tools or equipment for State highway purposes. Whenever the total consideration payable by the department under any such contract exceeds the sum of five hundred dollars, the contract is subject to the provisions of said act approved May 10, 1919, Statutes of 1919, page 487. The department need not retain at any time any percentage of the moneys payable under any such contract except on a claim verified and filed as provided in that act.

Contracts under Secs 135 and 136 Stats 1909, p. 656.

136.5. The contracts referred to in sections 135 and 136 are not subject to the provisions of the State Contract Act. Whenever the total consideration of such a contract exceeds five hundred dollars, it shall be awarded to the lowest, responsible bidder, after competitive bidding on such reasonable notice as the department may prescribe. Posting of notice for five days in a public place in the district office of the Division of Highways within which the work is to be done, or the equipment used, is sufficient.

(Added by Ch. 514, Stats. 1935.)

Control of highway work.

137. The department shall determine the kind, quality, and extent of all highway work done under its control, and may prepare and approve all plans, specifications, and estimates for all such work.

Attorneys.

138. The department may employ an attorney at law and such assistant attorneys as are necessary, said attorney to act as the attorney and legal adviser of the department in all highway matters. No contract, relating to highways, awarded by the department shall be binding on the State

until it is approved in writing by the Attorney General or by the attorney so employed.

139. The director or the State Highway Engineer may require verbal or written reports from any officer, assistant or employee of the department regarding State highway matters with which such officer, assistant or employee is engaged. Any officer, assistant or employee who knowingly renders a false report to the director or the State Highway Engineer is guilty of a felony. Reports. Penalty

140. The department, through the Division of Highways, may establish and maintain shops for the construction, repair, and servicing of any equipment owned or used by the department. The department may purchase and supply such materials and parts, and furnish such labor, as is necessary in the construction, repair, and servicing of equipment for other State departments. The other departments receiving them shall reimburse the department for the cost of such materials, parts, and labor, including overhead charges. Equipment shops.

141. In addition to the other powers relating to State highways granted to it by law, the department may: Miscellaneous powers of department

(a) Make investigations to place at the service of the State the most approved methods of highway construction, improvement, and maintenance.

(b) Compile statistics relative to the highways of the various counties and cities and of the districts formed to construct, improve or maintain such highways.

(c) Determine the methods of highway construction, improvement, and maintenance best adapted to the various sections of the State, and the best methods of construction, improvement, and maintenance of highways, making experiments in relation thereto from time to time.

(d) Call upon any State, county, city or district official to furnish any information which such official has and which relates to, or is in any way necessary to the proper performance of, the highway work of the department. Any such official shall furnish such information without charge.

142. All expense incurred in carrying out the objects of section 141 is part of the administrative expense of the department. Expense.

143. The department shall make a biennial report to the Governor, at least thirty days before each regular session of the Legislature, covering for the previous two years the work and investigations of the Division of Highways and making such recommendations as are considered desirable for changes in the laws affecting the Division of Highways. Biennial report.

Article 4. Highway Standards.

160. The width of the right of way for all State highways shall be at least forty feet. Width of State highways

The department may maintain any State highway having a lesser width of right of way, but shall not expend any money

thereon for major construction or improvement until the width of right of way is at least forty feet.

(Amended by Ch. 514, Stats. 1935.)

[ORIGINAL SECTION.]

160. The width of the right of way for all State highways shall be at least eighty feet, with the following exceptions:

(a) State highways within cities.

(b) Bridges and the approaches thereto. When any bridge or the approaches leading to any bridge constitute a part or the whole of any State highway the department, acting through the commission, may determine and fix the width thereof at less than eighty feet.

(c) The department may maintain any State highway having a lesser width of right of way, but shall not expend any money thereon for major construction or improvement until the width of right of way is at least eighty feet.

(d) State highways already established as such.

Article 5. Funds for Highway Purposes.

State highway general fund.

180. The State highway general fund in the State treasury is continued in existence. Any moneys contributed by any county, city, public corporation, district or person may be placed by the commission in the State highway general fund, and shall be expended for the purpose for which contributed. In case the entire sum contributed is not necessary for such purpose, the balance unused shall be returned to the contributor and may be withdrawn in the manner provided by law upon demands made by the Division of Highways.

(Amended by Ch. 360, Stats. 1935.)

[ORIGINAL SECTION.]

180. The "State highway general fund" in the State treasury is continued in existence. Any moneys contributed by any county for highway purposes, Federal aid road moneys, or other funds coming under the control of the Division of Highways which are not otherwise specifically appropriated, may be placed by the commission in the State highway general fund.

Same: Expenditure.

181. Any money placed in the State highway general fund may be withdrawn for such highway purposes as the Division of Highways directs, except that moneys received from the Federal government as reimbursement for advancements made, when not again expended as advancements, shall be expended with respect to primary and secondary State highways and within the county groups as provided for expenditure of money from the State highway fund; and provided, further, that as to the expenditure of Federal emergency funds allocated primarily for the purpose of relieving unemployment, employees used on any projects so financed shall be obtained from the various counties according to and in proportion to unemployment needs so far as may be practical and only to such extent as will not conflict with any requirement of the government of the United States.

(Amended by Ch. 360, Stats. 1935.)

[ORIGINAL SECTION.]

181. Any money placed in the State highway general fund may be withdrawn for such purposes as the Division of Highways directs, except that all money received from the Federal government pursuant

to cooperative highway agreements between the State and the Federal government shall be expended, with respect to primary State highways and secondary State highways and within the county groups, as provided in this article for the expenditure of money from the State highway fund.

State highway fund.

182. The "State highway fund" in the State treasury is continued in existence. The State highway fund is the successor to the State highway maintenance fund and the State highway construction fund, and any appropriation made from the State highway fund, the State highway maintenance fund or the State highway construction fund before the effective date of this code shall continue to be available for the purposes for which it was made.

Deposit of money in fund.

183. With the exception of money authorized by law to be deposited in the State highway general fund, all money available for the acquisition of real property or interests therein for State highways, or for the construction, maintenance or improvement of State highways or highways in State parks shall be deposited in the State highway fund. The moneys in said fund are appropriated and shall be allocated and expended for the purposes and in the manner provided in this code.

Appropriation.

Accounts.

184. The department shall set up and keep the accounts necessary to show all expenditures from the State highway fund for the several purposes authorized or required by this article, and shall make and keep on file in the office of the department an annual statement showing all expenditures from that fund.

Withdrawals

185. All money withdrawn from the State highway fund shall be withdrawn in the manner provided by law upon demands made by the department. Without at the time furnishing vouchers and itemized statements the department, through the Division of Highways, may withdraw from the State highway fund moneys in an amount not exceeding five hundred thousand dollars in the aggregate at any one time The amount so withdrawn may be used as a revolving fund where cash advances are necessary.

Revolving fund.

General administration and maintenance

186. For general administration and for maintenance, the department and the commission shall be limited in expenditures, out of the money available each year in the State highway fund, to an amount not exceeding the net revenue derived from one cent per gallon tax on motor vehicle fuel. Of that amount the department shall expend such proportion as the commission determines is necessary for each of the following:

(a) General administration purposes.

(b) Maintenance of all State highways, including all traversable highways between the termini of and approximately on authorized State highway routes.

(c) Maintenance of highways in State parks.

County groups.

187. For the purpose of allocating State funds available for highway purposes the counties of the State are placed in these two groups:

Group No. 1. All those counties not included in Group No. 2.

Group No. 2. The counties of San Luis Obispo, Kern, Mono, Tulare, Inyo, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, San Diego and Imperial.

Allocation to primary and secondary State highways

188. Subject to the provisions hereinafter contained in this article, all money in the State highway fund not expended for general administration purposes or for maintenance or for the purpose specified in section 194, shall be allocated and expended as follows:

(a) One-half such money shall be allocated to and expended upon primary State highways. The annual expenditures thereof shall be made within each county group enumerated in section 187 in amounts which shall bear the same proportion to the total amount available for primary State highways during the current year as the number of miles of primary State highways within each such group bears to the total number of miles of primary State highways in the State.

(b) The remaining one-half shall be allocated to and expended upon the secondary State highways. One-half of such expenditures shall be made in each county group enumerated in section 187. Not more than four per cent of the money allocated to the secondary State highways in a particular group may be used as State aid to joint highway districts within such group in accordance with the laws pertaining to the financing of highways within joint highway districts.

(Amended by Ch. 642, Stats. 1935.)

[ORIGINAL SECTION.]

188. Subject to the provisions hereinafter contained in this article, all money in the State highway fund not expended for general administration purposes or for maintenance shall be allocated and expended as follows:

(a) One-half such money shall be allocated to and expended upon primary State highways. The annual expenditures thereof shall be made within each county group enumerated in section 187 in amounts which shall bear the same proportion to the total amount available for primary State highways during the current year as the number of miles of primary State highways within each such group bears to the total number of miles of primary State highways in the State.

(b) The remaining one-half shall be allocated to and expended upon the secondary State highways. One-half of such expenditures shall be made in each county group enumerated in section 187. Not more than four per cent of the money allocated to the secondary State highways in a particular group may be used as State aid to joint highway districts within such group in accordance with the laws pertaining to the financing of highways within joint highway districts.

S. F.-Oakland Bay Bridge appropriations

Stats. 1933, p. 11

189. All State highway fund money which is allocated to and available for expenditure upon primary State highways in county Group No. 1 shall be subject to the appropriation therefrom made by Chapter 5, Statutes of 1933, and all State highway fund money allocated to and available for expenditure upon either primary or secondary State highways in county Group No. 1 shall be subject to the appropriation therefrom made by Chapter 9, Statutes of 1933.

Stats. 1933, p. 16.

Allocations: Flexible provisions

190. (a) In the event the commission determines that the amount of money required to be allocated from the State high-

way fund to the primary State highways in either county group is larger than is necessary adequately to meet traffic requirements, then the department may, on the authorization of the commission, expend not more than fifty per cent of the money thus allocated to the primary highways in such county group, upon the secondary highways in the same county group.

(b) In the event the commission determines that the cost of constructing or improving the primary highways in either county group is greater than can be met by the money required to be allocated to such primary highways, then the department may, on the authorization of the commission, expend not more than fifty per cent of the money, allocated to the secondary highways in such county group, upon the primary highways in the same county group.

191. As a further flexible provision with respect to the expenditure of money allocated to primary and secondary State highways from the State highway fund, the department in constructing, improving or maintaining highways within cities within a particular county group may, on the authorization of the commission, expend for such purposes money allocated to either the primary or secondary State highways in such county group.

Contributions excluded from allocation computations

192. In apportioning the State highway fund money as required by this article, there shall be excluded from the computations of moneys expended any sums contributed by any person or governmental unit to pay any portion of the cost of constructing, improving or maintaining any State highway.

Unexpended balances.

Except as otherwise permitted in this article, any annual or biennial balances remaining unexpended to the credit of any particular county group shall remain credited to such county group.

Purposes authorized for expenditure.

193. The State highway fund money allocated and available each year for primary and secondary State highways, respectively, shall be expended by the department:

(a) On the locations determined by the commission, to acquire the necessary real property or interests therein for, and to construct or improve to standards justified by traffic requirements, the primary and secondary State highways respectively, in the State highway system.

(b) To construct or improve highways in State parks in the manner provided by law.

Expenditures within cities.

194. The commission shall allocate annually, and the department shall expend or cause to be expended within the cities of this State, from the State highway fund, an amount equal to the net revenue derived from one-quarter cent per gallon of tax on motor vehicle fuel.

Such expenditures shall be made within each city in the proportion that the total population of such city bears to the total population of all cities in this State. For the purpose of this section the population in each city is that determined by the last preceding Federal census. In the case of a city incorporated subsequent to the last census, or in the case of unin-

corporated territory being annexed to a city subsequent to the last census, the department shall ascertain the population of the city, or of the annexed territory, by multiplying the number of registered electors therein by three.

(Amended by Ch. 642, Stats. 1935.)

[AS AMENDED BY CH 514, STATS 1935]

194. Within the cities in this State the department shall annually expend from the State highway fund an amount equal to one-eighth of all money paid into said fund from the motor vehicle fuel tax. Such expenditures shall be made within each such city in the proportion that the total population in such city bears to the total population in all cities in this State. For the purpose of this section the population in each city is that determined by the last preceding Federal census.

In the case of a city incorporated subsequent to the last census, the department shall ascertain its population by multiplying the number of registered electors therein by three.

The department shall expend within each city not less than the amounts provided in this section and may expend any larger amount upon any State highways lying therein.

[ORIGINAL SECTION.]

194. Within the cities in this State the department shall annually expend from the State highway fund an amount equal to one-eighth of all money paid into said fund from the motor vehicle fuel tax. Such expenditures shall be made within each such city in the proportion that the total population in such city bears to the total population in all cities in this State. For the purpose of this section the population in each city is that determined by the last preceding Federal census.

The department shall expend within each city not less than the amounts provided in this section and may expend any larger amount upon any State highways lying therein.

Expenditures on streets of major importance other than State highways.

195. Except as provided in section 200, all moneys allocated under the provisions of section 194 shall be expended for the acquisition of real property or interests therein for, or the construction, maintenance, or improvement of streets of major importance within such city, other than State highways, as are agreed upon by the department and the legislative body of the city.

Such expenditures shall be limited to that portion of the street available for use by vehicular traffic except that such funds may be expended for pedestrian underpasses or pedestrian overhead crossings and the installation and maintenance of traffic control devices, but such funds shall not be expended for street lighting, or for the construction or maintenance of sidewalks, or, except as hereinbefore expressly authorized, for the construction or maintenance of any structure or facility in, over, or under the street which is not of direct and primary service in providing a way for vehicular traffic. Sidewalks may be constructed with such funds to replace those removed or damaged by construction or improvement of the street.

(Amended by Ch. 642, Stats. 1935.)

[ORIGINAL SECTION.]

195. Any expenditure of money from the State highway fund within any city, as authorized by this article, may be delegated by the department to the governing body of such city if the department is satisfied that such city is equipped to conduct the particular work in an efficient and economic manner.

196. Any expenditure of money from the State highway fund, as provided in section 194, shall be delegated by the department to the governing body of such city if the department is satisfied that such city is equipped to conduct the particular work to be delegated in an efficient and economic manner and if the city has set up by ordinance a "Special gas tax street improvement fund."

Delegation of expenditure.

"Special gas tax street improvement fund."

No moneys shall be expended by the city from such fund except for items specified in the budget and approved by the department as required in this article.

In making any such delegated expenditure a city shall follow the law governing it in regard to the doing of the particular type of work in cases which are not exclusively municipal affairs.

No State officer or employee shall be liable for anything done, or omitted to be done, by any city in the performance of any delegated work.

State employees not liable

(Amended by Ch. 642, Stats. 1935.)

[ORIGINAL SECTION.]

196. The money from the State highway fund allocated to each city shall be expended upon State highways within such city. In the discretion of the department, such expenditures may be made first for acquisition of any real property or interest therein, or for the construction, improvement or maintenance of State highways within such city.

In the event that the amount of money allocated to any one city is greater than is necessary to maintain and improve to adequate standard all State highways within such city, then any surplus amount accruing to such city shall be expended for the acquisition of any real property or interest therein for, or for the construction, improvement or maintenance of, such other streets of major importance within the city as are agreed upon by the department and the governing body of such city.

197. It shall be the duty of the legislative body of each city, on or before the first day of June of each year, to prepare and to submit to the department a budget on such forms as the department may specify, showing the estimated expenditure of such funds recommended to be made during the ensuing fiscal year.

Annual budget submitted by city.

The department may refuse to approve any such budget or any item thereof if in the opinion of the department the work proposed to be done or the expenditures proposed to be made, as outlined therein, do not comply with the requirements of this article as to the purposes for which such funds may be expended. The department may also refuse to approve any such budget or any item thereof if in the opinion of the department the proposed expenditure or expenditures are excessive for the work to be done, or if in the opinion of the department adequate provision has not been made in such budget to serve traffic on streets on which any previous expenditure of funds allocated under section 194 has been made, other than such expenditures previously made for maintenance.

Disapproval by department.

(Amended by Ch. 642, Stats 1935.)

[ORIGINAL SECTION.]

197. To permit the accomplishment of a major project in its entirety, the governing body of any city may authorize the accumulation of

money accruing over a period of years from the State highway fund, or may authorize the advancement of money from such fund in anticipation of moneys thus to accrue. Such accumulation or advancement of money shall not be made without the approval of the department.

Quarterly payments to cities.

198. The department shall pay quarterly, as revenues are received in the State highway fund, to each city to which any expenditure has been delegated, that proportion of its pro-rata share which has been delegated, unless a different schedule of payment is agreed upon between the city and the department. All payments received by a city shall be deposited in its "Special gas tax street improvement fund."

Reductions authorized

In the event that any sums are taken or borrowed from the State highway fund, or from the motor vehicle fuel fund, to augment the State general fund, or to pay any appropriations made from the State general fund, the department is authorized to reduce the amounts expended in each proportionately to the reduction in the State highway fund, such reduction to be made up when and if the State highway fund is reimbursed from the State general fund.

(Amended by Ch. 642, Stats. 1935.)

[ORIGINAL SECTION.]

198. The governing body of any city may authorize the department to allocate and expend any money accruing to such city from the State highway fund upon any State highway, or highway of major importance, outside the limits of such city.

Approval of plans, etc.

199. Before expending any such funds for construction, or improvement of any street except for preliminary engineering, the city shall furnish to the department for approval such surveys, plans, specifications, and estimates of cost therefor as the department may require. When the department has approved the plans, specifications, and estimates, the city may proceed to advertise for bids. The written consent of the department must be secured before any contract may be awarded for an amount in excess of the estimates of cost, or to other than the low bidder on the grounds that the low bidder is not responsible, or before the work may be done by day's labor.

Bids and award of contracts

Consent to exceed budget.

The written consent of the department must likewise be obtained before the amount of any item specified in the budget for maintenance or acquisition of real property is exceeded.

(Added by Ch. 642, Stats. 1935.)

Accumulation

200. To permit the accomplishment of a major project in its entirety, the governing body of a city may authorize the accumulation of money accruing over a period of years from the State highway fund. The legislative body of a city may include in its budget and the department may approve projects for the expenditure of any money accruing to the city under the provisions of this article upon any State or county highway or other major traffic street, including those outside the limits of such city.

Expenditure on other highways

(Added by Ch. 642, Stats. 1935.)

201. Each city to which an expenditure or expenditures was delegated shall file with the department annually at such time as the department may designate a report showing all expenditures made for maintenance in such detail as the department may require. Maintenance expenditure report

Within sixty days after the completion by any city of a delegated project for the acquisition of real property for, or for the construction or improvement of, any street, such city shall file with the department a final report in respect thereto, in such detail as the department may require. Completed project report.

(Added by Ch. 642, Stats. 1935.)

202. Any city may contract with the department for the performance by the department of any or all street work in such city and for such purpose may transfer to the department, for deposit in the State treasury, any moneys available for expenditure by such city for street purposes. Delegation Street work to department.

Any city may with the approval of the department contract with the county within which such city is located, for the performance by such county of maintenance projects within such city, which projects have been approved by the department. Same. Maintenance to county.

(Added by Ch. 642, Stats. 1935.)

203. The commission shall allocate and the department shall expend, or cause to be expended, from the moneys required to be allocated by section 188, an amount not less than the net revenue derived from one-quarter cent per gallon tax on motor vehicle fuel, on State highways within cities. Expenditures on State highways in cities

Such expenditures shall be made within each city in the proportion that the total population of such city bears to the total population of all cities in this State. The population of each city shall be determined as provided in section 194.

Any expenditure of moneys allocated under this section may be delegated by the department to the city, in the discretion of the department, and on such terms as may be agreed upon by the department and the city. Delegation to city

The provisions of this section guarantee and require the expenditure of not less than the amount specified herein but shall not be deemed to prevent the expenditure by the department of a larger amount on the State highways within the cities in this State. The expenditures required by this section shall be made first for the acquisition of real property, or interests therein, for, or the construction, improvement, or maintenance of State highways within cities. Guarantee. Purposes

In the event that the department determines that the amount of money available under this section for expenditure in any city is greater than is necessary to adequately maintain and improve to adequate standard all State highways within such city then any surplus amount available for expenditure therein under this section shall be expended for the acquisition of real property or interests therein, for, or the construction, maintenance, or improvement of streets of major importance within such city, other than State high- Expenditure of surplus amount

ways and such expenditure shall be made in the same manner and for the same purposes as the expenditure of any money allocated to a city under section 194.

(Added by Ch. 642, Stats. 1935.)

Department's powers.

204. The department shall exercise the same powers and duties with respect to State highways within cities as with respect to other State highways.

(Added by Ch. 642, Stats. 1935.)

CHAPTER 2. THE STATE HIGHWAY SYSTEM.

Article 1. General Provisions.

State highways described.

230. The highways described in this chapter are State highways.

"Route" defined.

231. As used in this chapter, "route" means State highway route and the route numbers are those given the State highway routes or portions thereof by the commission. Each complete route is described in article 3 of this chapter.

Classification.

232. For the purposes of this code the State highways are hereby classified as "primary State highways" and "secondary State highways."

Title vested in people.

233. All title heretofore acquired by the public or by any governmental agency to any real property, or interests therein, used for rights of way of any highway heretofore or hereafter constituted a State highway is vested in the name of the people of the State of California.

(Added by Ch. 514, Stats. 1935.)

Article 2. The Primary State Highways.

Primary State highways.

250. The highways specifically described in this article are primary State highways.

Descriptions

251. Those routes or portions of routes which are primary State highways are as follows:

On Route 1, from a point in Marin County opposite San Francisco to the Oregon State line via Crescent City and the Smith River.

On Route 2, from San Francisco to San Diego.

On Route 3, from Sacramento to the Oregon State line.

On Route 4, from Sacramento to Los Angeles.

On Route 5, from Stockton to Santa Cruz via Hayward, together with a connection from Hayward to Oakland and including that San Francisco-Oakland Bay Bridge approach described in section 1 of Chapter 9, Statutes of 1933, which starts from the westerly side of Market Street in Oakland at a point between Thirty-seventh and Fortieth streets.

On Route 6, from Sacramento to Woodland Junction.

On Route 7, from Route 14 near Crockett to Red Bluff.

On Route 8, from Ignacio to Cordelia via Napa.

On Route 9, from San Fernando to San Bernardino.

On Route 10, from Hanford to the Sequoia National Park line.

Descriptions.

On Route 11, from Sacramento to Placerville.
On Route 12, from San Diego to El Centro.
On Route 13, from Salida to Sonora.
On Route 14, from Martinez to the junction of San Pablo Avenue and Thirty-eighth Street in Emeryville.
On Route 15, from Williams to Colusa.
On Route 16, from Hopland to Lakeport.
On Route 17, from Roseville to Nevada City.
On Route 18, from Merced to Yosemite National Park.
On Route 19, from Route 9 west of Claremont to Riverside.
On Route 20, from Redding to Weaverville.
On Route 21, from Route 3 near Richvale via Oroville to Quincy.
On Route 22, from Route 2 near The Rocks to Hollister.
On Route 23, from Los Angeles to Markleeville.
On Route 24, from Route 4 near Lodi to San Andreas.
On Route 25, from Nevada City to Downieville.
On Route 26, from San Bernardino to El Centro.
On Route 27, from El Centro to Yuma.
On Route 28, from Redding to Alturas.
On Route 29, from Red Bluff to Susanville.
On Route 31, from San Bernardino to the Nevada State line near Calada, via Barstow.
On Route 34, from Route 4 near Arno to Jackson.
On Route 37, from Auburn to Truckee.
On Route 38, from Truckee to the Nevada State line near Verdi, Nevada, via the Truckee River Canyon.
On Route 58, from Mojave via Barstow and Needles to the Colorado River near Topock, Arizona.
On Route 60, from Route 2 near El Rio to Route 2 south of San Juan Capistrano.
On Route 64, from Mecca to Blythe.
On Route 66, from Route 5 near Mossdale School to Manteca.
On Route 68, the Bay Shore highway from San Francisco to San Jose, including the San Francisco-Oakland Bay Bridge and the approaches thereto on the San Francisco end as said approaches are described in section 1 of Chapter 9, Statutes of 1933.
On Route 69, the two San Francisco-Oakland Bay Bridge approaches (on the Alameda County end) described in section 1 of Chapter 9, Statutes of 1933, which are not described as a part of Route 5 in this section.
On Route 71, from Crescent City northerly to the Oregon line near Chetco.
(Amended by Ch. 274, Stats. 1935.)

[ORIGINAL SECTION.]

251. Those routes or portions of routes which are primary State highways are as follows:
On Route 1, from a point in Marin County opposite San Francisco to the Oregon state line via Crescent City and the Smith River.
On Route 2, from San Francisco to San Diego.
On Route 3, from Sacramento to the Oregon State line.
On Route 4, from Sacramento to Los Angeles.
On Route 5, from Stockton to Santa Cruz via Hayward, together

with a connection from Hayward to Oakland and including that San Francisco-Oakland Bay Bridge approach described in section 1 of Chapter 9, Statutes of 1933, which starts from the westerly side of Market Street in Oakland at a point between Thirty-seventh and Fortieth streets.

On Route 6, from Sacramento to Woodland Junction.

On Route 7, from Benicia to Tehama Junction.

On Route 8, from Ignacio to Cordelia via Napa.

On Route 9, from San Fernando to San Bernardino.

On Route 10, from Hanford to the Sequoia National Park line.

On Route 11, from Sacramento to Placerville.

On Route 12, from San Diego to El Centro.

On Route 13, from Salida to Sonora.

On Route 14, from Albany to Martinez.

On Route 15, from Williams to Colusa.

On Route 16, from Hopland to Lakeport.

On Route 17, from Roseville to Nevada City.

On Route 18, from Merced to Yosemite National Park.

On Route 19, from Route 9 west of Claremont to Riverside.

On Route 20, from Redding to Weaverville.

On Route 21, from Route 3 near Richvale via Oroville to Quincy.

On Route 22, from San Juan Bautista to Hollister.

On Route 23, from Saugus to Markleeville.

On Route 24, from Route 4 near Lodi to San Andreas.

On Route 25, from Nevada City to Downieville.

On Route 26, from San Bernardino to El Centro.

On Route 27, from El Centro to Yuma.

On Route 28, from Redding to Alturas.

On Route 29, from Red Bluff to Susanville.

On Route 31, from San Bernardino to the Nevada State line near Calada via Barstow.

On Route 34, from Route 4 near Arno to Jackson.

On Route 37, from Auburn to Truckee.

On Route 38, from Truckee to the Nevada State line near Verdi, Nevada via the Truckee River Canyon.

On Route 58, from Mojave via Barstow and Needles to the Colorado River near Topock, Arizona.

On Route 60, from Route 2 near El Rio to Route 2 south of San Juan Capistrano.

On Route 64, from Mecca to Blythe.

On Route 66 from Route 5 near Mossdale School to Manteca.

On Route 68, the Bay Shore highway from San Francisco to San Jose, including the San Francisco-Oakland Bay Bridge and the approaches thereto on the San Francisco end as said approaches are described in section 1 of Chapter 9, Statutes of 1933.

On Route 69, the two San Francisco-Oakland Bay Bridge approaches (on the Alameda County end) described in section 1 of Chapter 9 Statutes of 1933, which are not described as a part of Route 5 in this section.

On Route 71, from Crescent City northerly to the Oregon line near Chetco.

Article 3. The State Highway Routes.

State highway routes described.

300. All routes or portions of routes described in this article, except those declared in article 2 of this chapter to be primary State highways, are secondary State highways.

Route 1.

301 Route 1 is from a point in Marin County opposite San Francisco to the Oregon State line via Crescent City and the Smith River.

Route 2.

302 Route 2 is from:

(a) San Francisco to the international boundary line near Tia Juana via San Diego and National City.

(b) Orcutt to Route 2 south of Santa Maria.

(c) Harriston to Route 2 near Los Alamos.

Route 3.

303 Route 3 is from Sacramento to the Oregon State line. The bridge which extends across the Yuba River from the

city of Marysville on the north to the State highway on the south, and the bridge which extends across the Feather River between the city of Marysville and the city of Yuba City, are parts of Route 3 and are under the supervision and control of the department which shall maintain them. In the case of the bridge and highway thereon across the Feather River, the State assumes only that obligation of maintenance imposed upon the counties of Yuba and Sutter under any contract existing on August 14, 1931, with any railroad company for the maintenance thereof. The department acting through the commission may, by resolution of the commission, at such time as the department finds it necessary and proper, relinquish the State's interest to the counties of Yuba and Sutter and thereupon the State's supervision and control over such bridge and highway thereon shall entirely revest in those counties.

Route 4

304. Route 4 is from:

(a) Sacramento to Los Angeles.

(b) A point at Santa Clara River bridge, on that portion of Route 4 described in subdivision (a) of this section, to Saugus.

(Amended by Ch. 274, Stats. 1935.)

[ORIGINAL SECTION.]

304. Route 4 is from Sacramento to Los Angeles.

Route 5

305. Route 5 is from:

(a) Stockton to Santa Cruz via Hayward, together with a connection from Hayward to Oakland, and including that San Francisco-Oakland Bay Bridge approach, described in section 1 of Chapter 9, Statutes of 1933, which starts from the westerly side of Market Street in Oakland at a point between Thirty-seventh and Fortieth Streets.

(b) Route 4 near Stockton to Route 65 near Mokelumne Hill.

Route 6

306. Route 6 is from:

(a) Sacramento to Woodland Junction.

(b) Route 8 near Napa to Winters via Wooden Valley and Berryessa Valley.

Route 7.

307. Route 7 is from Route 14 near Crockett to Red Bluff.

(Amended by Ch. 274, Stats. 1935.)

[ORIGINAL SECTION.]

307. Route 7 is from:
(a) Benicia to Tehama Junction.
(b) Route 14 near Crockett to American Canyon Route near Vallejo.

Route 8

308. Route 8 is from Ignacio to Cordelia via Napa.

Route 9

309. Route 9 is from:

(a) Route 2 near Montalvo to Route 4 near San Fernando.

(b) San Fernando to San Bernardino.

Route 10

310. Route 10 is from Route 2 near San Lucas to the Sequoia National Park line via Coalinga, Hanford and Visalia.

Route 11.

311. Route 11 is from Route 75 near Antioch to the Nevada State line near Lake Tahoe via Sacramento, Folsom, Placerville and Sportsman's Hall.

Route 12. 312. Route 12 is from:

(a) San Diego to El Centro.

(b) Route 2, on Atlantic Street, San Diego, to Old Spanish Lighthouse, Point Loma.

Route 13. 313. Route 13 is from Route 4 at Salida to Route 23 via Sonora and Long Barn.

Route 14. 314. Route 14 is from Oakland to Martinez.

Route 15. 315. Route 15 is from Route 1 near Ukiah to Route 37 near Emigrant Gap via Williams and Colusa.

The bridge across the Sacramento River in the vicinity of the town of Meridian, Sutter County, and connecting the counties of Sutter and Colusa, or such portion thereof as is used for highway purposes to the extent provided in this section, is a part of Route 15 and is under the supervision and control of the department for maintenance purposes. The State assumes only that obligation of maintenance of this bridge, or highway portion thereof, imposed upon or assumed by the counties of Sutter and Colusa under any contract or agreement existing on August 21, 1933, with any railroad company for the joint use or maintenance thereof. At any time in its discretion the department may relinquish any interest of the State in this bridge to the counties of Sutter and Colusa, and thereupon the supervision and control of this bridge shall revert to and be vested in those counties.

Route 16. 316. Route 16 is from Hopland to Lakeport.

Route 17. 317. Route 17 is from Roseville to Nevada City.

Route 18. 318. Route 18 is from:

(a) Merced to Yosemite National Park near El Portal via Mariposa.

(b) Route 40 to the Yosemite National Park boundary at Crane Flat.

Route 19. 319. Route 19 is from:

(a) Route 9 west of Claremont to Beaumont via Riverside.

(b) Pomona to Fullerton via Brea Canyon.

Route 20. 320. Route 20 is from:

(a) Redding to Weaverville.

(b) Route 3 to Route 1, through Trinity and Humboldt counties.

(c) Route 28 near Redding to Lassen National Park.

Route 21. 321. Route 21 is from:

(a) Route 3 near Richvale to Quincy via Oroville and the Feather River Route.

(b) Quincy to Route 29 near Chats.

Route 22 322. Route 22 is from:

(a) Route 32 to Route 2 near The Rocks via Hollister and San Juan Bautista.

(b) Route 56 near Castroville to Route 2 near Prunedale.

Route 23. 323. Route 23 is from Los Angeles to Route 11 near Meyers Station via Antelope Valley, Independence, Bridgeport and Markleeville.

(Amended by Ch. 274, Stats. 1935.)

[ORIGINAL SECTION.]

323. Route 23 is from Los Angeles to Route 11 near Osgood's Place in El Dorado County, via Saugus and Antelope Valley in Los Angeles County, Bridgeport in Mono County, Loupe, Mount Bullion, Markleeville and Pickett's (in Hope Valley) in Alpine County.

324. Route 24 is from: Route 24.

(a) Route 4 near Lodi to San Andreas.

(b) Route 65 near Angels Camp to Route 23 near Mount Bullion via Vallecita, Murphy, Calaveras Big Trees and Dorrington.

(c) Route 23 near Woodfords to the Nevada State line.

325. Route 25 is from: Route 25

(a) Route 37 near Colfax to Route 17 near Grass Valley.

(b) Nevada City to Route 83 near Sattley via Downieville.

326. Route 26 is from: Route 26.

(a) Los Angeles (Aliso Street) to Calexico via Ramona Boulevard, Monterey Park, Pomona, Colton, Brawley and El Centro, together with a connection from near Colton to San Bernardino.

(b) A point on the highway specified in subdivision (a) of this section, approximately two miles west of Brawley, to a point on said highway approximately two and one-half miles southwest of Brawley.

327. Route 27 is from El Centro to Yuma. Route 27

328. Route 28 is from Redding to the Nevada State line via Alturas and Cedarville. Route 28.

329. Route 29 is from: Route 29

(a) Red Bluff to the Nevada State line via Susanville.

(b) Route 35 to Route 3 near Red Bluff.

331. Route 31 is from: Route 31.

(a) San Bernardino to the Nevada State line near Calada, via Barstow.

(b) Route 26 near Colton to Route 9 near San Bernardino via Mt. Vernon Avenue.

332. Route 32 is from: Route 32

(a) A point on Route 4 between Merced and Madera to Route 2 near Gilroy, via Pacheco Pass.

(b) Route 56 near Watsonville to Route 2 in Santa Clara Valley via Hecker Pass.

333. Route 33 is from: Route 33

(a) Route 4 near Bakersfield to Route 2 in San Luis Obispo County via Cholame Pass.

(b) Route 56 near Cambria to Route 2 near Paso Robles.

334. Route 34 is from Route 4 near Arno to Route 23 near Pickett's in Hope Valley via Jackson, Irishtown, Pine Grove, Silver Lake and Kirkwood. Route 34.

335. Route 35 is from Route 1 near Alton to Route 20 near Douglas City, passing near Kuntz and Peanut. Route 35.

336. Route 36 is from Mount Pleasant Ranch, on the road between Quincy and Marysville, in a southeasterly direction via Eureka to Downieville, Sierra County. Route 36.

337. Route 37 is from Auburn to Truckee via Emigrant Gap, the Truckee Pass, and the west end of Donner Lake. Route 37.

Route 38. 338. Route 38 is from Route 11 near Meyer's Station to the Nevada State line near Verdi, Nevada via Tallac, Emerald Bay, McKinney's, Tahoe City, the Truckee River, Truckee and the Truckee River Canyon.

Route 39. 339. Route 39 is from Tahoe City along the northern boundary of Lake Tahoe to the Nevada State line at Crystal Bay.

Route 40. 340. Route 40 is from:

(a) Route 13 to Route 23 near Mono Lake via Big Oak Flat, Buck Meadows and Tioga Mine. That portion of Route 40 lying within the boundaries of Yosemite National Park is not a State highway.

(b) Route 23 near Mono Lake to Route 76 near Benton Station.

Route 41. 341. Route 41 is from:

(a) Route 5 near Tracy to Route 4 near Fresno.

(b) Route 4 near Fresno to General Grant National Park.

(c) General Grant National Park to Kings River Canyon.

Route 42 342. Route 42 is from Route 5 near Los Gatos to Governor's Camp in California Redwood Park via Saratoga Gap and along the ridge between the San Lorenzo and Pescadero creeks.

Route 43. 343. Route 43 is from Newport Beach to Route 31 at Victorville, via Santa Ana Canyon, San Bernardino, Waterman Canyon, "Crest Drive" into Bear Valley, Big Bear Lake and Baldwin Lake. Route 43 includes a highway around Big Bear Lake.

Route 44. 344. Route 44 is from the intersection of Main and Lorenzo streets in Boulder Creek to Route 42 at Governor's Camp in California Redwood Park, via the Sequoia schoolhouse and Bloom's mill.

Route 45. 345. Route 45 is from Route 3 near Biggs to Route 7 at Willows via Butte City and Glenn.

Route 46. 346. Route 46 is from the Klamath River Bridge on Route 3 to Route 1.

Route 47. 347. Route 47 is from:

(a) Route 7 at Orland to Chico.

(b) Route 3 near Chico to Route 29 near Deer Creek Meadows.

Route 48. 348. Route 48 is from Route 1 near Cloverdale via McDonald's to the mouth of the Navarro River.

(Amended by Ch. 274, Stats. 1935.)

[ORIGINAL SECTION.]

348. Route 48 is from Route 1 at McDonald's to the mouth of the Navarro River.

Route 49 349. Route 49 is from Route 8 near Napa to Route 15 via Calistoga and Lower Lake.

Route 50. 350. Route 50 is from Route 15 to Sacramento via Rumsey and Woodland.

Route 51. 351. Route 51 is from Route 104 near Sebastopol to Route 8 at Shellville via Santa Rosa.

Route 52. 352. Route 52 is from Tiburon to Alto.

353. Route 53 is from Fairfield to Route 4 near Lodi, via Rio Vista. Route 53.

354. Route 54 is from Route 11 near Perkins to Drytown, passing near Michigan Bar and via Huot's Ranch. Route 54

355. Route 55 is the Skyline Boulevard from San Francisco to Route 5. Route 55.

356. Route 56 is from: Route 56.

(a) Route 2 near Los Cruces via Lompoc and Guadalupe to Route 2 near Pismo.

(b) San Luis Obispo to San Francisco along the coast via Cambria, San Simeon, Carmel and Santa Cruz.

(c) State Highway near southerly end of Marin Peninsula to the Marin-Sonoma County line via the coast route.

(d) Russian River near Jenner to Westport.

(e) Ferndale to Route 1 near Fernbridge.

357. Route 57 is from Route 2 near Santa Maria to Route 23 near Freeman, via Bakersfield and Walker Pass. Route 57

358. Route 58 is from Route 2 near Santa Margarita to the Arizona State line near Topock, Arizona, via Bakersfield, Mojave, Barstow, and Needles, together with an extension from a point on such Route 58 near Needles easterly by the most direct and practicable route to the Arizona-California line at the Colorado River, including a bridge over and across said river, to be constructed, owned, operated, and maintained jointly with the State of Arizona. Route 58

(Amended by Ch. 513, Stats. 1935.)

[ORIGINAL SECTION.]

358. Route 58 is from Route 2 near Santa Margarita to the Arizona State line near Topock, Arizona, via Bakersfield, Mojave, Barstow and Needles.

359. Route 59 is from: Route 59

(a) Route 4 near Gorman to Bailey's.

(b) Bailey's to Route 23 near Lancaster.

(c) Route 23 near Lancaster to Route 31 near Cajon Pass.

(d) Route 31 near Cajon Pass to Route 43 via Lake Arrowhead.

360. Route 60 is from Route 2 near El Rio via Oxnard to Route 2 south of San Juan Capistrano. Route 60.

361. Route 61 is from: Route 61

(a) Route 4, San Fernando Road, to Route 9 via Verdugo Road.

(b) Route 9 at La Canada to Route 59 via Arroyo Seco, Red Box Divide and Los Angeles County Park.

362. Route 62 is from: Route 62

(a) Route 171 near Buena Park to Los Angeles-Orange County line near La Habra.

(b) Route 26 near West Covina to Route 9 near Azusa.

(c) Route 9 at Azusa to Route 61 via Pine Flats in San Gabriel Canyon.

(Amended by Ch. 626, Stats. 1935.)

[ORIGINAL SECTION.]

362. Route 62 is from:
(a) Route 171 near Buena Park to Route 9 near Azusa.
(b) Route 9 at Azusa to Route 61 via Pine Flats in San Gabriel Canyon.

Route 63 363. Route 63 is from Big Pine to the Nevada State line via Oasis.

Route 64 364. Route 64 is from:

(a) Route 2 near San Juan Capistrano to Route 77 near Lake Elsinore.

(b) Route 78 near Perris to Route 26 near Indio.

(c) Mecca via Blythe to the Arizona State line at the Colorado River, and includes that portion of the Colorado River highway bridge (near Ehrenburg, Arizona) which is within the State of California. The department may contract with the State of Arizona, for and on behalf of the State of California, for the maintenance of such bridge.

(d) A point near Shaver's Summit on that portion of Route 64 specified in subdivision (c) to Route 26 near Indio.

(Amended by Ch. 274, Stats. 1935.)

[ORIGINAL SECTION.]

364. Route 64 is from:
(a) Route 2 near San Juan Capistrano to Route 77 near Lake Elsinore.
(b) Route 78 near Perris to Route 26 near Indio.
(c) Mecca via Blythe to the Arizona State line at the Colorado River, and includes that portion of the Colorado River highway bridge (near Ehrenburg, Arizona) which is within the State of California. The department may contract with the State of Arizona, for and on behalf of the State of California, for the maintenance of such bridge.
(d) A point on that portion of Route 64 specified in subdivision (c) to Route 26 near Indio.

Route 65. 365. Route 65 is from:

(a) Auburn to Sonora via Placerville, Jackson, San Andreas and Angels.

(b) Route 11 near El Dorado to Route 11 near Placerville via Diamond Springs.

(c) Route 40 near Moccasin Creek to Route 18 near Mariposa.

Route 66. 366. Route 66 is from:

(a) Route 5 near Mossdale School to Route 4 at Manteca.

(b) Route 4 near Manteca to Route 13 near Oakdale.

Route 67. 367. Route 67 is from Route 2 near the San Benito River bridge to Route 56 near Watsonville, passing near Chittenden.

Route 68. 368. Route 68 is the Bay Shore Highway from San Francisco to San Jose.

This route includes the San Francisco Oakland Bay Bridge and the approaches thereto on the San Francisco end, as those approaches are described in section 1 of Chapter 9, Statutes of 1933.

Route 69. 369. Route 69 is from:

(a) Route 1 near San Rafael to Point San Quentin.

(b) San Jose to Richmond (East Shore Highway).

This route includes the two of the San Francisco-Oakland Bay Bridge approaches (on the Alameda County end)

described in section 1 of Chapter 9, Statutes of 1933, one which starts approximately at the intersection of Cypress and Seventh streets in Oakland and one which starts at a point on the westerly side of Ninth Street in the vicinity of Ashby Avenue in Berkeley.

370. Route 70 is from Route 1 near Ukiah to the west line of the grounds of the Mendocino State Hospital. Route 70.

371. Route 71 is from Crescent City northerly to the Oregon line near Chetco. Route 71

372. Route 72 is from Route 3 at Weed to the Oregon State line near Calor. Route 72.

373. Route 73 is from Route 29 to the Oregon State line near New Pine Creek, via Alturas. Route 73

374. Route 74 is from a point on Route 8 near the Napa Y to Cordelia via Vallejo and Benicia. Route 74.

(Amended by Ch. 274, Stats. 1935.)

[ORIGINAL SECTION.]

374. Route 74 is from Vallejo to Route 8.

375. Route 75 is from: Route 75

(a) Oakland to Route 5 near Stockton via Walnut Creek and Antioch.

(b) Route 4 near Stockton via Copperopolis to Route 65 near Altaville.

376. Route 76 is from: Route 76

(a) Route 23 near Bishop to Nevada State line near Montgomery Pass.

(b) Route 23 to Camp Sebrina.

(c) Route 125 at Shaw Avenue to Huntington Lake.

377. Route 77 is from Pomona to San Diego via Temecula. Route 77

378. Route 78 is from: Route 78.

(a) Riverside to Route 77 near Temecula.

(b) Route 12 near Descanso to Route 77 near Temecula.

379. Route 79 is from Route 2 near Ventura to Route 4 at Castaic Junction. Route 79

380. Route 80 is from: Route 80.

(a) Santa Barbara to Route 2 at Zaca via San Marcos Pass.

(b) That portion of Route 80 specified in subdivision (a) in this section to Route 2 via Foothill Road.

(c) Santa Barbara to Route 151 near Ventura-Santa Barbara County line.

381. Route 81 is from Route 71 to Route 1, staying north of the Smith River. Route 81.

382. Route 82 is from Etna Mills to Montague. Route 82

383. Route 83 is from: Route 83.

(a) Route 3 near Mount Shasta to Lassen National Park.

(b) Lassen National Park to Route 29 near Morgan.

(c) Route 29 near Deer Creek Pass to Route 21 near Indian Falls.

(d) Route 21 near Blairsden to Route 38 near Truckee.

384. Route 84 is from Route 20 near Willow Creek to Route 46 near Weitchpec. Route 84.

Route 85. 385. Route 85 is from Route 1 to Route 20, staying north of the Mad River.

Route 86. 386. Route 86 is from Route 83 near Lassen National Park to Route 29 at Mineral.

Route 87 387. Route 87 is from:

(a) Route 7 near Woodland to State Highway near Yuba City.

(b) Route 15 near Marysville to Route 21 near Oroville.

(c) Route 21 near Oroville to Route 3 near Chico.

Route 88. 388. Route 88 is from:

(a) Route 45 near Glenn to Route 47 near Hamilton City.

(b) Route 15 near Sycamore to Route 87 near Knights Landing.

Route 89. 389. Route 89 is from Route 49 near Middletown to Route 15 near Upper Lake via Lakeport.

Route 90. 390. Route 90 is from Route 7 near Vacaville to Route 7 near Dunnigan.

Route 91 391. Route 91 is from Route 3 near Lincoln to Route 17 near Newcastle.

Route 92 392. Route 92 is from Route 65 near Coloma to Marshall's Monument.

Route 93 393. Route 93 is from Route 65 near Cool via Georgetown to Route 65 near Placerville.

Route 94 394. Route 94 is from Route 38 near Camp Richardson to the south end of Fallen Leaf Lake.

Route 95 395. Route 95 is from Route 23 near Coleville to the Nevada State line.

Route 96. 396. Route 96 is from Route 23 near Bridgeport to the Nevada State line via Walker River.

Route 97. 397. Route 97 is from Route 4 near Stockton to Route 54 near Waite's Station.

Route 98. 398. Route 98 is from Route 4 south of Sacramento to Route 3 near Ben Ali.

Route 99 399. Route 99 is from Route 53 at Rio Vista via Ryer Island to Route 6 near Broderick.

Route 100 400. Route 100 is from Route 99 on Ryer Island to that part of Route 11 between Sacramento and Antioch.

Route 101. 401. Route 101 is from Route 53 to Route 7 near Dixon.

Route 102 402. Route 102 is from Route 49 near Rutherford to Route 6 via Sage Canyon.

Route 103 403. Route 103 is from Calistoga to Route 1 near Geyserville.

Route 104. 404. Route 104 is from:

(a) Route 56 near Jenner to Route 1 near Cotati.

(b) Route 1 near Petaluma to Route 8 near Shellville.

(c) Route 8 to Route 7 through American Canyon.

Route 105 405 Route 105 is from:

(a) Route 56 near Half Moon Bay to Route 2 near San Mateo.

(b) Route 69 (East Shore Highway) near Mt. Eden to Route 5 near Hayward.

(c) Hayward, via Fourteenth Street in San Leandro, to Seventh and Cypress streets in Oakland.

406. Route 106 is from Route 14 near Hercules to Route 75. Route 106

407. Route 107 is from: Route 107.

(a) Route 75 near Walnut Creek to Route 108 near Scotts Corners.

(b) A point near Sunol, on the highway described in subdivision (a) of this section, to Route 69 (East Shore Highway) near Newark.

(c) Route 68 near Redwood City to Route 55 via Woodside.

(Amended by Ch. 427, Stats. 1935.)

[ORIGINAL SECTION.]

407. Route 107 is from:

(a) Route 75 near Walnut Creek to Route 108 near Scotts Corners.

(b) A point near Sunol, on the highway described in subdivision (a) of this section, to Route 69 (East Shore Highway) near Newark.

(c) Route 2 near Menlo Park to Route 55.

408. Route 108 is from Route 5 near Mission San Jose to Route 5 near Livermore. Route 108

409. Route 109 is from Route 4 at Modesto northerly to Route 13 between Salida and Riverbank. Route 109.

410. Route 110 is from Route 41 to Route 65 via Modesto Route 110

411. Route 111 is from Route 23 near Rush Creek via June Lake to Route 23. Route 111

412. Route 112 is from Route 23 to Mammoth Lakes. Route 112

413. Route 113 is from Route 2 near Mountain View to Route 5 near Milpitas. Route 113

414. Route 114 is from Route 68 near Sunnyvale to Route 42. Route 114

415. Route 115 is from Route 5 near San Jose to Mount Hamilton. Route 115

416. Route 116 is from Santa Cruz to Route 42 near Waterman Gap. Route 116

417. Route 117 is from Monterey to Route 2 near Salinas. Route 117

418. Route 118 is from Route 2 near Salinas to Route 56 near Castroville. Route 118

419. Route 119 is from State Highway near Gilroy to Route 10 in Priest Valley. Route 119

420. Route 120 is from: Route 120

(a) Route 2 near Soledad to Pinnacles National Monument.

(b) Pinnacles National Monument to Route 119 in Bear Valley.

421. Route 121 is from Route 32 west of Los Banos to Route 41 near Centinella. Route 121

422. Route 122 is from Route 41 near Newman to Route 4 near Livingston. Route 122

423. Route 123 is from: Route 123.

(a) Snelling to Route 4 near Merced.

(b) Route 4 near Merced southerly to Route 32.

424. Route 124 is from Route 4 at Chowchilla via Robertson Boulevard to Route 32. Route 124

425. Route 125 is from: Route 125

(a) Route 56 near Morro to Route 4 near Fresno via Stratford.

(b) Route 4 near Fresno to Yosemite National Park.

Route 126. 426. Route 126 is from:

(a) Route 41 near Kerman to Route 4 near Madera.

(b) Route 4 near Madera to Route 125.

Route 127. 427. Route 127 is from:

(a) Route 4 near Tipton via Porterville and Camp Nelson to Route 23 near Lone Pine.

(b) Route 23 near Lone Pine to Death Valley.

(c) Route 31 to Death Valley.

Route 128. 428. Route 128 is from Route 127 to the Nevada State line.

Route 129. 429. Route 129 is from Route 4 near Bakersfield to Route 41 near General Grant National Park.

Route 130. 430. Route 130 is from Orosi to Route 129.

Route 131. 431. Route 131 is from Route 4 near Kingsburg to Route 10 near Lemon Cove.

Route 132. 432. Route 132 is from Route 134 near Tulare to Orange Cove.

Route 133. 433. Route 133 is from Visalia to Woodlake.

Route 134. 434. Route 134 is from Route 135 at Corcoran to Lindsay via Tulare.

Route 135. 435. Route 135 is from Route 10 at Hanford via Corcoran and Earlimart to Route 129 near Ducor.

Route 136 436. Route 136 is from Route 4 near Delano to Route 129.

Route 137. 437. Route 137 is from Route 2 near Santa Margarita to Route 125 near Creston.

Route 138 438. Route 138 is from:

(a) Route 10 near Coalinga to Route 57 near Maricopa.

(b) Route 2 near Ventura to Route 57 in Cuyama Valley.

Route 139. 439. Route 139 is from Route 140 to Route 33 near Wasco.

Route 140. 440. Route 140 is from:

(a) Taft to Route 4 near Greenfield.

(b) Route 4 south of Bakersfield to Route 58 via Arvin.

Route 141. 441. Route 141 is from Route 4, via Brundage Lane and Oak Street, to Route 4 near Beardsley School.

Route 142 442. Route 142 is from Route 4 near Bakersfield to Route 57 near Isabella via Glennville.

Route 143. 443. Route 143 is from Route 140 near Weed Patch to Route 57 near Loma Park.

Route 144. 444. Route 144 is from Cummings Valley State Institution to Route 58 near Old Town.

Route 145 445. Route 145 is from Route 31 near Cajon Pass to Route 23 near Little Lake.

Route 146. 446. Route 146 is from:

(a) County line near Palo Verde to Route 64 near Blythe.

(b) Route 64 near Blythe to Route 58 near Needles.

(c) Route 58 west of Needles northerly to the Nevada State line.

447. Route 147 is from Route 2 near Arroyo Grande to Route 2 near San Luis Obispo. Route 147.

448. Route 148 is from Route 56 near Guadalupe to Sisquoc via Santa Maria. Route 148.

449. Route 149 is from Surf to Route 80 near Santa Ynez. Route 149.

450. Route 150 is from Route 2 near Montecito to Route 2 west of Santa Barbara via the coast. Route 150.

451. Route 151 is from Route 2 near Rincon to Route 79 near Santa Paula. Route 151.

452. Route 152 is from Route 2 near Carpinteria to the Carpinteria Beach State Park. Route 152.

453. Route 153 is from Hueneme to Route 9 near Somis via Oxnard and Camarillo. Route 153.

454. Route 154 is from: Route 154.

(a) Route 2 near El Rio to Route 9 near Saticoy.

(b) Route 9 near Saticoy to Route 79.

455. Route 155 is from: Route 155.

(a) Route 60 near Aliso Canyon to Route 2 near Triunfo.

(b) Route 2 near Newbury Park to Route 79 near Fillmore.

456. Route 156 is from Route 60 near Topanga Beach to Route 9 near Chatsworth. Route 156.

457. Route 157 is from Route 4 near Tunnel Station to Route 9 near San Fernando. Route 157.

458. Route 158 is from Route 4 near San Fernando to Route 60 near Mines Field. Route 158.

459. Route 159 is Lankershim Boulevard from Route 2 near Universal City to Route 4. Route 159

460. Route 160 is Highland Avenue, Los Angeles, from Cahuenga Boulevard to Santa Monica Boulevard. Route 160.

461. Route 161 is from: Route 161.

(a) Route 2 near Cahuenga Park to Route 4 near Burbank.

(b) Route 4 near Glendale to Route 9 near Monrovia.

462. Route 162 is from Route 60 at Santa Monica to Colorado Boulevard near Eagle Rock. Route 162.

463. Route 163 is from Route 60 at a point southerly of the westerly extension of Wilshire Boulevard in Santa Monica to Windward Avenue via Promenade in Santa Monica and Ocean Front Walk in the City of Los Angeles. Route 163.

(Amended by Ch. 274, Stats. 1935.)

[ORIGINAL SECTION.]

463. Route 163 is from Route 60 in Santa Monica, at the point where Route 60 leaves the ocean, to Windward Avenue in Venice via a road commonly known and designated as Ocean Front.

464. Route 164 is from Route 60 at Torrance via Hawthorne Avenue to Route 158. Route 164.

465. Route 165 is from San Pedro to Route 9 near La Canada via Figueroa Street and Linda Vista Avenue. Route 165.

(Amended by Ch. 274, Stats. 1935.)

[ORIGINAL SECTION.]

465. Route 165 is from San Pedro to Route 9 near La Canada via Figueroa Street.

Route 166. 466. Route 166 is from Route 172, at the intersection of Indiana and Third streets, in Los Angeles, to Route 171 near Santa Fe Springs.

Route 167. 467. Route 167 is from Long Beach via Atlantic Boulevard to Route 26 near Monterey Park.

Route 168. 468. Route 168 is from Route 60 near Long Beach to Route 9 near Lamanda Park.

Route 169. 469. Route 169 is from Spring Street to Route 174 (Firestone Boulevard) via Somerset Avenue.

Route 170. 470. Route 170 is from Route 179 near Seal Beach via Santa Fe Springs to Route 26 near West Covina.

Route 171. 471. Route 171 is from Route 60 near Huntington Beach to Route 2 near Whittier.

Route 172. 472. Route 172 is from Los Angeles, at the intersection of Boyle Avenue and Fourth Street, to Route 19 near Walnut Station.

Route 173. 473. Route 173 is from Route 60 in Santa Monica to the intersection of Ninth and Indiana streets in Los Angeles via Tenth Street.

Route 174 474. Route 174 is from:

(a) Route 60 via Manchester Avenue to Route 2 near Miraflores.

(b) Route 2 near Orange County Hospital to Main Street, Santa Ana, via Santa Ana Boulevard.

Route 175. 475. Route 175 is from Route 60 near Hermosa Beach to Route 43 in Santa Ana Canyon via Artesia Avenue.

Route 176 476. Route 176 is from Route 62 near La Habra to Route 43 in Santa Ana Canyon via Brea.

Route 177 477. Route 177 is from Route 176 near Brea to Route 77 near Chino.

Route 178. 478. Route 178 is from Cerritos Avenue to Route 43 near Olive via Anaheim.

Route 179. 479. Route 179 is from Route 60 near Long Beach to Santa Ana.

Route 180. 480. Route 180 is from Route 2 near Orange County Hospital northerly to Route 175.

Route 181 481. Route 181 is from Route 43 to Route 176 near Yorba Linda via Grand Avenue and Glassell Avenue.

Route 182. 482. Route 182 is from Route 2 near Orange to Orange County Park.

Route 183. 483. Route 183 is from Route 60 near Seal Beach to Route 2 near Santa Ana.

Route 184. 484. Route 184 is from Route 60 near Corona del Mar to Route 2 in Santa Ana via Main Street.

Route 185. 485. Route 185 is from Route 60 near Laguna Beach to Route 2 near Irvine.

486. (Repealed by Ch. 426, Stats. 1935.)

[ORIGINAL SECTION]

486. Route 186 is from Route 23 near Palmdale to Route 61 in Swartout Valley.

Route 187. 487. Route 187 is from:

(b) Route 26 near Whitewater to Route 64 near Indian Wells.

(c) Route 26 near Indio via Mecca and the north shore of Salton Sea, to Route 26 near Brawley.

(d) Route 26 near Brawley to Route 27 near Holtville.

(e) Route 27 near Holtville to Route 202 near Bonds Corners.

488. Route 188 is from Route 43 near Mt. Anderson to Route 59. Route 188.

489. Route 189 is from Route 43 near Strawberry Peak via Strawberry Flat to Route 59 near Lake Arrowhead. Route 189

490. Route 190 is from: Route 190

(a) Route 9 near San Dimas to Route 26 near Redlands via Highland Avenue.

(b) Route 26 near Redlands to Route 43 near Big Bear Lake via Barton Flats.

491. Route 191 is from Route 31 near Verdemont to Route 190 in San Bernardino, via Little Mountain. Route 191.

492. Route 192 is from Route 77 via Euclid Avenue to Route 190 in Upland. Route 192

493. Route 193 is from Route 43 at Corona northerly to Route 19. Route 193

(Amended by Ch. 429, Stats. 1935.)

[ORIGINAL SECTION.]

493. Route 193 is from Route 77 near Prado to Route 9 near San Bernardino.

494. Route 194 is from Route 19 near Moreno to Route 78 near Aguanga via Hemet. Route 194

495. Route 195 is from Route 2 near Oceanside to Route 78 near Lake Henshaw. Route 195.

496. Route 196 is from Route 2 near Oceanside to Route 77 near Vista. Route 196.

497. Route 197 is from Route 77 near Escondido to Route 198 near Ramona. Route 197

498. Route 198 is from: Route 198.

(a) Route 200 near Spring Valley to Route 12 near La Mesa.

(b) Route 12 near El Cajon to Route 78 near Santa Ysabel.

(c) Julian to Route 26 near Kane Springs.

499. Route 199 is from the San Diego-Coronado Ferry in Coronado to Route 2 via Silver Strand. Route 199.

500. Route 200 is from Route 2 near San Diego to Route 12 west of Jacumba via Campo. Route 200

501. Route 201 is from: Route 201

(a) Calipatria to Route 187 between Brawley and Holtville.

(b) Route 26 east of Heber to Route 187 near Brawley.

502. Route 202 is from: Route 202.

(a) Route 12 near Seeley to Route 26 near Calexico.

(b) Route 26 near Calexico to Route 27 near Midway Wells.

603. There is hereby added to the State highway system a new route or portion of route from the east city limits of Los Angeles on Valley Boulevard to Route 26 near El Monte via Valley Boulevard and Pomona Boulevard. New State highways

(Added by Ch. 626, Stats. 1935.)

New State highways.

611. From Route 69 to Route 75 via Ashby Avenue.
(Added by Ch. 630, Stats. 1935.)

641. There is hereby added to the State highway system a new route or portion of route from Mecca to Route 26 via Avenue 66 and from Route 26 near Oasis northly to Avenue 66 via Pierce Street.
(Added by Ch. 429, Stats. 1935.)

642. A new route or portion of route is hereby added to the State highway system from Route 165 near Los Angeles River in Los Angeles to Route 161 in Pasadena at Broadway Avenue.
(Added by Ch. 426, Stats. 1935.)

CHAPTER 3. THE CARE AND PROTECTION OF STATE HIGHWAYS.

Article 1. General Provisions.

660. As used in this chapter:

Definitions: "Highway."

(a) The term "highway" includes all or any part of the entire width of right of way of a State highway, whether or not such entire area is actually used for highway purposes.

"Encroachment."

(b) The term "encroachment" includes any tower, pole, pole line, pipe, pipe line, fence, billboard, stand or building, or any structure or object of any kind or character not particularly mentioned in this section, which is placed in, under or over any portion of the highway.

Application of chapter.

661. In addition to persons, public corporations, and districts specified in this chapter, this chapter shall apply to all private corporations authorized by law to establish or maintain any works or facilities in, under or over any public highway. This chapter shall not limit the powers and duties vested by law in the Railroad Commission of this State, and in the event of any conflict with regard to the powers and duties given the department in this chapter, those of the Railroad Commission shall prevail.

Article 2. Permit Provisions.

Permits.

670. The department may issue written permits, as provided in this chapter, authorizing the permittee to do any of the following acts:

(a) Make an opening or excavation for any purpose in any State highway.

(b) Place, change or renew an encroachment.

(c) Place or display in, under or over any State highway any kind of advertising sign or device. Any such sign or device placed or displayed contrary to the provisions of this section is a public nuisance and the department may immediately remove it. The provisions of this section shall not prohibit the posting of any notice in the manner required by law or by the order of any court of this State.

(d) Plant, remove, cut, cut down, injure or destroy any tree, shrub, plant or flower growing within any State highway.

Any person who does any of the acts specified in this section, without the authority of such a permit, is guilty of a misdemeanor.

Governing provisions.

671. Any act done under the authority of a written permit, issued pursuant to the provisions of this chapter, shall be done in accordance with the applicable provisions of this chapter, and the terms and conditions of such permit.

Permit terms.

672. Any permit issued under the provisions of this chapter may provide that the permittee will pay the entire expense of replacing the highway in as good condition as before, and may provide such other conditions as to the location and the manner in which the work is to be done as the department finds necessary for the protection of the highway.

Relocation or removal of encroachment.

673. Any permit for the location or establishment of any encroachment in, under or over any State highway shall also contain a provision that in the event the future improvement of the highway necessitates the relocation or removal of such encroachment the permittee will relocate or remove the same at his sole expense.

Work supervision

674. The department may, but is not required to, supervise any work done under any permit, issued under the provisions of this chapter in which event the permittee shall pay the reasonable cost of such supervision to the department, but no cost of supervision shall be charged by the department to any public corporation.

Emergency excavations

675. (a) Permittees may excavate openings in State highways to make repairs in cases of emergency requiring immediate action. In such cases the appropriate representative of the Division of Highways shall be promptly notified of any such action, and such permittee, at his own expense, shall immediately replace such State highway in as good condition as before such excavation.

(b) A city or public corporation supplying water service to its inhabitants may, within its corporate limits, excavate a State highway without a permit in cases of emergency requiring immediate action; but in such cases the State highway shall, at the expense of the city or public corporation, be replaced in as good condition as before such excavation.

Delegation of power to city.

676. The department may delegate to any city any of the department's powers, duties, and authority, other than those of approval, under this chapter as to any State highway, or any part thereof, within such city, and may withdraw any such delegation of authority.

Bond.

677. Before granting a permit under any provision of this chapter, the department may require the applicant to file with the department a satisfactory bond payable to the people of the State of California in such amount as the department deems sufficient, conditioned on the proper compliance by the permittee with the provisions of this article.

Same: Public corporations and governmental units

678. Except as otherwise provided in this section, such a bond shall not be required of any county, city, public corporation or political subdivision which is authorized by law

to establish or maintain any works or facilities in, under or over any public highway, nor shall the application of any such governmental unit for a permit be denied. Every such applicant is entitled as a matter of right to a permit, but is otherwise subject to the provisions of this article and to all reasonable conditions and provisions made by the department in any such permit.

The department may require of any such applicant a bond in a sum not to exceed twenty thousand dollars, if such applicant has in fact prior to such application failed to comply with the provisions of this article or with the provisions of a previous permit.

Blanket permit

679. Any city, municipal utility district, municipal water district or metropolitan water district is entitled to a blanket permit, renewable annually, for the installation of its service connections and for ordinary maintenance of its facilities located or installed in State highways; but the department may revoke any such blanket permit if the permittee fails to comply with the provisions of this article. When any such permit is revoked in a proper case such municipal utility district, municipal water district or metropolitan water district is entitled to a permit only on furnishing a bond as provided in section 677.

Franchises in State highways.

680. Whenever a franchise shall have been granted by any county or city in any public highway which has been or is subsequently constituted a State highway, the department may enforce any obligations of the grantee or holder of such franchise in respect to the repair of the highway. The department may require any person who has placed and maintained any pole, pole line, pipe, pipe line, conduit, street railroad tracks, or other structures or facilities upon any State highway, whether under such or any franchise, to move the same at his own cost and expense to such different location in the highway as is specified in a written demand of the department, whenever necessary to insure the safety of the traveling public or to permit of the improvement of the highway; provided, that no such change of location shall be required for a temporary purpose. The department shall specify in the demand a reasonable time within which the work of relocation must be commenced and the grantee or owner must commence such relocation within the time specified in said demand and thereafter diligently prosecute the same to completion.

Relocation of structures

Removal of encroachments

The department may likewise serve such a demand on the owner of any encroachment to require its removal entirely from the right of way, where the owner does not have an existing franchise right to place and maintain the same therein.

In case the owner fails to comply with any such demand, the encroachments specified in the demand become subject to the provisions of Article 3 of this chapter.

(Added by Ch. 631, Stats. 1935.)

681. Whenever a franchise shall have been granted by any county or city in any public highway heretofore or hereafter constituted a State highway, all of the rights of the grantor under such franchise, including the right to collect and receive tolls, charges or payments thereunder other than the rights transferred to the department by section 680, are reserved to such county or city. Franchise grantor's rights

(Added by Ch. 631, Stats. 1935.)

Article 3. Nuisance and Penal Provisions.

720. If any encroachment exists in, under or over any State highway, the department may require the removal of such encroachment in the manner provided in this article. Removal of encroachments.

Notice shall be given to the owner, occupant or person in possession of the encroachment, or to any other person causing or suffering the encroachment to exist, by serving upon any such person a notice containing a demand for the immediate removal of such encroachment from within such highway. Any such notice shall describe the encroachment complained of with reasonable certainty as to its character and location. In lieu of service upon such person, service of such notice may also be made by registered mail and by posting, for a period of five days, a copy of the notice on the encroachment described in the notice. In the case of an owner, occupant or person in possession, who is not present in the county, the notice may be given to his agent in lieu of service by mailing and posting. Notice.

721. The department may immediately remove from any State highway any encroachment which: Summary removal

(a) Is not removed, or the removal of which is not commenced and thereafter diligently prosecuted, prior to the expiration of five days from and after the service of the notice.

(b) Obstructs or prevents the use of such highway by the public.

(c) Consists of refuse.

(d) Is an advertising sign of any description, unless excepted by subdivision (c) of section 670.

722. In the name of the people of the State of California, the department may commence and prosecute, in any court of competent jurisdiction, an action to recover the expense of such removal, costs and expenses of suit and, in addition thereto, the sum of ten dollars for each day such encroachment remains within any State highway after service of the notice in the manner provided in section 720. Action for removal expense.

723. If the owner, occupant, or person in possession of the encroachment, or person causing or suffering the encroachment to exist, or the agent of any of them, disputes or denies the existence of the encroachment, or refuses to remove or permit the removal of the encroachment, the department, in the name of the people of the State of California, may commence, in any court of competent jurisdiction, an action to abate the encroachment as a public nuisance. If judgment is Abatement action

Recovery.

recovered by the department it may, in addition to having such encroachment adjudged a nuisance and abated, recover ten dollars for each day such encroachment remains after the service of the notice in the manner provided in section 720, and may also recover its costs and expenses incurred in such action.

Penalty.

724. Unless such encroachment is authorized under the provisions of article 2 of this chapter, any person owning, controlling or placing, or causing or suffering to exist, any encroachment within any State highway after the service upon such person of the notice, in the manner provided in section 720, is, in addition to any civil liability therefor, guilty of a misdemeanor.

Highway damage prohibited.

725. It is unlawful for any person to do any of the following acts:

(a) Drain water, or permit water to be drained, from his lands onto any State highway by any means which results in damage to the highway.

(b) Obstruct any natural water course so as to:

(1) Prevent, impede or restrict the natural flow of waters from any State highway into and through such water course, unless other adequate and proper drainage is provided.

(2) Cause waters to be impounded within any State highway, to the damage of the highway.

(3) Cause interference with, or damage or hazard to public travel.

(c) Store or distribute water for any purpose so as to permit it to overflow onto, to saturate by seepage, or to obstruct any State highway, to the damage of the highway.

Notice.

726. When notice thereof is given by the department, in the manner provided by section 720, to any person permitting or suffering such damage to be done to any State highway, or permitting or suffering any such condition to exist, such person shall immediately cease and discontinue such diversion of waters or shall discontinue and prevent such drainage, seepage, or overflow and shall repair the highway at his own expense.

Department may act and recover expense.

727. If any person is thus notified, and fails, neglects or refuses to cease and discontinue such diversion, or to discontinue and prevent the drainage, seepage or overflow of such waters, or to make the repairs required by section 726, the department may make such repairs and may also perform such work as is necessary to prevent the further drainage, diversion, overflow, or seepage of such waters.

The department, in the name of the people of the State of California, may recover in an action at law, in any court of competent jurisdiction, the amount expended for such repairs and work and in addition thereto, the sum of ten dollars for each day such drainage, diversion, overflow or seepage of such waters is permitted to continue after the service of the notice in the manner required by section 726, together with the costs and expenses incurred in such action.

728. Any person proposing or desiring to excavate or construct ditches in, under or over any State highway, to carry water for any purpose, shall construct, without expense to the State, such bridges, culverts, pipes, siphons or crossings as are necessary adequately and properly to carry such water in, under or over such State highway. Water-ditch crossings

Any such construction shall be done in accordance with the permit and pursuant to section 671, and shall be subject to the approval of the department. The issuance of any such permit may be withheld until the department finds that proper and adequate provision is made for the protection of such State highway and for the safety of travel thereon. Permit.

729. Upon the neglect or refusal of any person to comply with the provisions of section 728, the department may construct any such crossing and may recover, in the name of the people of the State of California, in an action at law in any court of competent jurisdiction, the expense of such construction, together with the costs and expenses incurred in any such action. Department may construct and recover expense.

730. Any person who by any means wilfully injures or damages any bridge, culvert or structure in or on any State highway is liable for the repair thereof, and the department, in the name of the people of the State of California, may recover, in an action in any court of competent jurisdiction, the amount expended for such repairs, together with the costs and expenses incurred in any such action. Damage to bridges, etc. Liability.

Any person thus injuring any bridge, culvert or structure in or on any State highway is guilty of a misdemeanor. Penalty

731. Any vehicle or structure parked or placed wholly or partly within any State highway, for the purpose of selling the same or of selling therefrom or therein any article or thing, is a public nuisance and the department may immediately remove such vehicle or structure from within any such highway. Vehicles and structures placed on highway. Summary removal

Any person parking any such vehicle or placing any such structure wholly or partly within any such highway for the purpose of selling such vehicle or structure, or of selling therefrom or therein, any article or thing, and any person selling, displaying for sale, or offering for sale any article or thing either in or from any such vehicle or structure so parked or placed, is guilty of a misdemeanor. Penalty.

The California Highway Patrol and all peace officers shall enforce the provisions of this section and shall cooperate with the department to that end. Enforcement.

The provisions of this section shall not prohibit a seller from taking orders or delivering any commodity from a vehicle on that part of any State highway immediately adjacent to the premises of the purchaser. Exemption

732. Any person who wilfully injures, defaces, breaks down or removes any monument or stake placed, erected or used by the department to designate any point in the boundary Boundary and survey stakes.

or survey of any State highway or proposed State highway is guilty of a misdemeanor.

Disposition of recoveries

733. All money recovered under the provisions of this chapter shall be paid into any fund which is available to the department for highway purposes and is designated by the department to receive such payment.

Procedure not exclusive.

734. The procedure provided in this article is not exclusive and shall not prohibit the department from exercising any other remedy provided by law to prevent damage to or to protect any State highway.

CHAPTER 4. COOPERATION BY AND WITH THE STATE.

Article 1. County Aid to State.

County aid to State.

760. Whenever it is determined by a four-fifths vote of the membership of the board of supervisors of any county that such acquisition or contribution, or both, will promote the interests of the county and such acquisition or contribution, or both, is recommended in writing by the department, the board thereafter may, by resolution passed by a four-fifths vote of its members, determine:

Acquisition.

(a) To acquire any real property or interest therein needed for State highway purposes and described in such recommendation. The board shall proceed, if necessary, to condemn any such real property or interest therein. The title to such property or interest may be taken in the name of the State or the county. The resolution of the board is the only preliminary procedure required prior to the acquisition of such property or interest, or to the commencement of such condemnation action.

Contribution

(b) To contribute bridges, fencing, money, labor, materials, and appurtenances toward the construction of State highways within the limits of the county.

Such acquisitions or contributions, or both, shall be for the use of the State as provided in section 762.

Expense

761. The expense of any such acquisition of real property or interest therein, or of any such contribution, or of both, may be charged to the general fund of the county, the general road fund of the county, or the district fund of the district benefited.

State may use aid.

762. The State may receive and use the benefits provided under section 760, and any money contributed by a county under that section shall be paid into a State fund available for highway purposes and designated by the board of supervisors in the resolution determining such contribution.

Article 2. Cooperative Highway Construction and Improvement.

State cooperation with county.

790. The board of supervisors of any county may, by a vote of not less than three-fifths of its membership, petition the department to cooperate, under the provisions of this article, in the improvement of an existent highway or the construction of a proposed highway in that county when such

existent highway connects, or such proposed highway will connect, a forest highway system road or national park road which is already built or under construction, with any State highway. Such connecting highway shall not exceed fifty miles in length.

Petition

When any highway sought to be improved or constructed under the provisions of this article is situated in two or more counties, a petition, or concurrence in such a petition, passed by a three-fifths vote of the membership of the board of supervisors of each of such counties is required to initiate the proceeding under this article.

791. Such petition shall contain:

(a) A description of the highway proposed to be improved or constructed.

(b) A statement as to whether the county will supply, at its own expense, such rights of way as are necessary.

(c) A statement of the funds which such county already has available, or proposes to provide, for such construction.

(d) Such other information or data as the department requests.

Preliminary estimates

792 Upon the receipt of such petition, if the department determines that public necessity and convenience will be served thereby, it may cooperate with the petitioning county or counties, in any manner agreeable to all parties, for the purpose of procuring preliminary estimates of the cost of the proposed project. After such preliminary estimates are made and submitted to it, the department may enter into an agreement with any petitioner or with the several petitioners for the purpose of securing detailed surveys, plans, specifications, and estimates of the cost of the proposed project.

Approval of surveys, etc

793. All such surveys, plans, specifications, and estimates of cost shall be subject to the approval of the department. Upon such approval, a copy of the petition and approved documents shall be filed with the department, and with the clerk of the board of supervisors and the county recorder of each petitioning county.

Cooperative agreement

794 Upon such approval the department may enter into a written agreement with any petitioner or with the several petitioners for the improvement or construction of the highway in question. The cost of such improvement or construction shall be prorated between the contracting parties in any agreed proportion.

Engineer

795. If the proposed construction or improvement lies wholly within one county, the board of supervisors of the county may designate the county surveyor or any engineer to take charge of the work. If two or more counties are petitioners they shall agree as to the engineer or county surveyor who will take charge of the work and after so agreeing they shall notify the department that they are ready to proceed with the work.

Plans and specifications

796. When a written agreement has been entered into as provided in section 794, detailed plans and specifications shall

be prepared by the engineer or surveyor named to take charge of the proposed construction or improvement and shall be submitted to the department for its approval. If such plans and specifications meet with the approval of the department it shall so notify the petitioning board or boards of supervisors.

Bids and contract

797. The board shall then proceed to advertise for bids and let the contract for the improvement or construction of such highway after first securing the department's written approval of the proposal submitted by the successful bidder. If the bids for improving or constructing such highway exceed a figure which the department considers reasonable, such bids shall be rejected. In such case the project may be readvertised and if, upon such readvertisement, no satisfactory bid is received the work proposed may, subject to the approval and under the inspection of the department, be undertaken by day labor.

Payment for work

798. Payment for the work done under this article shall be made in the manner provided by law for the payment of claims against counties. Upon satisfactory evidence being presented to the department that the work done conforms to its requirements, the department shall pay, in the manner provided by law, its pro rata share of the cost of the work as agreed upon. Such payment shall be made out of any funds available to the department for such purposes.

Article 3. Miscellaneous Provisions.

Work by governmental units on State highways.

810. Any county, city or permanent road division, within the limits of which there is a State highway, may do or order to be done on any such highway any paving, curbing, highway work or sewer work authorized by law. Such governmental unit shall first obtain from the department a permit to do any such work. All grades, elevations or curb lines sought to be established or pavement proposed to be constructed by any such governmental unit shall first be approved by the department. Such governmental unit shall restore, to the satisfaction of the department, any existing pavement which is damaged as a result of such work.

Article 4. State and Federal Highway Work.
(Heading added by Ch. 360, Stats. 1935.)

Assent to Federal Highway Act.

820. The State of California assents to the provisions of the Federal Highway Act, as amended and supplemented. All work done under the provisions of said act or other acts of Congress relative to Federal aid, or other cooperative highway work, or to emergency construction of public highways with funds apportioned by the government of the United States, shall be performed as required under acts of Congress, and the rules and regulations promulgated thereunder. Laws of this State inconsistent with such laws, or rules and regulations of the United States, shall not apply to such work, to the extent of such inconsistency.

(Added by Ch. 360, Stats. 1935.)

821. The department, on behalf of the State, shall submit to the Secretary of Agriculture, or other properly authorized officer of the United States, such project statements as may be required and may agree with the proper officials of the United States as to the kind, quality, and extent of all such work. The department shall file in its office all approved plans, specifications, and estimates. Project statements.

(Added by Ch. 360, Stats. 1935.)

822. The department is authorized to do any and all acts and things with reference to any public street or highway in, or to be constructed in, this State necessary to the performance of any such agreement, including but not limited to the construction or improvement of streets, highways or roads which are not a part of the State highway system. Department's authority

(Added by Ch. 360, Stats. 1935.)

823. In addition to the purposes for which the moneys in, and to be received in, the State highway fund and the State highway general fund have been appropriated, all of said moneys, or so much thereof as may be necessary, is hereby appropriated to, and may be expended by the department for, the performance of such street or highway construction or improvement projects as are agreed upon with the properly authorized officers of the United States, including projects on public highways in the State of California which are not a part of the State highway system. As to such projects on streets or highways which are not a part of the State highway system, such expenditures shall be limited to those items for which the government of the United States has agreed, and is obligated, to reimburse the State in full, except that the general administrative and engineering expense for which the Federal government will not repay the State is properly chargeable to the general administration of the Division of Highways. Appropriation for Federal projects. Projects on non-State highways

(Added by Ch. 360, Stats. 1935.)

824. Expenditures made from the State highway fund or the State highway general fund to the extent to which the United States is obligated by a project agreement to reimburse the State, shall be considered as advancements made by this State for performance on behalf of the United States, and shall not be considered as expenditures of State funds. Such advancements are not subject to any provisions of law relative to allocation of State highway fund, or State highway general fund moneys. Such advancements must be excluded in making the computations required by section 695 of the Political Code, as added by Chapter 923 of the Statutes of 1933 and the amount of such advancements made and to be so excluded during any given period of time shall be deemed to be equal to the amount received from the government of the United States as reimbursement for street or highway projects and deposited in the State treasury during said period of time. Advancements. Stats. 1933, p. 2399.

(Added by Ch. 360, Stats. 1935.)

North-south allocation of expenditures

825. In the absence of Federal law, ruling, or regulation to the contrary, the department is directed to present for approval by the proper officers of the United States, projects which will result in the expenditure of all Federal funds apportioned to the State of California for highway construction or improvement as near as may be in compliance with the provisions of law governing the allocation of State highway fund money, or State highway general fund money, as between the two county groups.

(Added by Ch. 360, Stats. 1935.)

Deposit of reimbursements.

826. All moneys received from the government of the United States as reimbursement for street or highway construction projects shall be deposited in the State treasury to the credit of the fund from which the advancements were made. The department shall certify to the State Treasurer the fund in which each payment is required to be deposited, or if any one payment represents advancements from both the State highway fund, and the State highway general fund, the amount which should be deposited in each.

(Added by Ch. 360, Stats. 1935.)

Specification provisions.

827. The department may insert in the specifications for any contract for any project as to which a project agreement has been executed by and between the State and the United States a stipulation that the contractor shall forfeit to the State the sum of ten dollars for each calendar day, or portion thereof, for each person who is employed upon the project in violation of the specifications relating to selection of labor, wages, hours, and conditions of employment, and the contractor shall be bound thereby.

The department may insert in the specifications for any such contract all special provisions required by the rules and regulations of the properly authorized officers of the United States, regardless of whether or not any such provision tends to increase the cost of the work.

(Added by Ch. 360, Stats. 1935.)

CHAPTER 5. VACATION AND ABANDONMENT OF HIGHWAYS.

(Heading added by Ch. 514, Stats. 1935.)

Highway superseded by relocation.

835. The commission may retain or may summarily vacate and abandon any portion of a State highway which portion has been superseded by relocation, except in case such abandonment would cut off all access to the property of any person which, prior to such relocation, adjoined the highway. The commission shall either retain such highway or relinquish it to the county.

(Added by Ch. 514, Stats. 1935.)

Abandonment or vacation is by resolution

836. The commission shall act to abandon any easement, or to vacate any highway, by resolution. A certified copy of such resolution may be recorded without acknowledgment, certificate of acknowledgment, or further proof, in the office of the county recorder of each county wherein any portion of the easement to be abandoned, or the highway to be vacated,

lies. No fee shall be charged for such recordation. On such recordation, the abandonment or vacation is complete.

(Added by Ch. 514, Stats. 1935.)

Title.

837. On abandonment of an easement, title thereto reverts to the owner of the underlying fee. On vacation of a highway, where the State owns only an easement, title likewise so reverts. Where the State owns the property on which the vacated highway was located in fee, the department shall dispose of the property as provided in section 118.

(Added by Ch. 514, Stats. 1935.)

CHAPTER 6. HIGHWAY PROCEEDINGS AFFECTING PRIVATE PROPERTY.

(Heading added by Ch. 689, Stats. 1935.)

Article 1. Change of Grade.

(Heading added by Ch. 689, Stats. 1935.)

Change of State highway grade in cities.

Resolution of intention

854. Whenever the commission shall deem it expedient to alter the established grade of any State highway, or portion thereof, within a city, the commission shall by resolution declare its intention to alter such established grade, in which resolution must be briefly specified the grade to be established, together with a reference to a place where a profile map or maps showing the new grade and the old may be examined, and a place in the city where objections may be presented. A copy of such profile map or maps shall be furnished to the governing body having jurisdiction of any highway intersecting or intercepting any affected portion of the State highway.

(Added by Ch. 689, Stats. 1935.)

Notice.

855. Notice of such proposed change of grade shall be given by posting and publication of such resolution. Publication shall be made at least once a week for two consecutive weeks in a newspaper of general circulation published in the city in which the portion of State highway affected is located, or if there is no newspaper in such city, then in a newspaper of general circulation published in the county. If there is no newspaper in either the city or county, notice by posting is sufficient. Notice by posting shall be given by posting copies of the resolution, indicating thereon the date of the first publication thereof, if any, in conspicuous places along the portion of the highway affected at intervals of not to exceed 200 feet, and in the event such highway is intersected or intercepted by other highways at least two of such notices shall be posted in each block. In no event shall less than three copies of the notice be posted. Postings shall be made within five days of the date of the first publication, if any. Within five days after the same is posted, a copy of such notice shall be furnished to the governing body having jurisdiction of any such intersecting or intercepting highway.

(Added by Ch. 689, Stats. 1935.)

Objections

856. Within sixty days after the completion of posting, any person may make and file at the place specified in said resolution his written objection to such proposed change in grade, setting forth the amount in which he claims that his interest in any real property will be damaged if such change be completed. Such objections may be filed by mailing them by registered mail, return receipt requested, or by personal delivery to the address specified in the notice as the place for presenting objections.

Any person failing to file such written objection within such sixty day period waives his right to compensation for any damage to his property by such change of grade.

(Added by Ch. 689, Stats. 1935.)

Change of official grade

857. After the expiration of such sixty day period, the commission may by resolution officially change and reestablish the official grade of said highway in accordance with such resolution of intention.

(Added by Ch. 689, Stats. 1935.)

Change of physical grade.

858. The department shall not make any change in the physical grade of said highway affecting any property as to which an objection has been filed until it has been finally determined by a court of competent jurisdiction that the objection filed is without merit or until compensation shall have first been made to, or paid into court for, each person filing an objection, as required by section 14 of Article I of the Constitution of California.

(Added by Ch. 689, Stats. 1935.)

Intersecting and intercepting highways.

859. In the event that such changed grade of a State highway fails to meet the grade of any intersecting or intercepting highway, the department is authorized and directed, at the same time, to do such work as is necessary in order to cause such intersecting or intercepting highway to meet the State highway at grade and to restore it to its previous condition of surface, as near as may be. The procedure set forth in this article for the change of grade of the State highway in a city may be followed as to the portion of such intersecting or intercepting highway, the grade of which is changed. In lieu of, or in addition to, the above procedure mentioned in this section, the department and the governing body having jurisdiction over any such intersecting or intercepting highway may enter into a cooperative agreement in respect to the doing of any work authorized by this article, or the taking of any action in respect to such intersecting or intercepting highway as may be authorized by law.

Cooperative agreement.

(Added by Ch. 689, Stats. 1935.)

Article 2. Establishment of Boundaries.

(Heading added by Ch. 689, Stats. 1935.)

Establishment of boundaries.

862. The department may proceed as provided in this article to establish the boundaries of any State highway right of way where such boundaries are unknown or uncertain.

(Added by Ch. 689, Stats. 1935.)

863. A right of way map shall be filed as provided in section 128, showing such boundaries as are claimed by the State. Such map shall delineate such boundaries to be established with sufficient detail to enable the lines to be located on the ground by survey. Right of way map.

(Added by Ch. 689, Stats. 1935.)

864. After filing such map, the department shall publish a notice at least once in a newspaper of general circulation published in the county wherein the unknown or uncertain boundaries are located. Such notice shall contain: Notice.

(a) A statement that proceedings are being taken under this article of this code for the establishment of the boundaries of a certain section of highway, describing such section briefly.

(b) A reference to the said recorded map, by number, or map book and page, for definite information as to said boundaries.

(c) An address within the county at which objections in writing to such boundaries may be filed.

(d) A statement that failure to file such objection within six months from the date of publication of notice constitutes a waiver of any owner's rights to object to the boundaries so established.

(Added by Ch. 689, Stats. 1935.)

865. Within fifteen days from the publication of such notice, the department shall post signs along and approximately on the boundaries delineated on such map in conspicuous places and at intervals of not more than one-fourth of a mile, and in no event no less than three signs. Such signs shall bear in letters at least one inch high the words "Highway Line" and in smaller print shall state: "Highway line" signs

(a) All the information required in the notice provided for in section 864.

(b) The date of the publication of such notice.

(Added by Ch. 689, Stats. 1935.)

866. The department shall restore any such signs which have been destroyed or become illegible in the third month after the first posting. Restoration of signs

(Added by Ch. 689, Stats. 1935.)

867. Any owner of property abutting on any highway, the boundary of which is so proposed to be established, who disputes the correctness of the highway boundary claimed and so proposed to be established, must file his written objection at the place specified in said notice within six months of the date of publication of notice, specifying in what respect and to what extent the proposed boundary, as it affects his property, is erroneous. Objections.

(Added by Ch. 689, Stats. 1935.)

868. Any owner who fails to file such objection within such six months period waives his right to object and is conclusively presumed to have agreed to the boundary delineated Waiver of objections

on the map and the same becomes, as to his property, the agreed and established boundary of such highway.

(Added by Ch. 689, Stats. 1935.)

Court determination of objections

869. If an objection is filed the department shall not perform any work on the property claimed by the objector until it has been finally determined by a court of competent jurisdiction that the objection filed is without merit or until compensation shall have first been made to, or paid into court for, the person filing the objection, as required by section 14 of Article I of the Constitution of California. This section shall not apply in so far as any objector may make claim to a part of the established traveled way.

(Added by Ch. 689, Stats. 1935.)

Procedure applicable only to highway easements.

870. The proceedings hereby authorized may be taken only to establish the boundary of a public easement for highway purposes, and it is not presumed that any nonobjecting owner has agreed to any greater interest than an easement in the public.

(Added by Ch. 689, Stats. 1935.)

Article 3. Procedure.

(Heading added by Ch. 689, Stats. 1935.)

Procedure not exclusive

875. The procedure provided in this chapter is not exclusive and shall not prohibit the department from proceeding in any other manner authorized by law.

(Added by Ch. 689, Stats. 1935.)

Public rights not waived.

876. Nothing in this chapter shall be construed as a waiver of any right heretofore acquired by the public for highway purposes and no proceeding authorized in this chapter shall constitute a waiver of any statute of limitations.

(Added by Ch. 689, Stats. 1935.)

DIVISION II. COUNTY HIGHWAYS.

Chapter 1. General Provisions.

Construction of provisions

900. The authority conferred upon boards of supervisors by this division shall be exercised subject to such limitations and restrictions as are prescribed by this division or by other provisions of law, shall be in addition to any authority elsewhere conferred, and, except as otherwise expressly provided, shall be exercised only in relation to highways within their respective counties.

County highways continue until abandoned

901 All county highways, once established, shall continue to be county highways until abandoned by order of the board of supervisors of the county in which such highways are situated, by operation of law, or by judgment of a court of competent jurisdiction. No county highway laid out by the board of supervisors as provided in this division, or used and worked as provided in this division, shall be abandoned or

cease to be a county highway except as prescribed in this section.

902. Except as otherwise provided by law, any toll trail, toll road or toll bridge, for which the franchise has expired by limitation or nonuser, becomes a free county highway. No claim shall be valid against the county for the right of way, or for the land or material comprising such toll trail, toll road or toll bridge. Franchise expiration

903. After one year from the making of an order by a board of supervisors pursuant to this division, opening a highway over any land, the county acquires title to the highway. Title in county.

904. No route of travel used by one or more persons over another's land shall become a county highway by use. No highway by user.

905. By taking or accepting land for a county highway, the public acquires only the right of way and the incidents necessary to enjoy and maintain the same, subject to the regulations provided in this and the Civil Code. Public right of way

906. The width of all county highways, other than bridges, alleys, lanes, and trails, shall be at least forty feet, except as provided by section 969. This section shall not increase or diminish the width of any county highway established or used as such prior to January 1, 1873. Width of county highways

907. Any owner or occupant of land may construct a sidewalk on the county highway along the line of his land, subject to the authority conferred by law on the board of supervisors and the county road commissioners. Any person using such sidewalk, other than as a pedestrian, without permission of the owner or occupant, is liable to such owner or occupant in the sum of five dollars for each trespass, and for all damages caused by such usage. Sidewalks

908. The clerk of the board of supervisors shall include in the minutes of the board all its proceedings relative to each road district or county highway, including orders for laying out, altering, and opening highways. The clerk shall also keep a road register in which he shall enter: County highway records.

(a) The number and name of each county highway.

(b) A general reference to its terminal points and course.

(c) The date of the filing of the petition or other papers.

(d) A memorandum of every subsequent proceeding in reference to such highway, with the date of such proceeding, and the page and volume of the minute book where it is recorded.

909. No agreement entered into by the board of supervisors for the purchase, hire or rental of any apparatus used in the construction, improvement or maintenance of highways shall create a charge against the county, unless: Apparatus contracts

(a) Such agreement is in writing.

(b) Such writing is signed by at least three members of the board of supervisors.

(c) A copy of such writing is certified by and filed with the county clerk.

All such writings and copies are public documents.

CHAPTER 2. POWERS AND DUTIES OF BOARDS OF SUPERVISORS.

General supervision.

940. Boards of supervisors shall have general supervision, management, and control of the county highways.

941. Boards of supervisors shall by proper order cause those highways which are necessary to public convenience to be established, recorded, constructed, and maintained in the manner provided in this division.

Ordinances and regulations.

942. Such boards may enact and enforce ordinances and regulations for the construction, improvement or maintenance of county highways, and for the protection, supervision, management, control, or use of such highways.

943. Such boards may:

Powers and duties of supervisors

(a) Acquire any real property or interest therein for the uses and purposes of county highways. When eminent domain proceedings are necessary, the board shall require the district attorney to institute such proceedings. The expense of and award in such proceedings may be paid from the general road fund or the general fund of the county, or the road fund of any district benefited.

(b) Lay out, construct, improve, and maintain county highways.

(c) Incur a bonded indebtedness for any of such purposes, subject to the provisions of section 944.

Bonded indebtedness.

944. No bonded indebtedness shall be incurred for any purpose specified in section 943 until after the question of the issue of bonds therefor has been submitted to the qualified electors of the county, at the next general election or at a special election called for that purpose, and two-thirds of the electors of the county voting at such election have voted in favor of issuing such bonds. The election shall be called and held and the bonds, if authorized, shall be issued, sold, and made payable as prescribed by law.

Special assessments on county property.

945. Such boards may expend from the county general fund the moneys necessary to pay the whole or any part of the cost of the improvement of any highway lying within any city in the county, whenever any real property belonging to the county and used for public purposes is included within the assessment district formed to pay for any such improvement. Such expenditures shall not exceed the amount which, but for such public ownership and use, would be properly chargeable to and assessed against such real property under the provisions of the law governing such improvement.

Board determines expenditure.

946. No liability shall be created against the county in connection with any such improvement conducted by a city unless the board, by resolution, determines and declares the amount to be expended and directs that such sum be set apart and reserved out of any moneys available for such purpose in the general fund of the county, to be used exclusively for paying the expense of such improvement.

Right of way to evidence

947. Every instrument or judgment which constitutes evidence of title to a right of way, or incident thereto, in

relation to county highways shall particularly describe the lands included in such right of way or incident.

Same. Recordation.

948. The board of supervisors of each county shall cause to be recorded with the county recorder, in relation to every county highway within the county, proper evidences of title to every right of way, and all incidents thereto.

In cases of acquisitions by conveyance or condemnation, the property or incidents conveyed or condemned shall be particularly described in the instruments recorded.

Trees.

949. The board of supervisors may plant shade and ornamental trees on the county highways, and provide for their care. The cost of planting and caring for such trees may be paid from the county general fund.

The board may also encourage, under such regulations as it adopts, the planting and preservation of shade and ornamental trees on the county highways, and may pay a sum not exceeding one dollar to any person planting and cultivating a living tree, payment to be made when the tree is four years of age.

Sprinkling.

950. For the purpose of sprinkling county highways with oil or water, the board of supervisors may erect or maintain waterworks, tanks or reservoirs, and may purchase or lease real or personal property therefor.

The board may charge the cost of erecting or maintaining such waterworks, tanks or reservoirs and of such sprinkling to the county general fund, the general road fund, or the district fund of any district benefited.

Side paths.

951. (a) Such board may set apart on any county highway a strip of land for a side path, and make an order designating the width of such path, and cause the lines separating the path from the highway to be located and marked by stakes or posts, placed at such distances apart as the board considers proper.

Use restricted.

(b) After a path is set apart, and the lines separating it from the highway are located and marked, as provided in subdivision (a) of this section, the use of such path is restricted to pedestrians and riders of vehicles propelled solely by the power of the rider.

Expense.

(c) The board may charge the expense of erecting and maintaining such path to the county general fund, the general road fund, or the district fund of any district benefited.

Guideposts.

952. Such board shall cause properly inscribed guideposts to be erected and maintained at all county highway crossings and forks lying outside of any city.

Debris removal.

953. A board of supervisors may, acting separately or in conjunction with State or Federal agencies, or with another county, burn or remove debris, rubbish, brush, and grass from the county highways. When acting in conjunction with other agencies or counties, a board may so act outside its county.

Expense.

The expense incurred by a county, acting pursuant to this section, shall be paid out of any road fund of the county. When a county is acting in conjunction with another agency or county the share of the expense to be borne by each shall be arrived at by agreement.

Unnecessary highways

954. Except in the case of highways dedicated to the public by deed or by express dedication of the owner or acquired through eminent domain proceedings, all county highways which for a period of five consecutive years are impassable for vehicular travel, and on which during such period of time no public money is expended for maintenance, are unnecessary highways, subject to abandonment pursuant to sections 955 and 956. Any interested taxpayer of the county may petition the board of supervisors to abandon any such unnecessary highway.

Abandonment petition

Notice

955. Upon the filing of such petition the board shall by order fix a day for the hearing of the petition, and shall post notices conspicuously along the line of the highway proposed to be abandoned. Such notices shall be posted not less than five hundred feet apart, but at least three shall be posted. Such notices shall state the filing of such petition and the time and place of the hearing.

Hearing

956. The board shall, on the day fixed for the hearing, or on the day to which the hearing is postponed or continued, hear the petition and the evidence offered in support thereof. If the board finds from such evidence that all or some part of the highway is unnecessary within the meaning of section 954, the board shall make its order abandoning all or such part of the highway. The clerk shall cause a certified copy of such order, attested by the clerk under the seal of the board, to be recorded in the office of the county recorder.

Abandonment order

Freeholder petition to abandon

957. Any ten freeholders, two of whom are residents of the road district in which some part of the highway affected is situated, and are taxable therein for highway purposes, may petition the board to abandon all or any part of any county highway.

Notice

958. Upon the filing of such petition, the board shall by order fix a day for hearing the petition and shall give notice to all freeholders in the road district of the time and place fixed for the hearing. Such notice shall be given by publication in some newspaper published in the county and designated in the order by the board, for at least two successive weeks prior to the day fixed for the hearing. The board shall also conspicuously post a similar notice along the line of the highway proposed to be abandoned.

Hearing

959. The board shall, on the day fixed for the hearing, or on the day to which the hearing is postponed or continued, hear the evidence offered by any party interested. If the board finds, from all the evidence submitted, that any county highway described in the petition, or any part of such highway, is unnecessary for present or prospective public use, the board may make its order abandoning such highway, or part thereof.

Abandonment order

960. Upon the making of such order of abandonment, the public easement in the highway or part abandoned ceases and the title to the land previously subject thereto reverts to the respective owners thereof free from the public easement. The clerk shall cause a certified copy of such order attested by the

clerk under the seal of the board of supervisors to be recorded in the office of the county recorder.

961. Whenever a county highway is in danger of being damaged by storm waters or floods, the board shall take measures necessary to prevent such damage. The board of supervisors may, by ordinance, establish a district, and adopt a general plan of protection from storm waters and floods therein. Prevention of flood damage: District.

962. The board may cause a part or all of the road taxes collected in such district to be apportioned to a fund and expended to prevent such damage, and may also apportion to such fund and expend for such purpose an amount not exceeding ten per cent of the general road fund of the county. Use of road taxes.

963. To aid in the prevention of such damage, the board of supervisors may, at the time of levying taxes for general county purposes, levy a special tax not exceeding fifty cents on each one hundred dollars of the taxable property in the district as shown by the last assessment roll. The board shall not levy such special tax until the proposition to levy such tax is submitted to the qualified voters of the district and receives a majority of all the votes cast on said proposition. Special tax.

964. Whenever the board finds that any county highway has been damaged or is in danger of being damaged by storm waters or floods, the board shall adopt all measures necessary to repair or prevent such damage. The board may condemn the right of way for, and may construct, flumes, ditches or canals for the purpose of carrying off such storm waters or floods. Powers of board

The board may cause any expense incurred under this section to be paid out of the county general fund, or out of the funds of any road districts in which the highways are protected from damage or repaired by the work done. Expense

965. The board of supervisors shall, by order, direct the district attorney of the county to institute eminent domain proceedings, in the name of the county, whenever it is necessary to acquire real property or any interest therein to do any of the following things for the protection of a county highway: Eminent domain proceedings

(a) Raise the banks along any stream.

(b) Remove obstructions from any stream.

(c) Widen, change, deepen or straighten the channel of any stream.

(d) Construct flumes, ditches or canals, or make any improvements for the purpose of carrying off storm waters or floods.

966. (a) The board of supervisors may provide for the erection and maintenance of gates on the county highways to avoid the necessity of building highway fences. The board may prescribe rules and regulations for closing such gates, and penalties for violating such rules and regulations. Highway gates.

(b) The person, for whose immediate benefit the gates are erected or maintained, shall in all cases bear the expense of such erection and maintenance. Expense

Highway fences.

967. Whenever a right of way for a highway is conveyed to a county and the sole consideration for the conveyance is an agreement by the county to construct and maintain a highway on the right of way and to construct highway fences on the right of way boundaries, and thereafter such right of way becomes a county highway, the board of supervisors may, within five years from the date of such conveyance, construct highway fences along the boundaries of such right of way.

Same: Expense.

968. The board may cause the expense of constructing such fences to be charged to and paid from the county general fund, the general road fund of the county or the district fund of each district benefited, but not more than one-half of the expense may be paid from the county general fund.

Roads between towns or villages

969. Whenever a road is of general utility and of public convenience and constitutes the only or principal means of communication between one town or village and another town or village in the same county, the board of supervisors may determine, by a two-thirds vote of its membership, that the public convenience and necessity demand the acquisition and reconstruction of such road. Thereafter, by a resolution passed by a two-thirds vote of its membership, the board may determine to, and after such determination may proceed to, acquire and reconstruct such road although it is not of the width required by section 906. The board shall charge the expense of such acquisition and reconstruction to the county general fund, the general road fund of the county, or the district fund of each district benefited, or to any two or more of such funds in such proportions as the board considers just and equitable.

Resolution

Expense

Naming of highways

970. The owners of land along a county highway may petition the board of supervisors to have a name adopted and applied to the highway. The petition shall set forth the proposed name and a description of the highway to be named, and shall be signed by three-fourths of the owners of land on the highway. If the petition conforms to the provisions of this section, the board shall make an order in its minutes, officially designating the name of such highway. Thereafter the highway shall be known by the name thus designated.

Petition.

Exemptions.

This section shall not apply to any State highway or to any highway under the control or supervision of the department.

Board may name.

971. Any county highway which has not been officially named may be officially named by the board of supervisors upon motion of the board and without the presentation of any petition. Such naming shall be by an order duly made and entered in the minutes of the board. Thereafter the highway shall be known by the name thus designated.

Exemptions

This section shall not apply to any State highway or to any highway under the control or supervision of the department.

Use of highway by adjoining county.

972. A board of supervisors may, by ordinance, permit the use of any county highway which connects with a main county highway of an adjoining county, by the board of supervisors

or highway commissioners of such adjoining county for the purpose of constructing and maintaining thereon a highway serving the needs of residents of both counties.

Authority of using county.

973. The board of the county seeking the use, if it accepts the provisions of the ordinance adopted by the board of the county granting the use, may:

(a) Construct and maintain any such highway.

(b) Construct and maintain on such highway such bridges as it deems necessary.

(c) Improve such highway in such manner as it determines.

(d) Acquire real property or interests therein adjacent to such highway in an adjoining county for county purposes, and expend thereon such amounts as the board deems necessary for county purposes.

Expense.

974. The expense of any work done or acquisition made pursuant to section 973 shall be paid by the county to which the use is granted out of the county general fund, or such other fund of the county as the board designates or makes available.

Retransfer of highway.

975. The board of any county to which the use is granted, pursuant to the provisions of section 972, may, by mutual consent expressed through ordinances of the respective boards, retransfer the use, control, and maintenance of any highway, constructed under the provisions of sections 972 and 973, to the county originally granting the use.

Acquisition of property in adjoining county.

976. The board of supervisors of any county may purchase or lease with the consent of the owner, or may obtain by gift, and may hold, improve or maintain any real property or interest therein for the uses and purposes of county highways. Such real property or interest need not be within the boundaries of the county acquiring it, if it is convenient thereto in an adjoining county. In all such cases such property or interest is subject to the control of the county acquiring it and to the ordinances, rules, and regulations of such county.

Nothing in this section shall affect the power of any county to acquire property within its boundaries by proceedings in eminent domain in the manner prescribed by law.

Property needed for highways

977. The board of supervisors of any county desiring to act under section 976 may, by unanimous vote of its membership, determine what real property is necessary and proper for the uses and purposes of county highways. Any county thus desiring to purchase or lease with the consent of the owner, or to obtain, hold, improve or maintain, real property or an interest therein situated within an adjoining county shall first obtain the consent by resolution of the board of supervisors of the adjoining county.

Resolution of consent.

U. S grants to counties

978. Whenever the United States government grants real property to a county for highway uses and purposes, the county may take and dispose of such real property and the board of supervisors shall have, with regard to such real property, the powers of management, control and disposition provided by law for other county property.

Historical place markers

979. The board of supervisors shall keep in repair all objects or markers adjacent to a county highway which have

been erected to mark registered historical places and shall keep such markers free from all vegetation which may obscure them from view.

Classification of public highways

980. The board of supervisors shall cause to be prepared, either by the county surveyor or by the county planning commission or by some other qualified person selected by the board of supervisors, a classification of all publicly owned roads and highways, but not including State highways in the county. Such classification shall include mileage, character of improvement and traffic density. Such classification shall be corrected annually.

(Added by Ch. 641, Stats. 1935.)

Statement of county highway requirements

981. The board of supervisors shall annually cause to be prepared by the county surveyor or by such other qualified person a statement, setting forth requirements for new construction, reconstruction or maintenance of the county road system. This statement shall be based on requirements of the county as a whole. This statement shall be in numerically itemized form, and each item shall be inclusive of all expenses entering into the item, including labor, materials, equipment rental, costs of rights of way, damage and all other incidental items. This statement shall be made a part of the statement of new road and bridge construction and grade separation, required to be submitted by the county board of supervisors to the county auditor under the provisions of section 3714 of the Political Code.

Stats. 1929, p. 1129

(Added by Ch. 641, Stats. 1935.)

Highway closing for expositions or fairs

982. Except as provided in this section, the board of supervisors shall have power to temporarily close all or any part of any public highway, road, street, avenue, alley, lane or place and grant the possession and use thereof, together with the management and control thereof, to any person, firm or corporation operating, managing and controlling any exposition or fair in aid of which the granting of public moneys or other things of value has been authorized by the Constitution or laws of this State upon such terms and conditions, and for such periods of time, as the board of supervisors may determine, such possession, use, management and control to terminate not later than one year after the closing of such exposition or fair. As to State highways, the exercise of any power granted hereby shall be subject to the approval of the department.

State highways

(Added by Ch. 656, Stats. 1935.)

CHAPTER 3. ROAD DISTRICTS AND ROAD COMMISSIONERS.

Road districts

1020. The boards of supervisors shall divide their respective counties into suitable road districts, may change the boundaries thereof, and may create new districts. The board shall not include in such road district any city wherein street work and improvements are done by virtue of any law relating to street work and improvements within such city.

1021. Each supervisor shall be ex officio road commissioner in his supervisorial district, and shall see that all orders of the board of supervisors pertaining to the county highways in his district are properly executed. Road commissioners

1022. If the supervisors of any county are not elected by districts, for the purposes of this chapter the board, by an order entered in its records, shall: When no supervisorial districts

(a) Divide such county into supervisorial districts to correspond to the number of supervisors.

(b) Assign to each supervisor one of such districts, of which he shall be road commissioner.

1023. When not otherwise provided by law, each supervisor shall receive for his services as road commissioner twenty cents per mile, one way, for all distances actually traveled by him in the performance of his duties as road commissioner, but he shall not, in any one year, receive more than three hundred dollars for such duties. Compensation

1024. Each road commissioner, under the direction and supervision of the board of supervisors, shall: Duties of road commissioners

(a) Perform the duties required of him by law and by the ordinances and orders of the board of supervisors.

(b) Take charge of the county highways within his district, and keep them in good repair.

(c) Employ all men, teams, and equipment necessary in his district to do all highway work other than that let by contract. No road commissioner shall be interested, directly or indirectly, in any contract or work done in his road district.

(d) Keep the county highways in his district clear from obstructions, and destroy, at least once a year, all thistles, Mexican cockleburs, and noxious weeds, growing or being or any portion of such highways.

(e) Grade all banks, construct necessary bridges and causeways, keep such banks, bridges, and causeways in good repair, and renew them when they are destroyed.

1025. The board shall not allow any claim for labor performed in any road district unless the claim is accompanied by a report showing the nature of the labor, where it was performed, the number of animals used and the kind of equipment used If the labor was performed under the direction of a foreman or timekeeper, the foreman or timekeeper shall cover in his report all work performed under his direction, and in such case his report is sufficient to warrant the payment of all claims for labor so performed. Labor claims.

The board shall prescribe rules and blank forms, not inconsistent with law, for the making of the reports required by this section.

1026. Whenever the board of supervisors finds that any road district in such county is or will be unreasonably burdened by the expense of constructing or maintaining any county highway, or any bridge or tunnel connecting or forming a part of such highway, or by the expense of the purchase of any toll roads, the board may: County aid to road districts

Purposes and source of aid.

(a) Order the whole or any portion of the aggregate expense to be paid out of the general road fund of the county.

(b) By a majority vote of the board's membership, order the whole or any portion of the expense of construction or repair of such bridges or tunnels, or a portion of the expense of the purchase of such toll-roads, to be paid out of the county general fund.

(c) By unanimous vote of the board's membership, order the whole or any portion of the expense of material for highway construction to be paid out of the county general fund.

(d) By a four-fifths vote of the board's membership, order to be paid out of the county general fund or the general road fund, or both, the whole or any portion of the expense of constructing, reconstructing or repairing any bridges or highways destroyed or damaged by storms, floods or calamities.

Removal of fences.

1027. When the alteration of an old or the opening of a new county highway necessitates the removal of fences on real property acquired for highway purposes, the road commissioner shall serve upon the owner, his occupant or his agent, a notice to remove the fences, or in lieu of such service may post such notice on the fences which are to be removed.

If, within ten days after such service or posting, the removal is not completed, or is not commenced and then being prosecuted with due diligence, the road commissioner may cause the fence to be carefully removed at the expense of the owner, and may recover judgment of him for the cost of such removal. The road commissioner may sell the fence material and apply the proceeds toward the satisfaction of the judgment.

Special board meetings for road matters.

1028. The board of supervisors may call, semiannually, a special meeting of the board which the road commissioners shall attend on the days set apart by the board for their respective districts. At such special meetings the board shall hear highway and bridge reports and complaints from officers and citizens, and shall take such action regarding the reports and complaints as the public welfare demands.

Appointment of road commissioner.

Consolidation of road districts.

1029. The board of supervisors of any county at their option may appoint the county surveyor or other person qualified in road construction to act as road commissioner of and for any or all road districts in the county. The board of supervisors may consolidate the existing road districts into one road district which shall comprise all of the territory lying within the county excepting incorporated areas. The duties of the road commissioner shall be those outlined in sections 1021 and 1024 of this code.

Effect.

In counties having such a road commissioner, he shall perform the duties prescribed in section 980 and 981 of this code. In the event that such road district consolidation is effected, it shall be without prejudice to the legal requirement that all supervisorial road district taxes collected in any one such district shall be expended in that district.

(Added by Ch. 641, Stats. 1935.)

1030. The board of supervisors shall fix the salary or compensation of such a road commissioner, and may appoint such deputies, assistants and employees as such road commissioner shall nominate, at salaries or rates of compensation to be fixed by the board of supervisors. Such road commissioner shall file with the county clerk a bond with sufficient sureties in such sum as may be required by the board of supervisors for the faithful and proper discharge of his duties as such road commissioner.

Road commissioner. Salary.

Bond

(Added by Ch. 641, Stats. 1935.)

CHAPTER 4. METHODS OF PERFORMING HIGHWAY WORK.

Article 1. By Boards of Supervisors.

1070. Whenever a board of supervisors, by a four-fifths vote of its membership, determines that the public convenience and necessity demand the acquisition or construction of a new county highway or the improvement, repair or maintenance of any existing county highway, and that the expense of such new highway or the expense of improving, repairing or maintaining such existing highway is too great to pay out of the road fund of the district, the board may, by a resolution passed by a four-fifths vote of its membership, determine to make such acquisition or do such work, and charge the expense thereof to the county general fund, the general road fund of the county or the district fund of any district benefited.

Highway work.

Expense

1071. Whenever the board of supervisors finds that the estimated expense of any necessary work upon any county highway exceeds the sum of two thousand dollars, the board shall order definite surveys of the proposed work to be made and shall direct the preparation of profiles, cross-sections, plans, and specifications.

Work exceeding $2,000.

1072. Upon receipt of such profiles, cross-sections, plans, and specifications, the board shall publish a notice calling for sealed bids for the performance of the work specified. The notice shall refer to said profiles, cross-sections, plans, and specifications, and shall set a time at which bids will be opened. The board shall cause this notice to be published for at least ten consecutive times, prior to the date set for opening bids, in a daily newspaper of general circulation printed and published in the county and designated by the board, or for at least two consecutive times prior to such date in a weekly newspaper printed and published in the county and designated by the board.

Calling for bids.

1073. At the time specified in the notice, the board shall publicly open all bids received and shall award the contract for the work to the lowest responsible bidder, unless the board finds that the bids are too high, and that the work can be done more cheaply by day labor. In such case the board shall reject the bids and order the work to be done by the road commissioners in whose districts the work is situated. In any case the board may reject all bids and advertise for new bids in the manner specified in this article.

Award of contract.

Rejection of bids.

Work not exceeding $2,000.

1074. Whenever the board finds that the estimated expense of any work to be done upon any county highway is two thousand dollars or less, the board may let a contract for such work without calling for bids, or may purchase the materials and do the work by day labor.

County having road engineer

1075. In any county employing a competent engineer as road commissioner, the board may have any work upon county highways done under the supervision and direction of such engineer. Such work may be done:

(a) By letting a contract covering both work and material. In such event the contract shall be let to the lowest responsible bidder as provided in this article.

(b) By purchasing the material and letting a contract for the doing of the work.

(c) By purchasing the material and having the work done by day labor.

Article 2. By Road Viewers.

Petition

1100. Any ten freeholders who will be accommodated by the highway, two of whom are residents of the road district in which any part of the highway is situated and are taxable therein for highway purposes, may petition the board of supervisors to alter or construct a county highway.

Highway on county boundary

1101. When a petition asks for a county highway upon the dividing line between two counties, the same course shall be pursued as in other cases, except that the petitioners shall file a copy of the petition with the board of supervisors of each county. Each board shall appoint viewers who shall act jointly, and report their action to their respective boards.

Petition contents

1102. The petition shall set forth the general route of the highway to be altered or constructed, and, if known, the names of the persons over whose land the highway is to run. If such names are not known the petition shall state that fact.

Bond

1103. The petitioners shall accompany the petition with a good and sufficient bond, approved by the board of supervisors, in double the amount of the probable cost of the viewing, surveying, and laying out of the proposed alteration or construction. The bond shall be conditioned that the bondsmen will pay all the costs of viewing and surveying in case the petition is not granted

Viewers

1104. Upon the filing of such petition and bond, the board may appoint three viewers, one of whom shall be a surveyor. The viewers shall view, survey, and lay out the proposed alteration or construction, and shall submit to the board an estimate of the expense thereof, including the purchase of any right of way, and their opinion of the necessity of such alteration, construction or purchase of right of way.

Same Qualifications and duties

1105. The road viewers shall be disinterested citizens of the county and shall not be signatories to the petition. They shall be sworn to discharge their duties faithfully. They shall view, survey, and lay out the proposed alterations or new highway over the most practicable route, and in the performance of this

duty they shall make the proposed alterations or new highway over the same lands mentioned in the petition, but are not confined to any particular route indicated therein. The viewers shall give notice of the proposed route to the resident owner, or the agent of the owner, of the land over which it passes.

Notice of route.

1106. A majority of the viewers, if one of that majority is a surveyor, shall be competent to act in all matters pertaining to their duties.

Majority may act

1107. In making the order appointing viewers, the board may direct the viewers to view the proposed alteration or construction and, if the viewers believe it is impracticable, to discontinue further proceedings in the matter, and report accordingly.

Report of impracticability

1108. The viewers, other than the surveyor member, shall receive compensation for their services at a rate per diem, fixed by the board, but not to exceed six dollars. The surveyor member shall receive a compensation per diem fixed by the board, but not to exceed ten dollars, for the time occupied in viewing, surveying, and mapping the highway and making the plat and field notes, which he shall file before he receives his compensation.

Compensation of viewers.

The board shall cause the compensation provided by this section to be paid from the road fund of any district through which the highway passes.

1109. When the view and survey of the proposed alteration or new highway is completed, the viewers shall file with the board of supervisors a report showing:

Report.

(a) The course, termini, length, and probable cost of the proposed alteration or new highway.

(b) The estimate of damage to the owner of any land over which it is proposed to run the highway.

(c) The names of landowners who consent to give the right of way, with their written consent attached.

(d) The names of landowners who do not consent, and the amount of damage claimed by each. When there are landowners not resident in the county, and there is no agent on the land upon whom notice can be served, such nonresident landowners shall be considered as nonconsenting landowners unless their written consent is attached to the report.

(e) Such other facts bearing upon the subject as the board should know.

(f) They may, or upon the order of the board they must:

(1) Report upon the feasibility and cost of any route over the same lands mentioned in the petition, other than the route petitioned for, which will subserve the same purposes.

(2) Report as to the necessity of a greater or the practicability of a less width of highway than that requested in the petition.

1110. The board of supervisors shall, the first time it is in session after the filing of the viewers' report, fix a day for

Hearing date.

hearing the report, and shall give notice to the nonconsenting landowners of the time and place of such hearing.

Notice.

1111. The board shall give such notice by publication for at least two successive weeks before such hearing in a newspaper published in the county and designated by the board. If there is no newspaper published in the county, the board shall post the notices at least two weeks before such hearing, one at a conspicuous place on the land over which the highway is to run and one at the court house.

Same: Contents.

1112. Such notice shall contain:

(a) A description of the highway to be altered or constructed.

(b) A description of all land over which the highway is to run.

(c) The names of the landowners of such land when known, and if not known, a statement of that fact.

Hearing

1113. The board, on the day fixed for the hearing or to which it is postponed or continued, shall:

(a) Hear the evidence offered by parties interested for or against the proposed alterations or new highway.

(b) Ascertain and by order declare the amount of damage awarded to each nonconsenting landowner, whether his name is known or unknown, over whose land the board orders the alteration or new highway to pass.

(c) Declare the report of the viewers to be approved or rejected, in whole or in part.

Award of damages.

1114. Upon making any order establishing the alteration or location of any highway, the board shall order the amount of damages, as finally fixed and assessed by the board, to be set apart in the county treasury out of the road fund of the proper district. The board shall cause such amounts to be paid to the proper owner or claimant if known, and to be kept for the proper claimant or owner if unknown, and to be paid to such owner or claimant upon his showing or establishing a right or title to the lands or improvements affected by such order.

Contributions.

1115. Any person interested in the highway may place in the proper fund in the county treasury the whole or any part of the amount necessary to meet the demands made upon such fund by such order of the board. Any money placed or set apart, as provided in this section or section 1114, shall be returned to the persons from whom it was received or the fund from which it was set apart, if not paid to or accepted by the proper owner or claimant.

Reimbursement.

Rejection of award.

1116. If any award of damages is not accepted within ten days of the date of the award, it shall be deemed rejected by the nonconsenting landowner. To procure the right of way, the board shall by order direct the district attorney to institute proceedings in eminent domain against all nonconsenting landowners who do not accept the award within the time provided by this section.

Eminent domain.

County highway declared.

1117. The board shall, by order, declare the highway a county highway and open to the public whenever:

(a) The viewers' report is approved by the board and there are no nonconsenting landowners.

(b) The awards of damages to all nonconsenting landowners are accepted.

(c) The right of way is procured by eminent domain over the land of nonconsenting landowners who have not accepted the awards.

Regularity of board's procedure.

1118. No informality in the procedure of the board shall vitiate the eminent domain proceedings, but the order of the board directing the district attorney to institute proceedings in eminent domain shall be conclusive proof of the regularity of the board's procedure prior to such order. The court or jury in the eminent domain proceedings shall determine all matters involved in such proceedings except the regularity of the board's procedure prior to such order.

Payment from road district fund

1119. The board shall order to be paid out of the road fund of the proper district all awards of damages, whether ascertained by the board or by the proper court in eminent domain, and all expense of viewing, surveying, laying out, constructing or altering any county highway, except the following:

Exceptions

(a) Any portion of the awards or expenses which are paid by interested parties on the order of the board.

(b) Any portion of the awards or expenses which the board, by a two-thirds vote of its membership, orders to be paid from the general road fund of the county, after the board finds the road district will be unreasonably burdened by the payment of all awards and expenses. Not to exceed ten per cent of the general road fund may be devoted to such purposes in any one fiscal year.

Limitation.

Expense apportionment

1120. If the highway lies in more than one district, the board shall apportion the burden of all awards and expense between the road funds of such districts according to the mileage of such highway in each district. If money for awards or expenses, or both, is paid out by any interested person, the amount of such payment may be credited, at the discretion of the board, to the fund of any district in which the highway lies or to the general road fund.

Railroad crossings

1121. Whenever the petition provided by section 1102 shows that the general route of the highway to be altered or constructed crosses the track or right of way of any railroad or street railroad, the county clerk of the county wherein the petition is filed shall immediately, upon the appointment of viewers by the board, transmit to the Railroad Commission a certified copy of the petition and of the order appointing viewers.

Hearing by Railroad Commission

1122. Upon receipt of such certified copy of the petition and of the order appointing viewers, the Railroad Commission shall fix a day for the hearing of the petition. Such hearing shall be held at the rooms of the board of supervisors. The commission shall give notice of the time and place of such hearing to the viewers, to the clerk of the board of supervisors and to the district attorney of the county wherein the petition is filed,

and to the resident owner or agent of the owner of the railroad or street railroad over whose tracks or right of way the highway is to cross.

Same Determination and report to supervisors

1123. At the hearing the Railroad Commission shall hear the evidence offered as to the proposed highway across such track or right of way. The Railroad Commission shall determine whether the highway will, if constructed, be constructed across the track or right of way at grade or otherwise, and shall determine and prescribe the manner of constructing such crossing, including the particular point at which the crossing is to be constructed, and the terms of installation, operation and maintenance, use and protection of the crossing. The Railroad Commission shall report its determinations to the board of supervisors.

Final hearing by supervisors Date and notice.

1124. The board of supervisors shall by order fix a day for hearing the viewers' report and the determinations of the Railroad Commission, both of which shall be heard on the same day. The board shall give notice of the hearing in all respects as prescribed by sections 1111 and 1112, and, in addition to such notice, the county clerk shall notify the Railroad Commission of the time and place of the hearing.

Same Determination

1125 At such hearing the board shall first consider the determinations of the Railroad Commission, and if they are rejected, there shall be no further proceedings in the matter If the determinations are approved, the board shall proceed in the manner provided by this article to act upon the viewers' report. The board shall have no power to change or modify the determinations of the Railroad Commission except by and with the consent of that commission.

Canals or ditches: Crossings

1126 Whenever county highways are laid out to cross canals or ditches on public lands, the owners or persons using such canals or ditches shall, at their own expense, prepare their canals or ditches so that the users of the county highway may pass over such canals or ditches without danger or delay.

Crossing condemnation

1127. Whenever the right of way for a county highway is obtained through the judgment of any court across any railroad, canal or ditch, no damages shall be awarded for the simple right to cross such railroad, canal or ditch

Article 3. By Permanent Road Divisions.

Definitions

1160. As used in this article:

(a) "Division" means permanent road division.

(b) "Last equalized assessment roll" means the last assessment roll made up by the county assessor, including the changes ordered by the board of supervisors sitting as a board of equalization.

Permanent road division.

1161. Any portion of a county, not already contained in a division, may be formed into a division under the provisions of this article. When formed, each division shall have the powers enumerated in this article For the purpose of this article, a city is not a division, but may be included in a division.

Same
Petition for formation

1162. A petition for the formation of a division may be presented to the board of supervisors of the county wherein the division is proposed to be formed. The petition shall contain:

(a) The name of the proposed division.

(b) The signatures of at least a majority of the landowners residing within the proposed division.

(c) The boundaries of the proposed division.

(d) The number of acres therein and the assessed valuation of such acreage according to the last equalized assessment roll of the county.

(e) The value of the improvements on real estate and of the personal property within the proposed division according to the last equalized assessment roll.

(f) The number of inhabitants therein, as nearly as can be ascertained.

(g) A particular description of the location of any highway which it is desired to construct or improve and a statement showing the necessity for such work.

Affidavit

1163. Such petition shall be accompanied by an affidavit stating that affiant has compared the valuations given in the petition with those on the last equalized assessment roll and that such valuations are complete and correct. The affiant shall be a person over the age of eighteen who is not a signatory to the petition and who owns no taxable property in the division.

Notice of hearing

1164. Such petition shall be published in the manner authorized by section 1196, together with a notice stating the time of the meeting at which the board will consider the petition. The board shall determine such time, which shall not be more than ten days after the last publication of the petition and notice.

Hearing

1165. Such petition shall be presented either at a regular meeting of the board or at a special meeting called to receive and consider it. On the day stated in the notice the board shall hear the petition and may adjourn such hearing from time to time, but not longer than one month in all.

Boundary changes

Notice of territory inclusion

1166. On the final hearing the board may make such changes in the boundaries of the proposed division as the board finds proper and shall define and establish such boundaries. Such changes shall not include any territory outside of the boundaries described in the petition unless the board has given at least fifteen days' notice of its intention to include such territory in such division Such notice shall be given by publication, in the manner authorized by section 1196, and by leaving a copy of the notice at each place of abode in such outside territory

Boundaries

1167 The boundaries established by the board shall be the boundaries of the division until such boundaries are changed in the manner provided in this article.

Correction of boundary description

1168 If the board finds that the boundaries thus established for such division are incorrectly described, it shall direct the county surveyor to ascertain and report a correct

description of the boundaries in conformity with the orders of the board. At the first regular meeting of the board after the filing of the county surveyor's report, the board shall cause to be published, in the manner authorized by section 1196, a notice that the report will be considered at the next regular meeting of the board, stating the day. At the appointed meeting the board shall ratify the report of the surveyor, with such modifications as the board considers necessary. The boundaries established pursuant to this section shall be the legal boundaries of the division.

Petition for highway work.

1169. At, or at any time after, the time of forming a division, any ten or more resident freeholders thereof may petition the board to have plans prepared for the construction or improvement of all or any part of any highway lying within the division, whether or not such highway is mentioned in the petition for the formation of the division

Same: Contents

1170. Such petition for construction or improvement shall state:

(a) The recommendations of the petitioners as to the materials to be used and the manner of constructing or improving such highway.

(b) An estimate of the probable expense of such work.

(c) A request that the board appropriate for such work a specified sum of money from the general road fund of the county.

(d) A request that the board appropriate for such work a specified sum of money from the road district funds of the road districts in which any part of the division is located.

(e) A request that, in order to raise the balance necessary for such work, a special tax be levied or bonds of the division be issued.

Estimates, plans and specifications.

1171. Upon receiving such petition the board shall cause to be prepared estimates, plans, and specifications for the work mentioned in the petition, and for any other highway or work which the board considers a necessary part of the highway mentioned in the petition.

Expense apportionment.

1172. When it has adopted plans and specifications for such work, the board may set apart therefor from the general road fund of the county, and from the funds of any district of which the division is a part, such sums as the board considers equitable.

Limitation

The board shall not set apart from the funds of any such district less than seventy-five per cent of the sum which bears the same ratio to the whole fund of the particular district as the assessed valuation of that part of the division lying in the district bears to the whole assessed valuation of the district The board may set apart more than this percentage.

"Permanent road fund."

The board shall cause these sums to be set apart in a fund known as the "permanent road fund of _____ division," specifying the division by name.

Petition for special tax.

1173. When a special tax is petitioned for, the board shall immediately order an election within the division to deter-

mine whether such tax will be levied. The board may submit to the electors at such election the question whether the balance of the estimated cost of the proposed work will be raised by a special tax in one year or spread equally over two, three, four, five or six successive years.

Calling tax election

1174. The board shall call such election by posting notices in the manner provided in section 1195, and by publishing notice of the election in the manner authorized by section 1196.

Notice

1175. Such notice of election shall contain:

(a) The time and place of holding the election.

(b) The amount of money proposed to be raised.

(c) The purpose for which such money is to be used, including a brief description of the proposed work and materials to be used.

(d) Whether it is proposed to raise the amount in one or more years, stating the number of years and the amount to be raised each year.

Conduct of election

1176. For the purposes of this election, the board shall establish, by order, one or more precincts and appoint three judges for each precinct to conduct the election. The election shall be conducted as nearly as practicable in conformity with the general election laws, but no particular form of ballot need be used. The ballots shall contain the words "Tax—Yes" and "Tax—No". No informality in conducting the election shall invalidate the election if it was otherwise fairly conducted.

Results

1177. The officers of the election shall certify the result of the election to the board, giving the whole number of votes cast, and the number for and the number against the tax. If the majority is against the tax, the money transferred to the fund of such division shall revert to the funds from which it was taken.

Special tax Rate and levy

1178. If the majority of the votes cast is for the tax, the board shall, at the time of levying the county taxes, levy a tax upon all the taxable property in the division sufficient to raise the amount voted for the current fiscal year. The board shall ascertain the rate of taxation by deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the division as it appears on the last equalized assessment roll of the county and then dividing the sum voted by the remainder of such aggregate assessed value.

Same: Collection and deposit.

1179. The tax so levied shall be computed and collected in the same manner as county taxes, and when collected shall be paid into the county treasury for the use of the division in which the tax is voted.

Petition for bonds

1180. If the petition proposing the work asks for the issuance of bonds of the division, the board shall call an election in such division and submit to the electors thereof the question whether the bonds of the division shall be issued. The board shall call such election by posting notices in the manner

Calling election.

provided in section 1195 and by publishing notice thereof in the manner provided in section 1196.

Notice

1181. Such notice of election shall contain:

(a) The time and place of holding the election.

(b) The boundaries of the election districts. No election precinct shall be partly in each of two or more of such districts.

(c) The names of three judges for each election district, to conduct the election.

(d) The hours, which shall not be less than eight, during which the polls will be open.

(e) The amount and denomination of the bonds, the rate of interest, and the greatest number of years for which the last-maturing bonds will run.

(f) The purpose for which the proceeds of the bonds are to be used, including a brief description of the proposed work and the materials to be used.

(g) The signature of the chairman of the board, attested by the county clerk.

Conduct of election.

1182. The election shall be conducted as nearly as practicable in accordance with the general election laws, but no particular form of ballot need be used. No informality in conducting the election shall invalidate the election if it was otherwise fairly conducted. At such elections the ballots shall contain the words "Bond—Yes" and "Bond—No."

Results

1183. The officers of the election shall certify the result of the election to the board, giving the whole number of votes cast and the number for and the number against the bonds. If two-thirds of those voting on the proposition are in favor of issuing the bonds, the board shall cause an entry of that fact to be made upon the minutes of the board.

Bonds

1184. The board may then issue the bonds of the division to the number and amount provided for in the election proceedings. The bonds shall be payable out of the funds of the division, and the money for the redemption of and the interest on the bonds shall be raised by taxation upon the property in the division. The total amount of bonds so issued shall not exceed fifteen per cent of the taxable property of the division as shown by the last equalized assessment roll of the county.

Limitation

Bonds' Terms.

1185. The board, by an order entered upon its minutes, shall prescribe:

(a) The form of the bonds and of the interest coupons attached thereto.

(b) The time when the several bonds shall become due, not exceeding forty years from the date thereof.

(c) The rate of interest the bonds shall bear, not exceeding seven per cent per annum.

Same Formalities and sale

1186 The interest on such bonds shall be payable annually. Each bond and each coupon shall bear the signature or facsimile printed signature of the chairman of the board and of the county clerk. The county treasurer shall, after reasonable

notice, sell the bonds to the highest and best bidder, but not for less than par plus any accrued interest.

Money reverts

1187. If, at the election on the question of whether or not bonds are to be issued, the bonds are not authorized, the money transferred to the fund of the division shall revert to the funds from which it was taken.

Highway work Formalities

1188. The board shall cause the highway work, provided for in this article, to be done in accordance with the provisions of sections 1071 to 1075, inclusive, except that the notice calling for bids shall be published in a newspaper published in the division if there is such a newspaper. The successful bidder shall give a bond in such sum as the board requires, conditioned on the faithful performance of the contract, and on the payment of all labor employed and material used in the work. The bondsmen shall be jointly and severally liable for the payment of all such labor employed and material used.

Bond

Inspectors. Compensation

1189. Before opening the bids for doing any work provided for in this article, the board may appoint such inspectors as it considers necessary and fix their compensation, or may proceed as provided in either section 1075 or section 1191. Such compensation shall be paid out of the funds of the division. Such inspectors shall:

Duties

(a) Inspect from time to time the work being done under the contract.

(b) File with the board at least once a month reports on the manner in which the contractor is performing the work, setting forth in detail any objections they or any of them have to the manner in which the work is being done, with recommendations as to changes desirable and provided for in the plans and specifications.

(c) State in each report the amount of unsatisfactory work done during the period for which the report is made, and estimate the value thereof.

Unsatisfactory work

1190. The board shall make no payment on account of work which is reported by the inspectors to be unsatisfactory, until the objections are investigated and determined to be unfounded, or until the contractor has performed the work in strict compliance with the plans and specifications.

Engineer of work

1191. In lieu of the appointment of inspectors as provided in section 1189, or in lieu of proceeding pursuant to section 1075, the board may employ an engineer who shall prepare plans and specifications, supervise the work, and perform such other services as the board requires.

Payments for work

1192. From time to time as the work progresses, the board may make payments on account, but shall not, before the completion of the contract, pay more than seventy-five per cent of the contract price of the amount completed. The board shall not make final payment until the work is accepted by the board.

Balance in division fund

1193. Any money in the fund of the division, after completion of, and final payment for, the work contracted for, shall remain in such fund and be expended solely in maintaining the highways of that division.

Division ceases when

1194. On the payment of all debts of the division or on the failure of the division at two successive elections to vote a special tax or bonds for any proposed work, the division shall cease to exist. The second election for a special tax or bond issue shall be held not less than six months nor later than one year after the election at which a special tax or bond issue was defeated.

Second election

Notice By posting

1195. The board shall cause the notices, which are required to be posted by sections 1174 and 1180, to be posted at least fifteen days before the election along every highway proposed to be constructed or improved, at distances not more than one mile apart, and not less than three such notices.

Same By publication

1196. The board shall cause all publications, required by this article, particularly sections 1164, 1166, 1168, 1174 and 1180, in any proceeding or election, to be published in a newspaper published within the division, if any newspaper is published therein. If there is no newspaper published within the division, the board shall cause such publication to be made in a newspaper published within the county and considered by the board best adapted to give notice to the residents of the division. One publication each week for three successive weeks shall be a sufficient publication under this article, the last publication to be not less than seven days prior to the event of which the publication is notice.

Expenses a county charge.

1197. The expenses of organizing a division and of conducting any election, pursuant to the provisions of this article, shall be a county charge payable out of the county general fund.

Article 4. By County Highway Commissions.

"County commission" defined.

1220. As used in this article, "county commission" means a county highway commission created pursuant to the provisions of this article.

Petition for highway bonds

1221. Upon receiving a petition requesting that the matter of issuing bonds of the county for highway purposes be submitted to the electors of the county, the board of supervisors may appoint a highway commission for such county.

Such petition shall be signed by persons who are both freeholders and electors of the county, and who are equal in number to at least ten per cent of the votes cast for Governor in the county at the last election.

County highway commission

1222. The county commission shall consist of three members who are, and have been for two years, bona fide residents and freeholders of the county. Each member shall be especially qualified to have charge of the construction and improvement of highways. The board shall appoint the commissioners for the term of two years and until their successors are appointed and qualified, and shall fill any vacancy in the commission by appointment for the unexpired term.

Bond

1223. Each commissioner shall give a bond, approved by the board and in such amount as the board requires, for the

faithful performance of his duties. No member of the board may act or be appointed as a commissioner under this article.

1224 The county commission shall cease to exist whenever: When commission ceases to exist

(a) The proposition for the issuance of bonds fails to carry at the election held pursuant to this article.

(b) All the highway construction or improvement, for which bonds are voted pursuant to this article, is completed.

(c) Any surplus remaining in the highway improvement fund, after the completion of all such construction or improvement, has been expended on other highways.

1225. Whenever a county commission ceases to exist pursuant to section 1224, the board may appoint another commission pursuant to section 1221. New commission

1226. For the purposes of this article a main county highway is a highway connecting different cities in the same or different counties, or a highway connecting any city in one county with the county highway system of another county. Under this article work may be done upon any number of such highways jointly if such work is paid for with the proceeds of one bond issue. "Main county highway" defined

1227. Immediately after appointment the county commission shall: Duties of commission

(a) Investigate carefully the main county highways of the county and their condition.

(b) Cause a map to be made showing such highways, their connections, and such other information as the county commission considers necessary to carry out the purposes of this article.

(c) Ascertain which of such highways should be constructed or improved with the proceeds of a bond issue, and the kind of construction or improvement to be carried on.

(d) Estimate the expense of such construction or improvement.

1228 Immediately after appointment the county commission shall also:

(a) Investigate carefully the question of constructing in the county any new county highways which the commission considers necessary.

(b) Cause a map to be made showing such proposed new highways, their connections, and such other information as the commission considers necessary to carry out the purposes of this article.

(c) Ascertain whether any of such new highways should be constructed with the proceeds of a bond issue, and the kind of work to be done thereon.

(d) Estimate the expense of such construction.

1229. With the consent of the board of supervisors the county commission may employ, at the expense of the county, competent engineers and other experts to make any necessary surveys and prepare any maps, and to assist the commission in determining the best material to be used and the best Employees

manner of performing the highway work, and to assist in estimating the expense thereof.

Surveys.

1230. All surveys made for the purpose of determining the location of county highways shall be approved by the county surveyor or, in a county not having a county surveyor, by the officer having similar duties and authority, before such surveys are adopted by the county commission.

Report to boards of supervisors

1231 After ascertaining the work which should be done, and the estimated cost proposed to be covered with the proceeds of a bond issue, the county commission shall file with the board a report setting forth:

(a) By termini, any main county highway proposed to be constructed or improved.

(b) A general description of the kind of work to be done thereon.

(c) A statement of the estimated cost of such work, and the amount to be raised by bonds.

(d) A request that the board call an election for the issuance of bonds of the county for the estimated amount.

Same Rejection.

1232. If the county commission's report is not approved, the board may refer it back to the commission for further consideration. If the board approves the report the board shall adopt it, and shall without delay call an election to determine whether the bonds of the county will be issued in the amount recommended by the commission, for the purposes stated in the report.

Approval

Bond election and issuance

1233. The election shall be called and held and the bonds issued, sold, and paid, and all proceedings in regard to such bonds shall be conducted, in accordance with all of the provisions of law relating to county bond elections and to the issuance, sale, and payment of county bonds. The provisions of this section are subject to the provisions of sections 1234 and 1235.

Election precincts and officers

1234. The board may form bond election precincts by consolidating the precincts established for general election purposes to a number not exceeding six general election precincts for each bond election precinct. The board shall appoint only one inspector, two judges, and one clerk to conduct the election in each bond election precinct.

Irregularity not to affect bonds.

1235 It is sufficient to set forth the purpose of the bond issue in such proceedings by describing the highways to be constructed or improved as they are described in the report of the commission. Any defect or irregularity in the proceedings prior to the calling of the bond election shall not affect the validity of the bonds.

"Highway improvement fund"

1236 The bonds shall not be sold for less than par, and the proceeds thereof shall be paid into the county treasury to the credit of a special fund denominated the "highway improvement fund." Such fund shall be used for the purposes set forth in the report of the county commission, or for such other purposes as are authorized by this article.

1237. If, after the completion of work upon any highway, there is any surplus of money voted for such work, the surplus may be used for the construction or improvement of other main county highways, under the control and direction of the county commission. Surplus

1238. The county commission may receive and accept donations from any person for any work which the commission is authorized to have done. All donations shall also be paid into the highway improvement fund. No money shall be paid out of that fund except upon the warrant of the county auditor issued upon the order of the county commission, and allowed by the board of supervisors. Donations Withdrawals

1239. The county commission shall control and direct the doing of the work for which bonds are issued. The final acceptance of such work shall be by the board of supervisors. Control of work.

1240. As soon as the money raised by the sale of bonds is in the highway improvement fund, the county commission shall proceed to prepare detailed specifications, plans, and profiles for the work to be done, or for such parts as the commission considers advisable to have done separately. For this purpose the commission may hire assistants, with the consent of the board of supervisors. The commission shall then present to the board the specifications, plans, and profiles, with recommendations in regard to the doing of the work and the letting of contracts. The board shall either adopt or reject the specifications, plans, profiles, and recommendations as presented. Specifications, plans, and profiles

1241. If the board adopts the specifications, plans, profiles, and recommendations, it shall advertise for bids for doing all or any part of the work which the county commission recommends to be done separately, in accordance with the plans, profiles, and specifications. The board shall advertise by publishing a notice for ten days in a daily newspaper, or for two weeks in a weekly newspaper, published at the county seat. In the advertisements the board shall state the amount of security required by it on each bid. Notice for bids

1242. Except as provided in section 1243 the board, after advertising for bids, shall let every contract for any part of the work, or for materials, tools, or equipment for doing any such work, to the lowest responsible bidder who will give security in the amount fixed by the board for the faithful performance of his contract, with sureties satisfactory to the board. Award of contract.

1243. The board may authorize the county commission to make contracts, without advertisement for bids, for any of the work the cost of which does not exceed one thousand dollars. Work not exceeding $1,000

1244. The board may reject all bids and may either readvertise for bids for doing any part or all of the work, or authorize the county commission to purchase the necessary material, purchase or hire tools and equipment, and hire laborers, and to do all or any part of the work without letting any contract for such work. In the event the board determines not to readvertise for bids, the commission shall let all con- Rejection of bids Day labor Limitation

tracts for materials, tools or equipment, amounting to more than one thousand dollars in value, to the lowest responsible bidder in the manner provided in this article.

Supervision of work.

1245. The county commission may, with the consent of the board, hire all necessary engineers, inspectors, and superintendents to supervise the performance of any contract or to have charge of the doing of the work without contract.

Character of work.

1246. All highway work done under this article shall be of a permanent character. The county commission may determine how such highways are to be improved or constructed, and the character of the materials to be used in such improvement or construction.

Paving limitation

1247. If the county commission determines that any of the main county highways should be paved, then the paved portion of the roadbed constructed or improved under this article shall not exceed eighteen feet in width, unless donations are made to the county commission to construct or improve to a greater width. If such donations are made, the county commission may use them to defray the increase in cost resulting from the construction or improvement of the paved roadbed in excess of the eighteen-foot width on any part of the highway specified by the donors, but no part of the proceeds of any bond issue shall be expended for such purpose.

Donations

Railroads.

1248 Except for crossings duly authorized by the board of supervisors, no railroad of any kind shall be constructed upon any portion of any highway, if such portion includes a roadbed constructed or improved under the provisions of this article. No board shall grant any franchise for any such railroad construction except for crossings. This section is subject to the provisions of section 1249.

Same: In cities

1249. When any highway or portion thereof constructed or improved under the provisions of this article, is subsequently included within the boundaries of any city, the provisions of section 1248 shall not prohibit the granting of any such franchise by the proper city authorities upon any such highway, or portion thereof, included within the boundaries of any city. Any such franchise shall be granted only upon the express condition that the grantee will pay to the county, for the benefit of the county general fund, an amount equal to the cost of the improvement or construction of such portion of the roadbed or highway, constructed or improved under the provisions of this article, as is occupied by the tracks of such railroad.

Franchise limitation

Condemnation proceedings

1250. Whenever the county commission recommends it as necessary, the board of supervisors may cause to be done any highway work thus recommended, and for that purpose the board may acquire any real property, or interest therein, in the name of the county. The board may order any such condemnation and direct the district attorney to bring an action in the name of the county for that purpose under the provisions of the Code of Civil Procedure relating to eminent domain. In such action the order of the board is conclusive evidence of the regularity of all prior proceedings.

The board shall cause the expense of acquiring such real property or interest therein to be paid out of the highway improvement fund. Expense

1251. No work shall be performed, under the provisions of this article, upon any highway lying within the corporate limits of any city. When such work is being performed upon any highway which passes through any city, that city may construct or improve the portion of such highway lying within its corporate limits. To raise the necessary funds for such work, the city may issue bonds in the manner provided by law for the issuance of bonds by such city for public improvements. Work in cities. City bond issue.

1252. Whenever any of the highways of a county are constructed or improved pursuant to the provisions of this article, the board of supervisors of the county shall have charge of the maintenance and repair of such highways. The board may employ a superintendent or inspector to have charge of the repair and maintenance of all such highways under the orders and direction of the board, and may employ such workmen and purchase such materials, equipment, tools, and appliances as are necessary to maintain such highways and keep them in repair. The board shall cause the cost of such maintenance and repair to be paid out of the county general fund. Maintenance and repair of highways worked under article.

Nothing contained in this section shall prevent the board from having any such repair or maintenance done in accordance with the provisions of Article 1 of this chapter.

1253. The county commission shall, at least once in every six months, file with the board a detailed statement of the commission's proceedings since the last statement, showing: Statement of commission's proceedings.

(a) The amount of money in the highway improvement fund at the time of the last statement of the commission.

(b) The amount of all donations received since the last statement, and the purposes for which such donations were made.

(c) The amount expended, with the purposes for which it was expended, and the balance remaining.

(d) The outstanding contracts or obligations entered into by the commission.

(e) The highways in course of construction or improvement and those completed since the last statement.

(f) The condition of the work on each highway.

(g) Any other information that the commission considers of interest to the public.

1254. Each member of the county commission shall receive as compensation the sum of five dollars for each day actually and necessarily spent in the discharge of his duties, together with his actual and necessary traveling expenses, to be allowed by the board of supervisors and paid monthly. Compensation of commissioners.

1255. The compensation and expenses, and all other demands against the county which the county commission is authorized to incur, shall be paid out of the county general fund until there is money in the highway improvement fund derived from the sale of bonds. When there is money in the Payment of expenses of work.

highway improvement fund, the general fund shall be reimbursed from the highway improvement fund for the amounts so expended, and thereafter such compensation, expenses, and other demands shall be paid out of the highway improvement fund.

When commissioners not compensated

1256. After the preparation and filing of their report and recommendation for the issuance of bonds, the members of the county commission shall not receive any such compensation or expenses unless there is money in the highway improvement fund to pay them.

Article 5. Maintenance and Improvement of Bond Issue Highways.

"County highway maintenance fund". Use

1270. Whenever any county highway is improved under a general county bond issue, the board of supervisors shall provide for a continuous system of maintenance and improvement with money from the county highway maintenance fund.

Tax

1271. The board may annually, for each fiscal year, levy a tax not to exceed ten cents on each one hundred dollars of taxable property of the county, for each one hundred miles or fraction thereof of county highways improved under a general county bond issue.

Same: Collection

1272. The several officers charged with the collection of other county taxes shall collect this tax in the same manner and at the same time as other county taxes are collectible. The money derived from such tax shall be paid to the county treasurer and the county treasurer shall place it in a separate fund known as the "County highway maintenance fund."

Disposition

The money derived from such tax shall be applied solely to the maintenance or further improvement of county highways improved under a general county bond issue.

CHAPTER 5. COUNTY BRIDGES AND SUBWAYS.

Article 1. General Provisions.

Free bridges

1300. No tolls shall ever be charged for crossing any bridge constructed under the provisions of this chapter.

California Toll Bridge Authority Act Construction (Stats 1929, p 1489)

1301. The provisions of this chapter and of the California Toll Bridge Authority Act shall be construed together, and if the provisions of this chapter conflict with or contravene the provisions of the California Toll Bridge Authority Act, the provisions of the latter shall prevail. Any action taken under the provisions of this chapter shall be taken not only in compliance with the requirements of this chapter but also in compliance with any applicable requirements of the California Toll Bridge Authority Act.

State bridges

1302. Nothing in this chapter shall limit or affect the acquisition or construction by the department of bridges upon State highways or of bridges over navigable streams, swamps, navigable estuaries, ponds, or arms of bay.

Article 2 Construction, Maintenance, and Repair

1320. The boards of supervisors, in their respective counties, may construct, operate, manage or maintain summer bridges under such rules and regulations and at such times and places as they consider necessary. The boards shall cause any expenditure with regard to such bridges to be paid out of the county general fund. Summer bridges Expense

1321. All county bridges, not otherwise specially provided for, are maintained by the road district in which they are situated, by the road districts into which they reach, and the county at large, in the same manner as county highways are maintained. Such bridges are under the management and control of the board of supervisors. The whole or any part of such bridge lying within a road district is under the immediate management and control of the road commissioner of that district, subject to the supervision and direction of the board. County bridges Control

The expense of constructing, maintaining, and repairing any part of such bridge lying within a road district is primarily payable out of the road fund of such district. Expense

1322. If the road commissioner of one road district, after five days' notice from the commissioner of an adjoining district in the same county requesting aid in the repair of a bridge in which both are interested, fails to give such aid, the commissioner giving notice may make the necessary repairs, and the board of supervisors shall allow him a pro rata compensation for making such repairs out of the road fund of the defaulting district. Repair of bridges between districts

1323. If the road commissioner of any road district, chargeable with the repair of a bridge, fails to make the needed repairs, after being informed that the bridge is impassable or unsafe and after such repairs are requested by two or more freeholders of the district in which the bridge is situated or of the two districts which it unites, the freeholders may present the facts to the board of supervisors. Upon being satisfied that the bridge is unsafe, the board shall cause it to be repaired, and shall pay for such repairs from the funds of the district chargeable therewith, or, if considered necessary, from the general road fund of the county. Unsafe bridges

1324. If the expense of construction or repair of a county bridge will exceed two thousand dollars, such bridge shall not be constructed or repaired except on the order of the board of supervisors. Expense exceeding $2,000

1325. Except as provided in sections 1328 to 1332, inclusive, whenever the cost of construction or repair of any bridge will exceed the sum of five hundred dollars, such construction or repair shall be done by contract. Such a contract is void unless it is let as provided in sections 1326 and 1327. Same exceeding $500

1326. The board of supervisors shall adopt plans, specifications, strain sheets, and working details for such construction or repair and shall cause a notice, calling for bids therefor, to be published in a newspaper of general circulation Notice for bids

published in the county. Such notice shall be published for at least ten consecutive times in a daily newspaper of general circulation published in the county or for at least two consecutive times in a weekly newspaper published in the county. If there is no newspaper published in the county, such notice shall be given by posting in three public places in the county for at least two weeks.

Award o contract

1327. The board shall afford all bidders an opportunity to examine such plans, specifications, strain sheets, and working details, and shall award the contract to the lowest responsible bidder. The person to whom the contract is awarded shall execute a bond, approved by the board, for the faithful performance of the contract. Such person shall perform the work in accordance with the plans, specifications, strain sheets, and working details, unless all or any of them are modified by a four-fifths vote of the members of the board. In every such case if the cost of the work is reduced by reason of the modification, the person to whom the contract is awarded shall make an allowance on the contract price to the extent of such reduction.

Bond.

Modification

Day labor.

1328. If the board of supervisors is advised by the county surveyor or, in a county not having a county surveyor, by the officer having similar duties and authority, that the work can be done for a sum less than the lowest responsible bid, the board may reject all bids and order the work done by day labor, under the supervision and direction of the county surveyor or officer having similar duties and authority. In such case, the road commissioners in their respective districts shall employ all labor required, and direct the conduct of the work.

Emergency work

1329. In the event of great emergency, upon the unanimous vote of the whole board, the board may proceed at once to replace or repair any and all bridges without adopting plans, specifications, strain sheets or working details, without letting contracts or without calling for bids. Such work may be done by day labor under the direction of the board, or by contract, or by a combination of the two. If done wholly or in part by contract, the contractor shall be paid the actual cost of material and labor expended by him in doing the work, plus not more than fifteen per cent to cover all profits, supervision, use of machinery and tools, and any other expense No more than the lowest current market prices shall be paid for materials.

Purchasing agent.

1330. In counties employing a purchasing agent, the purchasing agent may purchase materials and supplies, costing not more than two thousand dollars, for use in the work mentioned in sections 1325, 1328, and 1329. Such purchases shall be made in accordance with the law relating to purchases by such purchasing agents, but may be made without obtaining bids, letting contracts or preparing specifications as required by sections 1325, 1326, and 1327 for purchases costing more than five hundred dollars.

1331. Whenever any county has adopted a county charter pursuant to Article XI, section 7½ of the Constitution, providing for the appointment of a road commissioner as a county officer, and for the organization of a permanent road department for the construction, improvement, and maintenance of highways and bridges, such road commissioner shall have charge of the construction and maintenance of all county bridges in the county, under the order and direction of the board of supervisors as provided in section 1332. Permanent road commissioner Duties.

1332. The board of supervisors may authorize such road commissioner to employ such workmen and purchase such materials, equipment, tools, and appliances and cause such work to be done as is necessary to construct or maintain such bridges and to keep them in repair without adopting plans and specifications, strain sheets or working details and without advertising for bids as required in sections 1325, 1326, and 1327. The cost of such construction, maintenance or repair shall be paid out of the county road funds or out of the county general fund. Expense.

Article 3. Joint Bridges.

1390. Any bridge crossing the line between a city and a road district may be constructed and maintained, as provided in section 1391, by the city and by the county from the road fund of the district into which such bridge extends. Joint bridges. Between city and road district

Any bridge crossing the line between cities may be constructed and maintained by such cities as provided in section 1391. Between cities

1391. Any bridge referred to in section 1390 may be constructed by contract, let as provided by law, by any city into which the bridge extends, or by the county into which such bridge extends or in which such bridge is located. Any such city or county may contribute toward the expense of the construction or maintenance of such bridge by the appropriation for such purpose of any money in its treasury not otherwise appropriated, upon such terms and conditions as are prescribed by ordinance or resolution of the governing body of such city. Construction Expense

1392. If the proportion to be paid by any such city or county can not be otherwise determined, the expense of construction or maintenance of any such bridge shall be borne equally by the city and from the road fund of the road district into both of which the bridge reaches, or by the cities into which the bridge reaches. When expense equal

1393. The proceeds of any bonds authorized by the voters of any such city or county for the acquisition, construction or completion of any such bridge, or any portion thereof, may be expended or contributed as provided in sections 1391 and 1392. Bond proceeds

1394. (a) Any county may join with any city located within such county in the acquisition, construction or maintenance of any bridge or viaduct within the county, whether Joint bridge or viaduct

such bridge or viaduct is or is to be located within or without any such city.

Expense

(b) The expense of the acquisition, construction or maintenance of any such bridge or viaduct shall be borne by such county and such city in such proportion as the legislative bodies thereof determine by resolution or ordinance and may be paid out of any funds available for such purpose.

Responsibility

(c) The authority and responsibility for the acquisition, construction or maintenance of any such bridge or viaduct shall vest in the county or in the city, or in both, as provided in the ordinances or resolutions apportioning the expense.

Bridges between counties

1395. Any bridge which crosses the line between counties, unless otherwise specially provided for, shall be constructed by the counties into which such bridge reaches. Each of the counties into which any such bridge reaches shall pay that portion of the expense of the bridge previously agreed upon by the boards of supervisors of such counties, even though such bridge reaches within the limits of a city.

Free bridges

1396. The boards of supervisors in their respective counties may erect free county bridges on county highways across navigable bodies of water in this State.

Joint free bridges

1397. If a navigable body of water is the boundary line between counties, the boards of such counties may join in the construction of a free county bridge upon the terms to which they agree. In the event of a failure to agree, either county may build a bridge and retain control thereof.

Bridges over water or swampland.

1398. The board of supervisors of any county may declare that it is necessary for the public convenience to construct a bridge across any body of water or swampland which lies in or extends into the county, and may prescribe the points between which such bridge will be built. Thereafter the board may let any contract to build the bridge, and pay for any such work out of the county general fund.

Joint county cooperative agreements When authorized

1399. The boards of supervisors of two adjoining counties may enter into an agreement with any person with whom such boards desire to collaborate for the purposes specified in section 1400, if such boards find that any of the following circumstances exist:

(a) That any bridge is necessary for highway purposes over any navigable body of water lying between such counties.

(b) That any existing bridge over any navigable body of water lying between such counties, and used wholly or in part for highway purposes, whether owned by either county or both counties, or used by either or both by agreement with the owner of the bridge, requires, in the interest of commerce or because of lack of repair:

(1) Reconstruction.

(2) Replacement by a new structure.

(3) Relocation at a place on such navigable body of water better suited to the use of the bridge or to the use of such navigable water

1400. The agreement authorized by section 1399 may provide for any of the following: Same. Provisions

(a) The construction of a bridge.

(b) The reconstruction of the existing bridge or its replacement by a new structure.

(c) The rebuilding of the bridge at another location.

(d) The joint use of the resulting bridge thereafter by such person and the public.

(e) The apportionment of the expense of any bridge work between each of the counties and such person jointly using or to use the bridge. In no event shall either county agree to contribute more than one-third of the expense of construction, reconstruction, relocation, replacement or repair of any such bridge.

(f) The construction and use of the bridge in the manner and upon the terms and conditions agreed upon between such counties and such person.

1401. Any work done pursuant to such an agreement is exempt from any provisions of law regarding the letting of contracts by counties for the performance of any work upon bridges. Same Need not let contract.

1402. The board of supervisors of any county now controlling or maintaining, by virtue of any statute, any bridge across any navigable stream, which bridge is wholly or in part within any city, may whenever necessary: Bridges over navigable streams

(a) Reconstruct all or any part of such bridge.

(b) Replace such bridge by a new structure.

(c) With the consent of the governing body of such city, change the location of such bridge to a location on the stream better suited to the use of the bridge or to the use of the navigable stream. The board of supervisors may abandon any such existing bridge and build a new bridge at such changed location.

1403. The board of supervisors reconstructing, replacing or relocating such bridge may enter into an agreement with any person who is then maintaining any bridge across any such navigable stream, for the building of a joint bridge in order to prevent the impeding of commerce on such navigable stream, and to apportion the expense between the county and the person in any manner mutually agreed upon Same Cooperative agreements.

1404. The expense of such reconstruction, or of the building of a new bridge is payable from the same fund provided by law for the maintenance and repair of any such bridge. If the county makes such an agreement with any person for the building of a joint bridge, the county shall pay from such fund only its portion of the cost of the joint bridge, as settled by the agreement. In no event may the county pay more than one-half the expense of construction, repair or reconstruction of any such joint bridge. Same Expense

Article 4. Subways.

"Subway" defined

1430. For the purposes of this article, "subway" includes tube or tunnel.

Subway bond election

1431. Whenever in the interests of commerce, for the benefit of the residents of the county, or for the purpose of expediting travel between points on opposite sides of any navigable body of water, the board of supervisors of any county finds it advisable to construct for the public use any subway under any such navigable body of water, at a location determined upon by the board, the board shall call an election and submit to the electors of the county the question whether bonds of the county will be issued and sold for the purpose of constructing such a subway.

Issuance of bonds

1432. The order calling such an election shall be valid and effectual when signed by two-thirds of the members of the board. The election shall be held and the bonds issued in accordance with the provisions of law governing county bond elections and the issuance of county bonds.

Preliminary expense limited.

1433. The board of supervisors of any county may, for the purpose of ascertaining the probable expense of any proposed subway, expend out of the county general fund a sum not exceeding thirty-five hundred dollars. When any such proposed subway reaches partly into one county and partly into another, such counties shall equally divide the expenditure necessary to ascertain the probable expense of any such proposed subway, but such expenditure shall not exceed in the aggregate the sum of thirty-five hundred dollars.

Subway between counties

1434. Whenever any such subway is proposed to be constructed under any navigable body of water forming the dividing line between counties, the boards of supervisors of each of the counties into which any such subway will reach shall first agree as to what portions of the expense of such subway will be paid by each county. Thereafter the board of each county may take the proceedings it considers proper under the provisions of this article.

Same. Consent of counties

1435. Such a subway shall not be constructed under any navigable body of water forming the dividing line between counties, unless all the counties into which such subway reaches first authorize such work and also authorize the issue of bonds therefor in the manner provided in this article.

Subway into city

1436. Whenever any such proposed subway will reach within the limits of any city, if the governing body of each such city and the board of supervisors of the county in which each such city is situated first so agree, the board of supervisors may call an election and submit to the electors of the county, in the manner provided in this article, the question whether bonds of the county will be issued and sold for the purpose of constructing such a subway in the manner prescribed in this article.

Bond election

CHAPTER 6. OBSTRUCTIONS AND INJURIES TO COUNTY HIGHWAYS.

1480. As used in this chapter:

(a) The term "highway" includes all or any part of the entire width of right of way of a county highway, whether or not such entire area is actually used for highway purposes. Definitions

(b) The term "encroachment" includes any structure or object of any kind or character placed, without the authority of law, either in, under or over any county highway.

1481. The road commissioner of any road district may, by notice, require the removal of any encroachment from any county highway within his district. Notice to remove encroachment.

1482. Notice shall be served upon the occupant or owner of the land, or the person causing, controlling or owning the encroachment, or shall be left at the place of residence of such occupant, owner or person if he resides in the county and is known to the person giving such notice. If the person upon whom notice is to be served does not reside in the county, the notice shall be posted on the encroachment. The notice shall specify the breadth of the highway, the place and extent of the encroachment, and shall require the removal of such encroachment within ten days. Same Service Contents

1483. If the encroachment is not removed, or its removal not commenced and diligently prosecuted, prior to the expiration of ten days from and after the service or posting of the notice, the person causing, owning or controlling the encroachment forfeits ten dollars for each day the encroachment continues unremoved. The road commissioner shall immediately remove any encroachment which is such as effectually to obstruct and prevent the use of the highway by vehicles. Penalty for noncompliance Summary removal

1484. If the encroachment is denied, and the owner or occupant of the land, or the person causing, owning or controlling the alleged encroachment refuses either to remove it or permit its removal, the road commissioner shall commence, in any court of competent jurisdiction, an action in the name of the county to abate the encroachment as a nuisance. If the commissioner recovers judgment he may, in addition to having the nuisance abated, recover a penalty of ten dollars for each day such nuisance remains after service or posting of notice, and also the costs in the action, as provided in section 1496 Abatement action Judgment Penalty.

1485. If the encroachment is not denied, but is not removed within five days from and after service or posting of the notice, the road commissioner may remove the encroachment at the expense of the owner or occupant of the land, or the person causing, owning or controlling the encroachment. The commissioner may recover from such owner, occupant or person, in an action brought in the name of the county for that purpose, the commissioner's court costs and the expense of removal and also a penalty of ten dollars for each day the encroachment remained after service or posting of the notice, as provided in section 1496. Removal at owner's expense

Highway gates.

1486. Gates shall not be allowed on any county highway except gates allowed by the board of supervisors in accordance with the provisions of section 966. If the expense of the erection and maintenance of such allowed gates is not paid as required by section 966, such gates shall be removed as an obstruction.

Penalty.

Any person who leaves any such gate open, or who wilfully and unnecessarily rides over ground adjoining the highway on which the gate is erected, shall be liable to the injured party for treble damages.

Highway injury by water.

1487. Any person who, by means of ditches or dams, obstructs or injures any county highway, diverts any watercourse into any such highway, or drains water from his land upon any such highway, to the injury of the highway, is liable to a penalty of ten dollars for each day such obstruction or injury remains, recoverable as provided in section 1496, and is also guilty of a misdemeanor.

Penalty

Water seepage or overflow.

1488. Any person who, in storing or distributing water for any purpose, permits water to overflow or by seepage to saturate any county highway, to the injury of the highway, shall, upon notification by the road commissioner of the district where such overflow or seepage occurs, repair the injury occasioned by such overflow or seepage. If such repair is not made by such person within a reasonable time, the road commissioner shall make such repairs and recover the expense of such repairs from such person in an action at law brought in the name of the county.

Expense.

Bridges over ditches

1489. Unless a bridge is constructed in accordance with section 1490, all persons excavating irrigation, mining or drainage ditches across county highways shall construct bridges across such ditches wherever such ditches cross such highways. If such persons fail to construct such bridges, the road commissioner for that road district shall construct them and shall recover from such persons, in an action at law brought in the name of the county, the expense of such construction.

Expense

County bridges over irrigation ditches.

1490. The board of supervisors of any county may construct and maintain bridges over any ditches which are used exclusively for irrigation purposes and which cross county highways in the county. Such board may, with the consent of the owners of such ditches, declare any of such bridges to be public property, and may then maintain and repair such bridges at the expense of the county.

Injury to county bridge.

1491. Any person who wilfully injures any county bridge is guilty of a misdemeanor, and is also liable for actual damages for such injury, to be recovered by the county in a civil action.

Injury to guideposts, etc.

1492. Any person who wilfully removes or injures any mile-board, milestone or guide-post, or any inscription thereon, erected on any county highway, is liable for a penalty of ten dollars, recoverable as provided in section 1496, for every such offense, and is also guilty of a misdemeanor.

1493. Any person may notify the occupant or owner of any land, from which a tree or other obstruction has fallen upon any county highway, to remove such tree or obstruction forthwith. If it is not thus removed, the owner or occupant is liable for the expense of removal and for a penalty of one dollar for every day after such notification that such tree or obstruction is not removed. The penalty and the expense of removal are recoverable as provided in section 1496. Obstructions falling on highways. Expense and penalty.

1494. Any person who cuts down a tree which falls into any county highway shall immediately remove the tree, and is liable for a penalty of ten dollars, recoverable as provided in section 1496, for every day such tree remains in the highway. Trees cut down which fall on highway.

1495. Any person who maliciously digs up, cuts down, injures or destroys any shade or ornamental tree on any county highway, unless such tree is considered an obstruction by the road commissioner and is removed under his direction, is liable to a penalty of one hundred dollars, recoverable as provided in section 1496, for each such tree. Injury to highway trees. Penalty.

1496. Each road commissioner, as to his respective road district, shall recover all penalties or forfeitures given in this chapter and the recovery of which is not otherwise provided for, by suit in the name of the county in which the road district is situated. He shall pay such recoveries into the road fund of his district. Recovery of penalties. Disposition.

The provisions of this section are applicable to sections 1484, 1485, 1487, 1492, 1493, 1494, and 1495, and to any other provision in this chapter imposing penalties or forfeitures. Applicability of section.

CHAPTER 7. HIGHWAY TAXES.

1550. Each year, at the meeting at which the board of supervisors levies the property tax for general county purposes, the board shall estimate the amount of property tax for highway purposes which will be necessary for the ensuing year, and shall fix the amount of, and levy, the property tax for highway purposes. The property tax for highway purposes shall not, in any one year, exceed the sum of forty cents upon each one hundred dollars of assessable property. Property tax for highway purposes.

Nothing contained in this section shall authorize any property tax for highway purposes to be levied or collected by a county within any city wherein work and improvements upon the streets are done by virtue of any law relating to street work and improvements within such a city. Exemption.

1551. When levied, the property tax for highway purposes shall be annually assessed and collected by the same officers and in the same manner as other county taxes are assessed and collected. All collections shall be paid into the county treasury. Assessment and collection.

1552. Except as otherwise provided in this code, all property tax for highway purposes collected in each road district shall be expended for highway purposes within the district in which collected. Expenditure.

Road district funds

The board of supervisors shall cause such tax collected each year to be apportioned to the several road districts entitled thereto, and to be kept by the county treasurer in separate funds.

Special road fund tax

1553. The boards of supervisors, in their respective counties, may levy a special road fund tax, not to exceed two mills on each dollar of assessed valuation, on all the property in such counties outside of any city. This tax is in addition to all taxes otherwise provided for, and the fund so created shall be expended for the construction and maintenance of the main county highways in the several road districts, in proportion to the amount collected from such districts.

Additional special road fund tax

1554. In addition to all taxes otherwise provided for, the board of supervisors may levy, and upon the petition of a majority of the property owners of any road district the board shall levy, an additional special road fund tax not to exceed two mills on each dollar of assessed valuation on all the property in such road district, to be expended in the maintenance of the county highways in such district.

CHAPTER 8. HIGHWAY FUNDS.

Article 1. General Provisions.

Audit of claims.

1580. The boards of supervisors, in their respective counties, shall audit all claims on the funds set apart for highway purposes and specify the funds from which the whole or any part of any claim shall be paid.

Highway mileage record.

1581. The board of supervisors shall make and keep on file a highway mileage record which is corrected to date and shows, for each road district of the county, every highway upon which county funds are expended for construction, improvement or maintenance. The board may determine such mileage by automobile speedometer. Each supervisor shall keep an account of the actual work done in his district and the cost per mile of such work, except in a county in which the highway work is not in charge of supervisors acting ex officio as road commissioners or in a county governed by a county charter adopted pursuant to the provisions of Article XI of the Constitution.

Cost of work.

Article 2. The General Road Fund.

"General road fund."

1600. The board of supervisors may, at the meeting at which it is required to levy the property tax for highway purposes, establish a "general road fund" and order to be apportioned thereto an amount not exceeding thirty-five per cent of the aggregate property tax for highway purposes collected from all sources.

Use

1601. Subject to the provisions of section 1602, the money in the general road fund shall be applied to the following purposes only:

(a) The payment of the expense of general county highway improvements in which the inhabitants of all of the road districts within the county are interested.

(b) The assistance of weak and impoverished road districts in keeping highways in repair.

(c) The payment of such demands as are payable by law out of the general road fund.

Expenditure limitation

1602. No greater proportion of the general road fund shall be used or expended in any road district than the amount collected in such road district, unless the board of supervisors, by a two-thirds vote of all its members, authorizes the expenditure in such district of such greater proportion. The board has no power to create a debt on any road district in excess of the estimated amount of receipts from such district for the current year.

Debt limitation

Apportionment to district funds

1603. The county auditor shall reapportion the money in the general road fund at the end of the fiscal year, after the payment of all warrants drawn on such fund, to the district funds of the several road districts in which such money was collected.

Void claims

1604. All contracts, authorizations, allowances, payments, and liabilities to pay which are made or attempted to be made in violation of this article, shall be void, and shall never be the foundation or basis of a claim against the treasury of the county. All officers of the county are charged with notice of the condition of the treasury of the county, and the extent of the claims against it.

Same: Liability of officers

1605. Any supervisor or other county officer authorizing, aiding to authorize, auditing or allowing any claim or demand upon or against any fund in the county treasury, in violation of any provision of this article, shall be liable in person and upon his official bond to any person damaged by such illegal action to the extent of such person's loss by reason of the nonpayment of such person's claim. The treasurer paying any claim authorized, allowed or audited in violation of this section shall be liable on his official bond to refund the amount of the claim to the county treasury.

Article 3. Other Highway Funds.

"Special road fund"

1620. Each county shall use the money deposited, from the sources provided by law, in its "special road fund" exclusively in the construction, maintenance, and improvement of streets, county highways, bridges, and culverts within the limits of that county.

County financial report to department

1621. The board of supervisors of each county shall make an annual report to the department not later than three months after the close of the county's fiscal year, upon forms provided by the department. This report shall show:

(a) The amount of money received from the "motor vehicle fund" of the State and from the "motor vehicle fuel fund" of the State during the preceding fiscal year.

(b) The disposition of such money, specifying in such detail as is required by the department the highways, bridges, and culverts constructed, maintained, improved or repaired out of such money and the sums applied to the several items of such construction, maintenance, improvement or repair.

"Special road improvement fund."

1622. All amounts paid to each county, out of money derived from motor vehicle fuel license taxes and vehicle registration license fees imposed by the State, shall be deposited in a "special road improvement fund" which each board of supervisors shall establish for that purpose. Except as otherwise provided in this article, such money shall be expended by the county receiving it exclusively in the construction, maintenance or improvement of county highways, bridges or culverts in that county.

Expenditure in cities

1623. The board of supervisors of any county may expend any portion of the amounts thus received by that county in the construction, maintenance, improvement or repair of streets, bridges, and culverts within those cities in the county the governing bodies of which by ordinance or resolution authorize such work of construction, maintenance, improvement or repair.

Expenditure in other counties

1624. The board of supervisors of any county may, as provided in section 1625, expend any portion of the amounts paid to that county, and deposited in the special road improvement fund, for the construction of any public highway outside of its county limits, whenever such construction is authorized by ordinance or resolution of the board of supervisors of the county in which the highway is to be constructed.

Same Procedure

1625. Where such authorization is given, the board of supervisors of the county desiring the construction may:

(a) Expend, through its own officers or agencies, the amounts authorized by section 1624.

(b) By resolution transfer such amounts to the account of the commission or to the account of the Secretary of Agriculture of the United States, and may by such resolution specify and determine the location and type of construction of such highway. The amount thus transferred shall, if accepted by the Commission or the Secretary of Agriculture, be expended exclusively for the purpose specified and determined in the resolution.

County or city bonds Assistance from motor vehicle registration money.

1625.5. With reference to bonds of the county, or of any city therein, the board of supervisors may expend any portion of the money, received by the county from the motor vehicle fund, for the payment of any portion of the principal or interest of, or for the purchase or redemption at a discount of, or for transfer to the interest and sinking fund for the discharge and payment of bonds, the proceeds of which have been used for the acquisition of rights of way or easements for, or for the construction, maintenance, improvement or repair of, highways, bridges or culverts within such county or any city therein. When such bonds have been purchased

or redeemed the board may at any time in its discretion cancel or retire them.

(Amended by Ch. 784, Stats. 1935.)

[ORIGINAL SECTION.]

1625.5. With reference to bonds of the county, or of any city therein, the board of supervisors may expend any portion of the money, received by the county from the motor vehicle fund, for the payment of any portion of the principal or interest of, or for the purchase or redemption at a discount of, or for transfer to the interest and sinking fund for the discharge and payment of bonds, the proceeds of which have been used for the acquisition of rights of way or easements for, or for the construction, maintenance, improvement or repair of, highways, bridges or culverts within such county or any city therein.

Special assessment bonds Assistance from county funds.

1626. In accordance with the provisions of sections 1627 and 1628, the boards of supervisors in their respective counties may purchase or redeem at a discount, and may at any time in their discretion cancel or retire, bonds of any special assessment district, for the payment of which special assessments, levied wholly or partly in accordance with the assessed value of lands, or levied by direct assessment, have been or are to be levied, if the proceeds of such bonds are or have been used exclusively for the acquisition of rights of way or easements for, or for the construction, maintenance, improvement or repair of highways, bridges or culverts within such county or any city therein. The board may also pay any portion of the principal or interest of, or transfer such amount as the board deems proper to the interest and sinking fund for the discharge and payment of, any of such bonds. Such bonds may be redeemed or purchased at not to exceed eighty per cent of the face value of the unpaid principal and interest of such bonds.

(Amended by Ch. 805, Stats. 1935.)

[AS AMENDED BY CH. 784, STATS. 1935.]

1626. In accordance with the provisions of sections 1627 and 1628, the boards of supervisors in their respective counties may purchase or redeem at a discount, and may at any time in their discretion cancel or retire, bonds of any special assessment district, for the payment of which special assessments, levied wholly or partly in accordance with the assessed value of lands, or levied by direct assessment, have been or are to be levied, if the proceeds of such bonds are or have been used exclusively for the acquisition of rights of way or easements for, or for the construction, maintenance, improvement or repair of highways, bridges or culverts within such county or any city therein. The board may also pay any portion of the principal or interest of, or transfer such amount as the board deems proper to the interest and sinking fund for the discharge and payment of, any of such bonds. Such bonds may be redeemed or purchased at not to exceed eighty per cent of the face value of the unpaid principal and interest of such bonds.

[ORIGINAL SECTION.]

1626. In accordance with the provisions of sections 1627 and 1628, the boards of supervisors in their respective counties may purchase or redeem at a discount bonds of any special assessment district, for the payment of which special assessments, levied wholly or partly in accordance with the assessed value of lands, have been or are to be levied, if the proceeds of such bonds are or have been used exclusively for the acquisition of rights of way or easements for, or for the construction, maintenance, improvement or repair of highways, bridges or culverts within such county or any city therein. The board may also pay any portion of the principal or interest of, or transfer such amount as the board deems proper to the interest and sinking fund for the discharge and payment of, any of such bonds. Such bonds may be

redeemed or purchased at not to exceed eighty per cent of the face value of the unpaid principal and interest of such bonds.

Funds available

1627. The expenditures authorized in section 1626 may be made from:

(a) The general fund of the county.

(b) Not to exceed twenty per cent of any money received by the county under the provisions of any statute providing for the disposition of State motor vehicle fuel license taxes. Authority for the expenditure of such money is limited to bonds issued prior to August 21, 1933, or bonds issued in any proceeding initiated prior to January 1, 1933.

(c) Any money received by the county under the provisions of any statute providing for the disposition of vehicle registration license fees imposed by the State.

Bond proceeds

When any purchase of bonds, authorized in sections 1625.5 or 1626, is made from funds received pursuant to the provisions of any statute providing for the disposition of State motor vehicle fuel license taxes or vehicle registration license fees, the proceeds received from any such bonds shall be deposited in a special fund and expended by the board of supervisors exclusively for any of the purposes for which the funds derived under any of those statutes may be used.

Determination of general county use

1628. Before any expenditures are made under the authority of sections 1625.5, or of sections 1626 and 1627, the board of supervisors of the county shall, by a resolution adopted by a four-fifths vote of the members of the board, determine that the bonds under consideration were issued to acquire rights of way or easements for, or to construct, maintain, improve or repair public highways, bridges or culverts of general county use, and not of a purely local use.

Intent of section

It is the intention of this section that the expenditures authorized in section 1625.5 shall not be made, and that the funds specified in section 1627 shall not be expended for any of the purposes authorized in section 1626, if the public highways, bridges, or culverts are of only local use.

Article 4. Apportionment of Road District Funds.

"Unencumbered funds" defined

1650. For the purposes of this article, the unencumbered funds of the district are the sum of all money, uncollected taxes, and other uncollected accounts belonging to or due to such district, in excess of an amount sufficient to pay all claims and accounts against the district, including both claims and accounts lawfully payable from the funds of such district on the date of annexation or incorporation, and claims and accounts which will become payable from such funds by reason of lawful contracts in force on that date.

Territory incorporated or annexed

1651. Whenever any territory is included in any city, either at the original incorporation of such city, or by subsequent annexation thereto, and such territory constitutes all or part of a road district, the county surveyor or, in a county not having a county surveyor, the officer having similar duties

and authority, shall indicate on the map books of the county assessor the property incorporated or annexed.

Same: Assessed value.

1652. The assessor shall then ascertain from his records the assessed value of such incorporated or annexed property on the first Monday of the preceding March at twelve o'clock noon and shall certify to the county auditor such value thus ascertained.

Apportionment of district funds to city

1653. The auditor shall then calculate the proportion that the assessed value, on the first Monday in the preceding March at 12 o'clock noon, of the property annexed or incorporated bears to the total assessed value, as of that day and hour, of all the property in the district from which the annexation or incorporation was made. He shall prepare a claim in favor of the city, to be allowed by the board of supervisors and paid by warrant on the treasurer, for that part of the unencumbered funds of the district which bears the same proportion to the whole of such unencumbered funds as the assessed value of the property annexed or incorporated bears to the total assessed value of all the property in the district from which the annexation or incorporation was made.

Taxes refunded or canceled

1654. Such city shall repay to the county its proportion of all taxes for highway purposes on the annexed or incorporated portion of such district which are subsequently refunded or canceled. The money paid to such city, pursuant to this article, shall be expended for highway purposes only.

CHAPTER 9. COOPERATION BY COUNTIES.

Article 1. Cooperation with United States Government.

Cooperative agreements

1670. The board of supervisors of any county may enter into cooperative agreements with the Secretary of Agriculture of the United States for the survey, construction, and maintenance of highways or trails within such county, or for the survey, construction, and maintenance of highways or trails outside of its county limits where authorization therefor is given by ordinance or resolution of the board of supervisors of the county in which such highways or trails are to be constructed.

Applicable statutes.

1671. Such agreements shall be entered into pursuant to the provisions of section 8 of the act of Congress, approved July 11, 1916, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads and for other purposes," or pursuant to the provisions of section 23 of the Federal highway act, upon such terms as may be agreed upon by such county and the Secretary of Agriculture. The board of such county may incur expenses necessary to perform its part of such cooperative agreements, and may pay the cost and expenses of such agreements out of the county general fund or such other fund as the board designates or otherwise provides.

Expense

Federal Aid Road Act payments

1672. Upon request of the proper officer of the United States, together with the order of the board of supervisors

of the county, the county treasurer shall deposit with the Federal Reserve Bank to the credit of the United States all money set aside by the board of supervisors under agreements entered into with the United States in accordance with the provisions of the Federal Aid Road Act, and subsequent acts of like nature. Such money shall be paid out by the proper fiscal agent of the United States pursuant to such agreements.

Article 2. Cooperation with Cities.

County aid to cities Purposes

1680. The board of supervisors of any county may, by a resolution adopted by a four-fifths vote of its members, determine that any of the following activities are of general county interest and that county aid shall be extended therefor:

(a) The laying out, opening, construction, improvement, maintenance, repair, or altering of all or any part of any street within a city or extending along or across the boundary of a city.

(b) The establishing, modifying or changing the grade of any such street.

(c) The separation of the grades of any two or more such streets which intersect.

(d) The separation of the grade of any such street from the grade of any steam, electric or street railroad crossing such street.

(e) The construction of the necessary pavements, curbs, culverts, bridges, tunnels, subways, viaducts, drainage facilities or structures incident to or a part of such street.

(f) The acquisition of any real property or interest therein, rights of way or other property necessary for any of the purposes mentioned in this section.

(Amended by Ch. 629, Stats. 1935.)

[ORIGINAL SECTION.]

1680. The board of supervisors of any county may, by a resolution adopted by a four-fifths vote of its members, determine that any of the following activities are of general county interest and that county aid shall be extended therefor:

(a) The laying out, opening, construction, improvement or altering of all or any part of any street within a city or extending along or across the boundary of a city.

(b) The establishing, modifying or changing the grade of any such street.

(c) The separation of the grades of any two or more such streets which intersect.

(d) The separation of the grade of any such street from the grade of any steam, electric or street railroad crossing such street.

(e) The construction of the necessary pavements, curbs, culverts, bridges, tunnels, subways, viaducts, drainage facilities or structures incident to or a part of such street.

(f) The acquisition of any real property or interest therein, rights of way or other property necessary for any of the purposes mentioned in this section.

Resolution

1681. Such resolution shall specify the proposed new or existing street or portion of street, the general nature of the improvement proposed, the nature of the aid to be furnished by the county, and any funds from which the aid is to be paid.

1682. Thereafter and in accordance with such resolution the county may give aid in one or more of the following ways: Kind of aid

(a) Contribute money.

(b) Acquire and deliver material.

(c) Furnish labor or engineering services.

(d) Loan its road building machinery.

(e) Pay or contribute money to be used for the payment of interest upon, or for the payment or redemption of, bonds, the proceeds of which have been used for, or which have been issued in payment for, work mentioned in this article.

1683. The expense of such aid may be paid from one or more of the following: Expense.

(a) The county general fund.

(b) The general road fund.

(c) The special road improvement fund.

(d) The proceeds of any county bond issue voted for the purpose of laying out, constructing, maintaining, improving or repairing county highways or for the acquisition of any real property or interest therein, rights of way or other property necessary for such purposes.

(e) Any other fund available for such purposes.

1684. The city shall use all aid which it receives in the activities described in the resolution and shall return to the county any portion of such aid which is not thus used. Use and surplus.

Article 3. Extension of County Highways Through Cities.

1700. The board of supervisors of any county may, by a resolution adopted by a four-fifths vote of its members, declare any highway in the county lying in whole or in part within a city to be a county highway. Declaration of county highway

1701. A copy of such resolution shall be forwarded to the governing body of the city within which is included any portion of the highway. Such governing body may consent to the establishment of such included portion as a part of the county highway. Upon the taking effect of a city ordinance containing such consent, such portion of such highway shall become a county highway with respect to its construction, maintenance, improvement, and repair. City's consent

1702. Thereafter the board of supervisors of the county may improve and maintain such highway as other county highways are improved and maintained, and may pay for such work out of one or more of the following: Highway work. Expense.

(a) The county general fund.

(b) The general road fund.

(c) The special road improvement fund.

(d) The proceeds of any county bond issue voted for the purpose of laying out, constructing, maintaining, improving or repairing county highways.

(e) Any other fund available for such purposes.

1703. Nothing contained in this article shall limit in any manner the police power of any city with reference to any City's police power.

such street or portion of street improved under the provisions of this article.

Relinquishment

1704. At any time after all or a portion of a city street becomes a county highway, as provided in this article, and all improvements commenced by the county, or its agents thereon, have been fully completed, the board of supervisors of such county may adopt a resolution declaring that all or any portion of such street is no longer a county highway. Ten days after the filing of such resolution with the clerk of the city within which the street lies, such street, or the portion thereof described in the resolution, shall cease to be a county highway.

(Amended by Ch. 140, Stats. 1935.)

[ORIGINAL SECTION.]

1704. At any time after all or a portion of a city street becomes a county highway, as provided in this article, the board of supervisors of such county may adopt a resolution declaring that all or any portion of such street is no longer a county highway. Ten days after the filing of such resolution with the clerk of the city within which the street lies, such street, or the portion thereof described in the resolution, shall cease to be a county highway.

Highway work in cities

1705. Whenever county bonds are voted or a special tax is levied for paving a county highway, and the natural course of such highway runs into or through any city, the board of supervisors shall pave within such city that portion of the highway which is designated by the chief executive of the city and the county supervisor in whose district such portion is located. Such highway portion shall be constructed to standards equal to those of the highway approaching such city. If such chief executive and such supervisor do not agree as to what street will be thus designated, then the chairman of the commission shall designate the street and his judgment shall be final and conclusive.

CHAPTER 10. COUNTY FERRIES.

Ferries

1750. The boards of supervisors in their respective counties may maintain, control, construct, repair or manage public ferries within the county.

Summer ferries

1751. The boards of supervisors, in their respective counties, may construct, operate, manage or maintain summer ferries under such rules and regulations and at such times and places as they consider necessary. The boards may cause the expense of such ferries to be paid out of the county general fund.

Acquisition of ferries

1752. Whenever the board of supervisors of any county considers it advisable and for the best interests of the public that the county own and operate any ferry within such county, the board may purchase, establish or operate any ferry across any stream or river within the county. The board may operate any such ferry as a free ferry.

Expense.

1753. Such board may acquire landing places for any such ferry and may pay the expenses of purchasing, establishing or operating such ferry out of the general road fund of the

county. A supervisor or his bondsmen shall not be responsible for the payment of damages incurred by any person while traveling on such ferry. Nonliability

1754. When a navigable river forms a boundary between two counties of this State, the boards of supervisors of such counties may establish and operate any ferry across such river. Ferries between counties

1755. Each of the counties shall pay such proportion of the expenses of establishing and operating any such ferry as is agreed upon by the respective boards. Each board may pay its county's proportion of such expenses out of the county general fund or the general road fund of the county. Expense

1756. If either of the counties refuses to enter into an agreement to establish and operate any such ferry, the other county may: One county may operate

(a) Establish and operate a ferry across the river.

(b) Acquire landing places for such ferry on the opposite bank of such river.

(c) Pay the expense of establishing and operating such ferry out of the general road fund or the county general fund of such county.

DIVISION XX. REPEALS.

10000. The following acts and sections, together with all acts amendatory thereof and supplementary thereto, are hereby repealed: Repeals

Year	Chapter	Page	Year	Chapter	Page
1858	272	227	1862	163	161
1858	315	297	1862	183	187
1859	225	228	1862	233	251
1859	240	244	1862	240	256
1859	244	252	1862	407	531
1859	328	368	1863	115	130
1860	96	60	1863	131	163
1860	125	95	1863	205	266
1860	152	119	1863	322	484
1860	180	147	1863	339	498
1860	184	150	1863	351	533
1860	331	327	1863	358	555
1860	368	359	1863	403	619
1861	164	160	1863– 4	78	77
1861	209	209	1863– 4	158	151
1861	381	398	1863– 4	211	214
1861	387	408	1863– 4	244	248
1861	395	414	1863– 4	322	347
1861	421	482	1863– 4	453	501
1861	466	519	1865– 6	34	18
1862	29	22	1865– 6	131	116
1862	81	69	1865– 6	188	167
1862	89	78	1865– 6	287	318
1862	138	127	1865– 6	435	544
1862	144	134	1865– 6	448	570

Repeals

Year	Chapter	Page
1865– 6	474	616
1865– 6	516	664
1865– 6	592	822
1867– 8	32	30
1867– 8	51	48
1867– 8	78	69
1867– 8	125	100
1867– 8	186	168
1867– 8	269	281
1867– 8	405	495
1867– 8	460	615
1867– 8	498	670
1869–70	74	73
1869–70	91	88
1869–70	130	126
1869–70	239	340
1869–70	289	396
1869–70	350	456
1869–70	358	475
1869–70	442	638
1869–70	452	654
1871– 2	93	89
1871– 2	112	105
1871– 2	122	125
1871– 2	135	142
1871– 2	199	239
1871– 2	224	297
1871– 2	248	322
1871– 2	249	327
1871– 2	270	372
1871– 2	294	397
1871– 2	306	414
1871– 2	339	448
1871– 2	353	496
1871– 2	431	627
1871– 2	567	826
1871– 2	614	901
1873– 4	66	62
1873– 4	97	105
1873– 4	138	178
1873– 4	158	213
1873– 4	301	436
1873– 4	320	453
1873– 4	334	490
1873– 4	342	503
1873– 4	386	551
1873– 4	401	573
1873– 4	446	621
1873– 4	472	705
1873– 4	534	771
1873– 4	597	833
1873– 4	601	844
1875– 6	15	6
Sec. 4 of		
1875– 6	47	22
1875– 6	52	30
1875– 6	53	31
1875– 6	54	31
1875– 6	87	57
1875– 6	176	180
1875– 6	200	237
1875– 6	210	270
1875– 6	246	316
1875– 6	264	341
1875– 6	266	354
1875– 6	270	358
1875– 6	286	376
1875– 6	289	385
1875– 6	315	405
1875– 6	321	413
1875– 6	322	421
1875– 6	338	477
1875– 6	387	530
1875– 6	393	539
1875– 6	406	570
1875– 6	408	571
1875– 6	425	594
1875– 6	431	606
1875– 6	434	611
1875– 6	455	650
1875– 6	459	658
1875– 6	493	752
1875– 6	543	817
1875– 6	572	858
1875– 6	610	907
1877– 8	10	6
1877– 8	12	18
1877– 8	39	50
1877– 8	126	157
1877– 8	174	211
1877– 8	225	273
1877– 8	311	395
1877– 8	314	402
1877– 8	328	438
1877– 8	362	544
1877– 8	363	545
1877– 8	383	565
1877– 8	461	703
1877– 8	463	716
1877– 8	528	826
1877– 8	552	859
1877– 8	665	1024
Sec. 2 of		
1883	10	5

Repeals

Year	Chapter	Page
1895	128	119
1897	25	21
1897	176	239
1897	244	374
1899	26	26
1901	111	272
1903	141	156
1903	366	515
1903	378	523
1905	150	146
1905	589	790
1905	596	796
1905	598	797
1905	609	805
1907	116	138
1907	117	139
1907	118	140
1907	192	237
1907	204	246
1907	349	666
1907	528	982
1909	223	351
1909	224	352
1909	523	853
1909	561	880
1909	641	974
1911	158	324
1911	165	339
1911	274	455
1911	280	474
1911	334	529
1911	468	931
1911	498	1036
1911	502	1044
1911	503	1044
1911	709	1391
1913	117	210
1913	118	211
1913	119	211
1913	120	212
1913	121	212
1913	256	445
1913	398	855
1913	423	869
1913	609	1134
1913	610	1134
1913	619	1152
1915	32	41
1915	99	179
1915	203	441
1915	283	478
1915	304	487
1915	306	488
1915	396	635
1915	415	688
1915	678	1327
1915	680	1328
1915	704	1379
1915	748	1491
1915	762	1527
1915	764	1529
1915	765	1530
1917	416	535
1917	697	1314
1917	703	1325
1917	704	1326
1917	746	1519
1917	769	1611
1919	12	18
1919	66	102
1919	93	136
1919	95	138
1919	510	1069
1919	542	1190
1921	195	215
1921	207	237
1921	831	1597
1921	832	1598
1921	836	1606
1921	837	1606
1921	839	1608
1921	841	1610
1921	845	1627
1921	883	1673
1921	888	1685
1923	61	123
1923	181	422
1923	223	448
Sec. 13½ of 1923	267	571
1925	82	190
1925	279	463
1925	309	508
1925	335	572
1925	351	635
1925	369	670
1925	375	689
1925	471	1009
1927	636	1067
1927	773	1503
1927	794	1562
1927	804	1585

Year	Chapter	Page	Year	Chapter	Page
1929	605	1016	1931	1023	2071
1931	71	80	1933	428	1078
1931	82	102	1933	441	1152
1931	463	1026	Secs. 3 and 4 of		
1931	624	1350	1933	909	2362

Repeals

10001. Sections 159 and 160 of the California Vehicle Act are hereby repealed, such repeal being contingent upon the taking effect of the "Vehicle Code." In the event said code takes effect the repeal of said sections shall take effect simultaneously therewith.

10002. The following sections of the Political Code are hereby repealed:

363b	2632	2698
363h	2636	2711
363k	2639	2712
363o	2640	2713
363q	2641	2714
363r	2642	2715
363s	2643	2716
363t	2643a	2731
363u	2644	2732
363v	2645	2733
363w	2646	2734
363x	2647	2735
363y	2651	2736
363z	2652	2738
363aa	2653	2739
363cc	2654	2740
363dd	2655	2742
363ee	2655a	2743
363ff	2656	2744
363gg	2671	2745
365e½	2681	2746
365g	2682	2747
365h	2683	2748
365i	2684	2749
365j	2685	2750
365k	2686	2751
365l	2687	2752
365n	2688	2753
365o	2689	2754
365p	2690	2755
2618	2691	2756
2619	2693	2757
2621	2694	2758
2622	2695	2759
2623	2696	2760
2631	2697	2761

2762	2768	4041.7
2763	2769	4041.7a
2764	2770	4043
2765	2771	4161a
2766	2772	4222
2767	2773	

10003. Section 588c of the Penal Code is hereby repealed

CHAPTER 30.

An act to amend section 4247 of the Political Code, relating to salaries of county officers in counties of the eighteenth class.

[Approved by the Governor March 30, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4247 of the Political Code is hereby amended to read as follows: Stats. 1933, p. 2062

4247. In counties of the eighteenth class, the hereinafter named county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries, fees and expenses, to wit: Imperial County. Compensation.

(1) Auditor. The county auditor of counties of the eighteenth class shall receive and the salary is hereby fixed in the sum of two thousand four hundred dollars per annum. Auditor

(2) District Attorney. The district attorney of counties of the eighteenth class shall receive and the salary is hereby fixed in the sum of three thousand two hundred dollars per annum. District attorney

(3) Each member of the board of supervisors of counties of the eighteenth class shall receive and the salary is hereby fixed in the sum of one thousand two hundred dollars each per annum which shall be in full for all services performed by him as supervisor and road commissioner for each year; provided, however, that each supervisor shall be allowed his necessary and actual traveling expenses at the rate of seven cents per mile for each mile traveled within the county in attending the meetings of the board of supervisors and in performing his duties as road commissioner. In case it shall be necessary for any member of said board of supervisors to travel outside of the county and within the State of California on official matters pertaining to his duties as supervisor and as road commissioner, he shall receive his actual and necessary expense only and shall file his demand in the same manner as other county officers and shall submit signed receipts and vouchers for all such expenses. Supervisors

(4) Jurors. In counties of the eighteenth class grand jurors and trial jurors in criminal cases shall receive as compensation for each day's attendance or trial in superior courts, Jurors.

the sum of three dollars per day, and for each mile actually and necessarily traveled from their residence in attending the superior court or the grand jury, one way only, the sum of fifteen cents per mile. Such mileage to be allowed but once during each meeting day said jurors are required to attend trial. Jurors who attend trials of cases in justices' courts in such counties shall receive as compensation for each day's attendance for trial in justice court, the sum of one dollar and fifty cents per day, and for each mile actually and necessarily traveled from their residence in attending the trial in said justice's court, one way only, the sum of fifteen cents per mile, such mileage to be allowed but once during each meeting day said trial jurors are required to attend trial.

CHAPTER 31.

An act relating to the expenditure of moneys in the relief fund created by section 10 of Article XVI of the Constitution, and declaring the urgency hereof.

[Approved by the Governor April 2, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Expenditures from relief fund

Direct grants

SECTION. 1. The Relief Administrator named in section 10 of Article XVI of the Constitution of California, is hereby authorized and empowered to disburse any portion or all of the moneys from the relief fund established by said section 10 of Article XVI of the Constitution of California, as direct grants to relief beneficiaries, without making such grants to or through any county, city and county, municipality, district or other political subdivision.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution, and shall go into immediate effect. The facts constituting such necessity are as follows:

It is necessary that this act go into effect immediately in order that the relief plan of this State conform with Federal relief plans and thereby facilitate cooperation with the Federal Government, with respect to relief grants to this State, and the expenditure of Federal relief moneys which together with State moneys will provide aid to meet current relief requirements. This act is also necessary to assure orderly and efficient distribution of aid, to avoid needless and expensive duplication of administration to carry out understandings and agreements heretofore made with the Federal government, and to assure the expenditure of moneys in the "Relief fund" prior to July 1, 1935, as required by section 10 of Article XVI of the Constitution.

CHAPTER 32.

An act making an appropriation for a State exhibit at the California Pacific International Exposition, declaring the urgency thereof, and providing that this act shall take effect immediately.

[Approved by the Governor April 5, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The sum of seventy-five thousand ($75,000) dollars, or so much thereof as may be necessary, is hereby appropriated out of the balance of any moneys remaining in the "Fair and exposition fund" after the deductions have been made, as provided in section 13 of Chapter 769, Statutes of 1933, to be expended by the State Department of Public Works in acquiring, collecting, transporting, insuring, erecting and maintaining a State exhibit of the resources and agricultural products of the State at the California Pacific International Exposition to be held in San Diego, California, in 1935. Appropriation: Exhibit at California Pacific International Exposition

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into effect immediately. The facts constituting the necessity are as follows: Urgency

The California Pacific International Exposition will open on the twenty-ninth day of May of this year at San Diego, the primary object and purpose of which is to stimulate recovery in the West and to aid in ending unemployment and the severe economic depression now existing throughout the United States. It is of the utmost importance that California in its capacity as host to the nations of the world do all in its power to further the objects and purposes of this exposition and to that end to make arrangements immediately for a State exhibit. A very short time remains to make the necessary preparations before the opening of the exposition on May 29, 1935, for which reason it is imperative that this act take effect immediately.

CHAPTER 33.

An act to add sections 8a to 8e, and 8p to 8u, inclusive, to the Juvenile Court Law, relating to forestry camps for wards of the juvenile court Stats. 1915, p. 1225, amended

[Approved by the Governor April 8, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 8a is hereby added to the Juvenile Court Law, to read as follows: New section

Forestry camps

Sec. 8a. In order to provide appropriate facilities for the housing of wards of the juvenile court who are amenable to discipline other than in close confinement, to secure a better classification and segregation of such wards according to their capacities and interests, and their responsiveness to control and responsibility, to reduce the necessity of expanding the existing grounds and housing facilities on such grounds for the confinement of such wards, and to give better opportunity for reform and encouragement of self-discipline in such wards, the establishment of forestry camps is hereby authorized, as provided in the following sections.

New section

SEC. 2. Section 8b is hereby added to the Juvenile Court Law, to read as follows:

Establishment by county.

Sec. 8b. Any county may establish by ordinance of the board of supervisors a juvenile forestry camp or camps, to which boys who would otherwise be committed to the Preston School of Industry or to the Whittier State School may be committed by the court in lieu of commitment to either of said State institutions. The provisions of this act relating to commitments to said State institutions shall apply, as far as applicable, to commitments to such forestry camps, except that any boy who proves not to be a fit person to remain in any such camp, in the opinion of the superintendent thereof, shall be returned to the court for commitment to the proper State institution.

New section

SEC. 3. Section 8c is hereby added to the Juvenile Court Law, to read as follows:

Superintendent

Sec. 8c. Such forestry camps shall be in charge of a superintendent, and may be established in conjunction with the probation committee or department of the county, or the county board of forestry, or in any manner determined by the county board of supervisors.

New section

SEC. 4. Section 8d is hereby added to the Juvenile Court Law, to read as follows:

Work in camps

Sec. 8d. The boys committed to such camps may be required to labor on the buildings and grounds of the camp, or on the making of forest roads for fire prevention or fire fighting, or on forestation or reforestation of public lands, or the making of fire trails and fire breaks, or to perform any other work or engage in any studies or activities prescribed or permitted by the superintendent subject to such approval as may be required by ordinance of the county board of supervisors.

New section

SEC. 5. Section 8e is hereby added to the Juvenile Court Law, to read as follows:

Wages County

Sec. 8e. Provision may be made by the county board of supervisors for the payment of wages to the boys for the work they do, the sums earned to be paid in reparation, or to the parents or dependents of the boy, or to the boy himself, in such manner and in such proportions as the court may direct.

New section

SEC. 6. Section 8p is hereby added to the Juvenile Court Law, to read as follows:

Sec. 8p. The Department of Institutions may establish, with the approval of the Governor, such forestry camps in connection with the Preston School of Industry, the Whittier State School, and the Ventura School for Girls, as in its judgment could be properly utilized for the housing, care, and welfare of such of the wards of the juvenile court committed to the said institution as would in the judgment of the department be fit persons to be housed in such camps. Establishment by Department of Institutions

SEC. 7. Section 8q is hereby added to the Juvenile Court Law, to read as follows: New section

Sec. 8q. Such camps in connection with the Preston School of Industry and the Whittier State School may be so established in cooperation with the State Board of Forestry and the Department of Natural Resources, on such terms as may be agreed upon by the directors of the departments and the said board, or may be so established by the Department of Institutions alone. The boys housed in such camps may be required to labor on the buildings and grounds of the camp, or on the making of forest roads for fire prevention or fire fighting, or on forestation or reforestation of public lands, or the making of fire trails and fire breaks, or to perform any other work or engage in any studies or activities prescribed or permitted by the Department of Institutions or any officer designated by it. Cooperation of State Board of Forestry and Department of Natural Resources

SEC. 8. Section 8r is hereby added to the Juvenile Court Law, to read as follows: New section

Sec. 8r. The girls housed in such camp or camps in connection with the Ventura School for Girls may be required to perform such duties in connection with the camp, and engage in such studies and activities, as may be prescribed or permitted by the Department of Institutions. Girls' camps

SEC. 9. Section 8s is hereby added to the Juvenile Court Law, to read as follows: New section

Sec 8s. Provision may be made by the Department of Institutions, in cooperation with the Department of Natural Resources or otherwise, for the payment of wages to the wards of the juvenile court for work they do while housed in such camps connected with said State institutions, the sums earned to be paid in reparation, or to the parents or dependents of the ward, or to the ward, in such manner and in such proportions as the court may direct. Wages State

SEC. 10. Section 8t is hereby added to the Juvenile Court Law, to read as follows: New section

Sec. 8t. The Department of Institutions may select, under such rules and procedures as it may establish, the wards to be housed in such camps connected with State institutions, and may similarly provide for the termination of their stay at such camps. It is intended that only such wards as have earned the privilege will be selected to be housed in such camps. For all purposes each such camp shall be deemed to be part of the State institution in connection with which it is established. Selection of wards for camps

New section

SEC. 11. Section 8u is hereby added to the Juvenile Court Law, to read as follows:

Camp site.

Sec. 8u. Sites for such camps connected with such State institutions may be selected by the Department of Institutions, subject to the approval of the Department of Finance.

CHAPTER 34.

Stats 1915, p. 1225, amended

An act to add section 21a to the Juvenile Court Law, relating to the prevention of juvenile delinquency through public councils or committees.

[Approved by the Governor April 8, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 21a is hereby added to the Juvenile Court Law, to read as follows:

Establishment of public councils for prevention of juvenile delinquency

Sec. 21a. The juvenile court and the probation committee or department of any county or city and county may establish or assist in the establishment of any public council or committee having as its object the prevention of juvenile delinquency, and may cooperate with or participate in the work of any such councils or committees for the purpose of preventing or decreasing juvenile delinquency, including the improving of recreational, health, and other conditions in the community affecting juvenile welfare.

CHAPTER 35.

An act relating to the operation of motor vehicles used in unemployment cooperative relief work, and declaring the urgency thereof and that this act shall go into immediate effect.

[Approved by the Governor April 8, 1935. In effect immediately]

The people of the State of California do enact as follows:

Motor vehicle permit for unemployment cooperative relief work

SECTION 1 (a) The Department of Motor Vehicles may, during the registration years of 1935 and 1936, issue a permit for any motor vehicle used exclusively in unemployment cooperative relief work by any cooperative association operating without profit, dues, or the payment of any salaries in the distribution of goods, wares and merchandise from one place to another, which permit shall allow the operation of any such motor vehicle while so used without the payment of the registration fees required by law.

(b) Every application for permit hereunder must be accompanied by an affidavit duly verified by the owner of the motor vehicle for which permit is requested, which affidavit shall set forth such facts as will enable the Department of Motor Vehicles to determine if such vehicle is entitled to be operated under such permit without payment of the registration fees therefor. Application and affidavit

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and as such shall go into immediate effect. Urgency

The following is a statement of facts constituting such necessity:

There are throughout the State of California a great number of unemployed and destitute people. Many persons and agencies have made available for the relief of such unemployed and destitute persons divers goods, wares and merchandise. It is necessary for the proper distribution of such goods, wares and merchandise that transportation facilities be furnished. Many persons own or possess motor vehicles, motor trucks, trailers and semitrailers available for the solicitation or transportation of such goods, wares and merchandise but such persons are financially unable to pay the required fees for the registration of such vehicles and the prompt and efficient distribution of the same and immediate unemployment relief will be impossible if this act does not go into immediate effect.

Any person filing a false affidavit for the purpose of securing an exempt registration for license plates shall be guilty of a misdemeanor.

CHAPTER 36.

An act to amend section 11 of The California Districts Securities Commission Act, relating to the levy of annual assessments by irrigation districts, providing that said section shall remain in effect until November 1, 1937, and declaring this act an emergency measure enacted under the police power. Stats 1931, p 2263, amended

[Approved by the Governor April 8, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 11 of The California Districts Securities Commission Act is hereby amended to read as follows: Stats. 1933 p 355

Sec. 11. Whenever any district has levied the annual assessment required by The California Irrigation District Act or any acts amendatory thereof or supplemental thereto and when the money derived from said assessment, together with any other revenue allocated to payment of bond Defaulting irrigation districts

interest and principal, is insufficient to meet the bond interest or principal when due and said district defaults on its bond principal or interest, or both, to the extent of not less than twenty per cent (20%) of the amount due, said defaulting district may become subject to this section and to the control and direction of the commission as herein provided upon the application of such district and the approval thereof by the commission. Thereafter it shall continue subject to this section and to such control and direction during the effective period of this section unless and until the amount raised by its annual assessment as hereinafter provided, together with other revenue derived from any source and allocated to bond service or other outstanding obligations, shall be sufficient to meet and pay off all matured and uncanceled or unrefunded obligations of such district, bonded or otherwise, in which event it shall cease to be subject to this section and such control and direction shall terminate so long as said district does not again default as aforesaid. Upon receipt of written notice from any such district, the California Districts Securities Commission shall make such an investigation of the affairs of the district at the expense of the district as it may deem proper and for which funds are available in order to inform itself as to the financial affairs of the district and its lands, and to enable it to carry out the provisions of this section intelligently.

Amount of assessments

Stats 1931, p 122

The board of directors of any such defaulting district, in levying the annual assessment of the district, may, notwithstanding section 39 of The California Irrigation District Act or any other provision of law governing such district, levy only for such total amount as in their judgment by a finding of fact, approved by the commission it will be reasonably possible for the lands in said district, taken as a whole, to pay without exceeding a delinquency of fifteen per cent. In determining the amount it is possible for the lands to pay, at the time of each annual assessment, the board of directors shall consider the productivity of lands in the district, crops growing and to be grown during the year, market conditions as well as they can be forecast, the cost of producing and marketing crops, and obligations of the land respecting taxes and public liens. Out of the money derived from such annual assessment the board of directors of the district may set aside such sum as, in the judgment of said board, and approved by the commission, may be necessary, in addition to other revenue allocable to that purpose, for the operation and maintenance of said district and its works for the ensuing year. The balance of said money derived from such annual assessment shall be prorated to bond interest, bond principal and to other outstanding obligations of the district in the proportion that the total amount due on each of said items shall bear to the said balance.

Notwithstanding anything in this section contained, in any case in which an irrigation district has heretofore defaulted or shall hereafter default in the payment of its indebtedness as

in this act provided, no district shall be deemed to be or have been under the control or direction of the commission as in this section defined or under the supervision or control of the commission as to the fiscal affairs of such district until and unless the commission has or shall have made its order approving a reduced assessment.

This section shall remain in effect only until the first day of November, 1937, unless sooner repealed. The Legislature expressly declares that this section is intended to be applicable to all bonds, obligations and assessments of districts which have defaulted to the extent hereinbefore set forth, and the Legislature expressly declares that, except as otherwise expressly provided by law, it applies, and shall be construed to apply, to all bonds now or hereafter issued and outstanding. Nothing in this section contained, however, shall be deemed to extinguish or cancel any obligation due from any district, and whenever the annual assessment, levied as hereinbefore provided, leaves matured bond principal or interest or other matured obligations unpaid, said unpaid balance shall continue as a district obligation until paid or refunded in accordance with law.

Expiration of section

Obligations not canceled

SEC. 2. The agricultural emergency referred to in section 2 of Chapter 60 of the Statutes of 1933 continues to exist, and it is necessary for the same reasons that section 11 of the act cited in the title hereof was enacted to continue the section in effect until November 1, 1937.

Emergency police power measure

CHAPTER 37.

An act to amend sections 41c and 42 of the California Irrigation District Act, relating to the payment of irrigation district assessments.

Stats. 1897, p 254, amended.

[Approved by the Governor April 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 41c of the California Irrigation District Act is hereby amended to read as follows:

Stats 1927, p 614

41c. The board of directors may whenever they shall so determine and must upon a petition in writing, signed by a majority of the assessment payers within the district, pass a resolution providing that thereafter all assessments, except special assessments provided for by section 34 of this act, shall be payable in two installments, and thereafter such assessments shall be payable in two equal installments, unless said resolution shall specify a different percentage to be paid in the respective installments, in which case the assessments shall be payable as specified in said resolution. Such resolution must be adopted at or prior to the time of the levy of any annual assessment to be affected thereby and can not be

Payment of assessments in installments

Resolution

rescinded or modified so as to affect any assessment theretofore levied. Whenever the board of directors have so determined, thereafter the first installment of the assessment levied shall become delinquent at six o'clock p.m. on the last Monday of December, and the second installment thereof shall become delinquent at six o'clock p.m. on the last Monday of June next thereafter; provided, that where an assessment has been levied as provided in section 34 of this act the whole of such assessment shall become delinquent on the last Monday in December.

Publication. When provision is made as herein provided, for the payment of said assessments in two installments, the publication of the delinquent list provided for in this act, shall not be made before the first day of July, but the first publication thereof must be made on or before the first day of August, and except as otherwise in this section provided, all the provisions of this act relative to the assessment, payment and collection of assessments, notice of assessments, publication of delinquent list, and sale for delinquent assessment, and all other provisions relative to such assessments shall be applicable.

Stats 1933, p 1628.

SEC. 2. Section 42 of said act is hereby amended to read as follows:

Duty of collector

SEC. 42. On or before the first day of February, except as provided in section 41c hereof, the collector must commence the publication of the delinquent list, which shall contain the names of the persons and the description of the property delinquent, and the total amount of the assessments, penalties and costs due thereon. He must publish with the delinquent list a notice that unless the assessments delinquent, together with penalties and costs accrued thereon, as shown in the list, are paid, the real property upon which such assessments are a lien will be sold to the district. Such delinquent list and notice must be published three times; to wit, once a week for three successive weeks, in a newspaper published in the county in which the property delinquent is situated; provided, however, that only such lands as may be situated in such county need be set forth in such publication; and provided further, that if any property assessed to the same person or corporation shall lie in more than one county, then such publication may be made in any county in which any portion of such property may lie. The notice must designate the time and place of the sale. The time of sale must be not less than twenty-one nor more than twenty-eight days from the first publication, and the place must be at some point designated by the collector, within the district, or it may be at the office of the district if said office is not within the district; provided, however, that if there should occur any error in the publication of the notice of the sale of the delinquent property, or the delinquent list, which might invalidate a sale made thereunder, and such error is discovered prior to sale thereunder, the collector shall at once republish the notice of the sale of that property affected by such error, making such republication conform to the provisions of this law, and the time of sale designated in such

Delinquent list and notice

Publication

Day of sale

Republication

republication must be not less than twenty-one nor more than twenty-eight days from the first republication; and the place of sale must be at some point designated by the collector within the district, or it may be at the office of the district if said office is not within the district, and stated in such republication.

CHAPTER 38.

An act to repeal section 658a of the Political Code and to add section 658.5 thereto, relating to refunds of fees paid to the State.

[Approved by the Governor April 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 658a of the Political Code is hereby repealed. Repeal.

SEC. 2. Section 658.5 is hereby added to the Political Code, to read as follows: New section

658.5. It shall be the duty of the Director of Finance to authorize refunds of application, examination or license fees paid to commissions, boards, bureaus or officers of the State in all cases where the statute providing for such fees does not provide for a refund and the credentials of the applicant are discovered to be insufficient, or for any other reason the applicant is found to be ineligible, for such application, examination or license. Refund of fees

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CHAPTER 39.

An act to add section 530a to the Penal Code, relating to false statements to procure relief, and declaring the urgency hereof.

[Approved by the Governor April 9, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 530a is hereby added to the Penal Code to read as follows: New section

530a. Any person who knowingly makes any false statement or misrepresentation in his application in order to procure any sum of money or other relief out of State funds or Federal grants, from the State Relief Administration, or to secure therefrom any relief or funds under any other than a true statement, is guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than ten nor more than fifty dollars, or by imprisonment in the county jail for False statement to procure relief

not exceeding three months or by both such fine and imprisonment.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California and shall, therefore, take effect immediately.

The following is a statement of the facts constituting such necessity: Moneys and relief covered by this act are now being disbursed by the State and the Federal government for the purpose of relieving unemployment. In order that proper protection be extended to the recipients of this money and that it be not diverted from the purpose for which it is paid by the State or Federal government, it is necessary that the protection afforded by this bill be immediately extended both to the governments paying out the money and the recipients thereof. It is therefore necessary that this act take effect immediately.

CHAPTER 40.

An act to amend section 462 of the Political Code, relating to unclaimed money of the State.

[Approved by the Governor April 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1931, p. 1281

SECTION 1. Section 462 of the Political Code is hereby amended to read as follows:

Disposition of unpaid moneys

462. Whenever any State agency except the State Compensation Insurance Fund has drawn against any bank account for the payment of any claim and payment of such claim has not been made for a period of six months by reason of the failure of the claimant to present the instrument to the bank, the State agency shall pay the amount of said claim to the State Treasurer in trust and whenever the amount of any claim against the State has been deposited in trust with the State Treasurer by any department, board, officer or commission, because of inability to locate the claimant thereof, the State Treasurer shall thereafter hold the same for the payment of such claim for a period of two years after such return thereof, and if the said claim be not so paid within said period of time, said amount so returned shall at the close of the next succeeding fiscal year revert to and become a part of the general fund of the State.

CHAPTER 41.

An act to amend section 3866 and to repeal section 3871 of the Political Code, relating to settlements between county treasurers and the State.

[Approved by the Governor April 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 3866 of the Political Code is hereby amended to read as follows: Stats 1929, p 1558

3866. The treasurers of all the counties and cities and counties of this State must, between the fifteenth and thirtieth days of January and June of each year, settle in full with the Controller of State and pay over in cash to the Treasurer of State all funds belonging to the State which have come into their hands as county treasurers before the close of business on and including the last day of the month prior to the month of settlement. If, in the opinion of the Controller of State, it appears from the report of the county auditor that sufficient taxes or other revenues have not been collected to make it for the interest of the State that a settlement should be made, the Controller shall defer the settlement until the next regular settlement. No mileage, fees or commissions shall be allowed any officer for any deferred settlement; provided, that in case any settlement is so deferred, the county auditor in his next report to the Controller of State shall include therein all moneys required to be reported since the date of his last report upon which a settlement was made. Settlements of county treasurers with State

SEC. 2. Section 3871 of the Political Code is hereby repealed. Repeal

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CHAPTER 42.

An act making an appropriation for the contingent expenses of the Assembly at its fifty-first session, and declaring that this act shall take effect immediately.

[Approved by the Governor April 9, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The sum of $50,000 is hereby appropriated out of any moneys in the State treasury not otherwise appropriated, for contingent expenses of the Assembly for the fifty-first session of the Legislature. Appropriation Contingent expenses of Assembly

SEC. 2. This appropriation shall be available for the purposes for which it is appropriated without regard to fiscal years.

Current expenses

SEC. 3. Inasmuch as this act makes an appropriation for the usual current expenses of the State, it shall, under the provisions of section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 43.

Stats 1925, p lxxxiv, amended

An act to add section 2.1 to an act entitled "An act to authorize boxing and wrestling contests for prizes or purses, or where an admission fee is charged, and limiting such boxing contests to twelve rounds; to create an athletic commission empowered to license such contests and the participants therein; to prescribe conditions under which licenses shall be issued and contests held; to declare that amateur boxing contests conducted under section 412 of the Penal Code shall be subject to the provisions of this measure and under the sole jurisdiction of such commission in all cases wherein an admission fee is charged spectators to witness such amateur boxing contests," relating to the State Athletic Commission.

[Approved by the Governor April 9, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2.1 is hereby added to the act cited in the title hereof to read as follows:

Budget requirements

Sec. 2.1. The State Athletic Commission shall, with respect to accounting, auditing, budget, financial and personnel matters, be subject to all regulations and requirements now or hereafter imposed by law upon, or applicable to, State departments, boards, bureaus, commissions, and offices.

CHAPTER 44.

Stats 1919, p 1252, amended

An act to amend sections 1, 3, 9, 12a, 15, 19, and 20a, to amend and renumber section 20b to be section 20k, and to add sections 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 9a, 9b, 9c, 12b, 20b, 20c, 20d, 20e, 20f, 20g, 20h, 20i, and 20j to the California Real Estate Act, relating to the creation of the Real Estate Board and prescribing the powers and duties thereof, to the regulation and licensing of real estate brokers and salesmen, and to the inspection and regulation of subdivisions.

[Approved by the Governor April 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p 1770

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Section 1. It shall be unlawful for any person, copartnership or corporation to engage in the business, act in the capacity of, advertise or assume to act as a real estate broker or a real estate salesman within this State without first obtaining a license from the State Real Estate Division. License for real estate business

SEC. 2. Section 3 of said act is hereby amended to read as follows: Stats. 1933, p. 1771.

Sec. 3. There is hereby created a State Real Estate Division, which shall be a division of the Department of Investment. The chief officer of such division shall be the Real Estate Commissioner. A Real Estate Board is hereby created, to consist of the Real Estate Commissioner and six other members. All members of the board shall be appointed by the Governor. Each member, except the Real Estate Commissioner, shall serve without compensation. The Real Estate Commissioner shall receive an annual salary of six thousand dollars, to be paid monthly out of the State treasury upon a warrant of the Controller. Each member shall be allowed his actual and necessary traveling expenses in the discharge of his duties. No person shall be appointed a member of the Real Estate Board who shall not have been for five years a real estate broker actively engaged in business as such in California. State Real Estate Division created. Real Estate Board. Qualifications

SEC. 3. A new section is hereby added to said act, to be numbered 3a, and to read as follows: New section

Sec. 3a. Within thirty days after this section shall go into effect, the Governor shall appoint the members as herein provided. One member shall be appointed for a term ending January 15, 1936. Two members shall be appointed for a term ending January 15, 1937. Two members shall be appointed for a term ending January 15, 1938. Two members, including the Real Estate Commissioner, shall be appointed for a term ending January 15, 1939. Thereafter, the term of office of each member shall be four years. Three members of said board shall be residents of the Northern District of California, and three members shall be residents of the Southern District of California, the Real Estate Commissioner to be appointed at large. Not more than two members shall be appointed from any one county. The Northern District shall consist of all that portion of the State north of the northerly lines of the counties of San Luis Obispo, Kern and San Bernardino, and the Southern District shall consist of all that portion of the State south of the northerly lines of said three counties. Vacancies from any cause shall be filled by the Governor for the unexpired term. Members. Appointment and terms. Districts

SEC. 4. A new section is hereby added to said act, to be numbered 3b, and to read as follows: New section

Sec. 3b. Within one month after their appointment, the board shall meet at Sacramento and organize. The Real Estate Commissioner shall be chairman of the board and shall be the representative of the Real Estate Division in the Department of Investment for the purpose of representation in the Governor's Council. The board shall meet together for the Organization

transaction of business at least once each quarter-year, at such place in California as they may designate, and may meet oftener upon five days' written notice of the time and place of meeting, signed by the Real Estate Commissioner or a majority of the members of the board.

New section

SEC. 5. A new section is hereby added to said act, to be numbered 3c, and to read as follows:

Quorum

Sec. 3c. A majority of the board shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power or authority of the board. A vacancy on the board shall not impair the right of the remaining members to perform all the duties and exercise all the power and authority of the board. The act of the majority of the board, when in session as a board, shall be deemed to be the act of the board.

New section.

SEC. 6. A new section is hereby added to said act, to be numbered 3d, and to read as follows:

Deputies and employees

Sec. 3d. The Real Estate Commissioner shall employ such deputies, clerks and employees as he may need to discharge in proper manner the duties imposed upon him by law. The Real Estate Commissioner shall execute to the people of the State of California a bond in the penal sum of ten thousand dollars, executed by two or more sureties or by a surety company duly authorized to do business in California, to be approved by the Governor of the State, for the faithful discharge of the duties of his office.

Bond of commissioner

New section

SEC. 7. A new section is hereby added to said act, to be numbered 3e, and to read as follows:

See Stats 1935, Ch 421

Not to engage in real estate business

Sec. 3e. After qualifying as such, neither the Real Estate Commissioner nor any of the deputies, clerks or employees of the board shall be interested in any real estate company or any real estate brokerage firm, as director, stockholder, officer, member, agent or employee, or act as a broker or salesman within the meaning of this statute, or act as a copartner or agent for any other such broker or brokers, salesman or salesmen.

New section

SEC. 8. A new section is hereby added to said act, to be numbered 3f, and to read as follows:

Duties of employees

Sec. 3f. Such deputies, clerks and employees shall perform such duties as the Real Estate Commissioner shall assign to them. The Real Estate Commissioner shall fix the compensation of such deputies, clerks and employees, which compensation shall be paid monthly on a certificate of the Real Estate Commissioner, and on the warrant of the Controller out of the State treasury. Each deputy shall, after his appointment, take and subscribe to the constitutional oath of office and file the same in the office of the Secretary of State.

Compensation

Oath

New section

SEC. 9. A new section is hereby added to said act, to be numbered 3g, and to read as follows:

Issuance and revocation of licenses

Sec. 3g. It shall be the duty of the Real Estate Commissioner to enforce the provisions of this act, and he shall have full power to regulate and control the issuance and revocation,

both temporary and permanent, of the licenses to be issued under the provisions of this act, and to perform all other acts and duties provided in this act and necessary for its enforcement.

SEC. 10. A new section is hereby added to said act, to be numbered 3h, and to read as follows: New section

Sec. 3h. The Real Estate Commissioner may from time to time promulgate necessary rules and regulations for the conduct of his office and the administration and enforcement of this act. The Real Estate Commissioner shall publish or cause to be published on or about the first day of July of each year a directory or list of licensed brokers and salesmen and may publish therewith such matter as he may deem pertinent to the act, and shall mail one copy of such directory to each licensed broker upon his request therefor, without charge. The Real Estate Commissioner may periodically issue a bulletin containing matter relating to his division, and to the act, and the administration thereof, and may publish the same character of matter in any established periodical published in the State which in his opinion would be most likely to disseminate such matter and information to licensees under this act. Rules and regulations. Directory.

SEC. 11. A new section is hereby added to said act, to be numbered 3i, and to read as follows: New section.

Sec. 3i. The Real Estate Board is hereby authorized to inquire into the needs of the real estate licensees of California, the functions of the Real Estate Division and the matter of the business policy thereof, to confer and advise with the Governor and other State officers as to how such division may best serve the State and the licensees of the division, and to make recommendations and suggestions of policy to the Real Estate Commissioner as said board shall deem beneficial and proper for the welfare and progress of the licensees and of the public and of the real estate business in California. Powers of board.

SEC. 12. Section 9 of said act is hereby amended to read as follows: Stats 1931, p. 1295.

Sec. 9. Application for license as real estate broker shall be made in writing to the Real Estate Commissioner, which application shall be accompanied by the recommendation of two real estate owners of the county in which such applicant resides or has his place of business, certifying that the applicant is honest, truthful and of good reputation, and recommending that a license be granted the applicant. If the applicant shall have resided, or shall have engaged in business for less than one year in the county from which the application is made, the same shall also be accompanied by the recommendation of two real estate owners of each of the counties where he has formerly resided or engaged in business during said period of one year prior to the filing of said application, certifying that the applicant is honest, truthful and of good reputation and recommending that a license be granted the applicant. Where the applicant for a real estate broker's license maintains more Application for broker's license.

than one place of business within the State he shall be required to apply for and procure an additional license for each branch office so maintained by him. The commissioner shall have the power to determine whether or not a broker is doing a real estate brokerage business at or from any particular location which requires him to have a branch office license. Every such application shall state the name of the person, copartnership or corporation, and the location of the place or places of business for which such license is desired.

New section

SEC. 13. A new section is hereby added to said act, to be numbered 9a, and to read as follows:

Application for salesman's license

Sec. 9a. Application for license as real estate salesman shall be made in writing to the Real Estate Commissioner, signed by the applicant, setting forth the period of time during which he has been engaged in the business, stating the name of his last employer and the name and place of business of the person, copartnership or corporation then employing him, or in whose employ he is to enter. The application shall be accompanied by the recommendation of his employer, if employed, certifying that the applicant is honest, truthful and of good reputation, and recommending that the license be granted to the applicant.

New section

SEC. 14. A new section is hereby added to said act, to be numbered 9b, and to read as follows:

Additional proof.

Sec. 9b. The Real Estate Commissioner may require such other proof as he may deem advisable of the honesty, truthfulness and good reputation of any applicant for a license, or of the officers of any corporation, or of the members of any copartnership making such application, before authorizing the issuance of a license, and for this purpose may call a hearing in accordance with the procedure set forth in section 12a and 13 of this act.

New section

SEC. 15. A new section is hereby added to said act, to be numbered 9c, and to read as follows:

Examination of applicants

Sec. 9c. In addition to proof of honesty, truthfulness and good reputation of any applicant for a license, the Real Estate Commissioner must ascertain by written examination that such applicant, and in case of a copartnership or corporation applicant for a broker's license that each officer, agent or member thereof through whom it proposes to act as a licensee, has appropriate knowledge of the English language, including reading, writing, spelling, elementary arithmetic, a fair understanding of the rudimentary principles of real estate conveyancing, the general purposes and general legal effect of deeds, mortgages, land contracts of sale, and leases, of the elementary principles of land economics and appraisals, and a general and fair understanding of the obligations between principal and agent, of the principles of real estate practice and the canons of business ethics pertaining thereto, as well as of the provisions of the California Real Estate Act; provided, however, that the commissioner may, in his discretion, waive the examination of any applicant for a broker's license who held an

Waiver of examination

unrevoked or unsuspended license on December thirty-first of the preceding year as an individual broker, an officer of a corporation, or member of a copartnership and may waive the examination of any applicant for a salesman's license who held an unrevoked or unsuspended salesman's license on December thirty-first of the preceding year and who had previously qualified by passing written examination; provided, further, that the commissioner shall issue without examination to any person who otherwise qualifies under section 9a of this act a temporary salesman's license, good for the remainder of the calendar year not exceeding six months from date of issuance, but the holder of such temporary license shall not be entitled after six months from date of issuance of such temporary license to further license without examination as herein provided, except that the holder of such temporary salesman's license may within said six months apply for transfer to another or other brokers.

Temporary salesman's license

SEC. 16. Section 12a of said act is hereby amended to read as follows:

Stats. 1933, p. 1776.

Sec. 12a. Before denying, suspending or revoking any license, the said commissioner shall notify, in writing, the applicant or holder of such license of the charges against him and afford an opportunity to be heard in person or by counsel in reference thereto. Service upon the licensee or applicant of the charges against him or of the notice of the time and place of trial shall be fully effected by mailing a true copy of such charges or notice by United States registered mail in a sealed envelope with postage fully prepaid thereon to the licensee or applicant at his latest address of record in the Real Estate Division. Within ten days after service of a copy of the charges, the defendant shall be required to appear and file a verified answer to such charges.

Notice before denying, suspending or revoking license

In case a hearing is called on an application for a broker's license, the commissioner, upon the request of the applicant, and upon the payment of a fee of five dollars, shall issue a temporary broker's license to any applicant who held an unrevoked or unsuspended license on December thirty-first of the preceding year as an individual broker, a corporation, an officer of a corporation, a copartnership or member of a copartnership, but such temporary broker's license shall expire at the time the decision rendered by the commissioner takes effect as hereinafter provided.

Temporary broker's license

In case a hearing is called on an application for a salesman's license, the commissioner, upon the request of such applicant, accompanied by the recommendation of the broker under whom such salesman is seeking a license, and upon the payment of a fee of two dollars, shall issue a temporary salesman's license to any applicant who held an unrevoked or unsuspended salesman's or broker's license on December thirty-first of the preceding year, but such temporary salesman's license shall expire at the time the decision rendered by the commissioner takes effect as hereinafter provided.

Temporary salesman's license.

New section

SEC. 17. A new section is hereby added to said act, to be numbered 12b, and to read as follows:

Review of decision.

Sec. 12b. The decision of the said commissioner in denying, suspending or revoking any license under this act shall be subject to review in accordance with the provisions of Chapter I of Title I of Part III of the Code of Civil Procedure. Any party aggrieved by such decision of the commissioner may make a demand in writing for a certified transcript of all the papers on file in his office affecting or relating to such decision and all the evidence taken on the hearing and paying ten cents for each folio of the transcript and one dollar for the certification thereof. Thereupon the commissioner shall, within thirty days, make and certify such transcript. In suspending or revoking any license, or in denying any application for license where the applicant is a holder of a temporary license, either as a broker or salesman, issued in accordance with this act, the decision of the commissioner shall not take effect until ten days after its date. Under the provisions of this section, the commissioner shall have power to deny, suspend or revoke the license of a corporation as to any officer or agent acting under its license, and the license of a copartnership as to any member acting under its license, without revoking the license of such corporation or of such copartnership.

Revocation as to individual member

Stats 1919, p 1259.

SEC. 18. Section 15 of said act is hereby amended to read as follows:

Employer's license as affected by employee's violation

Sec. 15. No violation of any of the provisions of this act on the part of any salesman or employee of any licensed broker in this State shall cause the revocation or suspension of the license of the employer of said salesman or employee unless it shall appear upon a hearing to be had by the commissioner in accordance with sections 12a and 13 hereof that said employer had guilty knowledge of such violation.

Stats 1923, p. 97.

SEC. 19. Section 19 of said act is hereby amended to read as follows:

Penalty for violations

Sec. 19. For a violation of any of the provisions of sections 11, 11a, 14 and 18 of this act, the Real Estate Commissioner may temporarily suspend or permanently revoke the license of such holder in accordance with the proceedings set forth in sections 12a and 13 of this act.

Stats 1933 p. 1777

SEC. 20. Section 20a of said act is hereby amended to read as follows:

Notice to commissioner of subdivisions

Sec. 20a. Prior to the time when subdivided lands shall be offered for sale or lease, the owner, his agent or subdivider shall notify the Real Estate Commissioner in writing of his intention to sell such offering. Such notice of intention shall contain the following information: the name and address of the owner; name and address of subdivider; legal description and area of land, a true statement of the condition of the title to the land, particularly including all encumbrances thereon, the terms and conditions on which it is intended to dispose of such land, together with copies of any contracts intended

to be used and such other information as the owner, his agent, or subdivider, may desire to present.

After receiving such a statement the Real Estate Commissioner may require such additional information concerning the project as he may deem necessary, and for which purpose he shall be empowered to prepare a questionnaire for the owner, his agent or subdivider, to answer. Additional information.

SEC. 21. A new section is hereby added to said act, to be numbered 20b, and to read as follows: New section

Sec. 20b. The Real Estate Commissioner at the expense of the owner, his agent, or subdivider, may investigate any subdivision being offered for sale or lease in this State at the time of the adoption of this act, or at any future time, and shall make public his findings thereon. The total cost of such examination shall be borne by the owner, his agent, or subdivider, of the project on the basis of actual costs to the Real Estate Division. An initial fee of fifty dollars ($50) shall accompany the answered questionnaire. Investigation.

SEC. 22. A new section is hereby added to said act, to be numbered 20c, and to read as follows: New section

Sec 20c. When an inspection is to be made of subdivided lands, situated outside the State of California, being offered for sale or lease in this State, the questionnaire shall be accompanied by the filing fee, together with an amount equivalent to five cents (5¢) a mile for each mile going and returning, estimated by the Real Estate Commissioner to be traveled by railroad from Sacramento to the location of the project, and an amount estimated to be necessary to cover the additional expenses of such inspection, not to exceed ten dollars ($10) a day for each day consumed in the examination of the project. Expenses Lands outside of State

SEC. 23. A new section is hereby added to said act, to be numbered 20d, and to read as follows: New section.

Sec. 20d. When an inspection is to be made of subdivided lands, situated within this State, being offered for sale or lease, and not to be used for residential or for business purposes, the questionnaire shall be accompanied by the filing fee, together with an amount estimated by the Real Estate Commissioner to be necessary to cover the actual expenses of such inspection, not to exceed ten dollars ($10) a day for each day consumed in the examination of the project. If the subdivided lands are situated in this State, and are to be offered for sale or lease for residential and/or for business purposes, the questionnaire shall be accompanied by the filing fee only. Expenses Lands within State.

SEC. 24. A new section is hereby added to said act, to be numbered 20e, and to read as follows: New section

Sec. 20e. When the Real Estate Division makes an examination of any subdivision, the Real Estate Commissioner shall make a public report thereon, and is hereby authorized to publish said report. An order prohibiting the sale and/or lease of the property in this State may be issued by the Real Estate Commissioner if the examination of the project shows that the sale and/or lease thereof would constitute misrepre- Public report Order of prohibition

sentation to or deceit or fraud of the purchasers of lots or parcels in such subdivision.

New section

SEC. 25. A new section is hereby added to said act, to be numbered 20f, and to read as follows:

Hearing

Sec. 20f. Before such order of prohibition shall be issued by the commissioner, a hearing shall be held by the division, and the same procedure shall be followed as provided in sections 12, 12a, 12b, and 13, of this act, and an order of the commissioner made pursuant thereto shall be subject to review in accordance with the provisions of Chapter I, Title I, Part III of the Code of Civil Procedure.

Review

New section

SEC. 26. A new section is hereby added to said act, to be numbered 20g, and to read as follows:

Change of offering

Sec. 20g. It shall be unlawful for the owner, his agent, or subdivider, of the project, after it is submitted to the Real Estate Division, to materially change the set-up of such offering without first notifying the Real Estate Division in writing of such intended change.

New section

SEC. 27. A new section is hereby added to said act, to be numbered 20h, and to read as follows:

Lands subject to encumbrance

Sec. 20h. In case the lands to be subdivided shall be subject to a lien or encumbrance securing or evidencing the payment of money other than taxes or assessments levied by public authority, or in case the interest of the owner, his agent, or subdivider, be held under option or contract of purchase or in trust, it shall be unlawful to sell any land in such subdivision unless provision exists in such lien, encumbrance, option, contract or trust agreement, or in a valid supplementary agreement enabling the vendor to deliver title to each parcel sold free of such lien, encumbrance, option, contract or trust agreement, upon completion of all payments and performance of all the terms and provisions required to be made and/or performed by the vendee under the agreement of sale. Certified or verified copies of documents containing such provisions shall be filed with the Real Estate Division prior to the sale of any part of the subdivision.

New section

SEC. 28. A new section is hereby added to said act, to be numbered 20i, and to read as follows:

Applicability of section

Sec. 20i. No lien, encumbrance, option, contract or trust agreement existing on the ninety-first day after the adjournment of the 1931 session of the Legislature, and no extension, renewal or refinancing of any such existing lien, encumbrance, option, contract or trust agreement shall be affected by any amendment to this section adopted at such session.

New section

SEC. 29. A new section is hereby added to said act, to be numbered 20j, and to read as follows:

Definitions

Sec. 20j. For the purpose of this act the words "subdivided lands" and "subdivision" are hereby defined as land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into five or more lots or parcels.

SEC. 30. Section 20b of said act is hereby renumbered to be section 20k and amended to read as follows: Stats 1929, p 234.

Sec. 20k. Every officer, agent or employee of any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution or circularization of any false statement or representation concerning any land, or subdivision thereof offered for sale or lease, and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any said land or subdivision contains any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same, or shall cause the same to be issued, circulated, published or distributed, or who, in any other respect, wilfully violates or fails to comply with any of the provisions of sections 20a, 20b, 20c, 20d or 20g of this act, or who in any other respect wilfully violates or fails, omits or neglects to obey, observe or comply with any order, permit, decision, demand or requirement of the commissioner under sections 20a, 20b, 20c, 20d or 20g of this act, is guilty of a public offense, and shall be punished by imprisonment in the county jail for a term not to exceed two years, or by a fine of not to exceed two thousand dollars, and, if a licensee of this division, he shall be held to trial by the State Real Estate Commissioner for a suspension or revocation of his license, as in sections 12a and 13 of this act provided. It shall be the duty of the district attorney of each county in this State to prosecute all violations of the provisions of this section and of sections 20a and 20g of this act in respective counties in which said violations occur. See Stats 1935, Ch 421 Penalty. Duty of district attorney

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CHAPTER 45.

An act to amend sections 821 and 827 of the Agricultural Code, relating to apples; to declare the urgency hereof and to provide that this act take effect immediately. Stats 1933, p. 60.

[Approved by the Governor April 11, 1935 In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 821 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p 195

821. Apples shall conform to one of the following standards: Apple standards

(a) The "extra fancy" grade consists of well grown, properly matured apples of one variety which are clean, hand picked, well colored, normally shaped for the locality where produced, free from decay, visible Baldwin spot, Jonathan spot, scald, internal breakdown, visible watercore, bruises (except such bruises as are necessarily caused in proper sorting or packing), broken skin, insect pests, limbrub, spray burn, sun scald, russeting except within the basin of the stem,

Apple standards.

drought spot, hail mark, frost injury, internal browning, apple scab and other diseases, insect bites, and other defects.

Apples of this grade shall be uniform in size and well packed in clean, standard boxes.

Not more than ten per cent, by count, of the apples in any container may be below the requirements of apples of this grade, but not to exceed one-half of this tolerance shall be allowed for any one cause.

(b) The "fancy" grade consists of well grown, properly matured apples of one variety which are clean, hand picked, normally shaped for the locality where produced, free from decay, visible Baldwin spot, Jonathan spot, soft scald, internal breakdown, visible watercore, bruises (except such bruises as are necessarily caused in proper sorting or packing), broken skin, and insect pests; and free from appreciable damage caused by limbrub, spray burn, sun scald, russeting, drought spot, hail mark, frost injury, internal browning, apple scab, flyspeck fungus and other diseases, insect pests, sun spots, and other defects. Apples of the Gravenstein variety of this grade shall show red stripes or tinge of distinct red color.

Apples of this grade shall be uniform in size and well packed in clean, standard boxes.

Not more than ten per cent, by count, of the apples in any container may be below the requirements of this grade, but not to exceed one-half of this tolerance, shall be allowed for any one cause.

(c) The "commercial" grade shall conform in all respects to the fancy grade except that there shall be no color requirements.

(d) The "fancy loose" grade shall conform in all respects to the fancy grade except that: the apples in this grade shall not be wrapped or well packed, and shall be of a size that will not pass through a ring two and one-fourth inches in diameter, and need not be packed, uniform in size, or in clean or standard boxes.

(e) The "commercial loose" grade shall conform in all respects to the fancy loose grade except that there shall be no color requirements.

(f) The "C" grade consists of properly matured apples of one variety which are virtually clean, hand picked, free from decay, soft scald, internal breakdown, visible watercore, bruises (except such bruises as are necessarily caused in proper sorting or packing), broken skin, and insect pests; and free from serious damage caused by stem punctures, visible Baldwin spot, Jonathan spot, sun scald, spray burn, hail marks, frost injury, internal browning, apple scab, insect pests and blossom end cracks.

Apples of this grade shall be uniform in size and well packed in clean, standard boxes.

Not more than ten per cent, by count, of the apples in any one container, may be below the requirements of this grade,

but not to exceed one-half of this tolerance shall be allowed for any one cause.

(g) The "C grade loose" shall conform in all respects to the C grade except that the apples in this grade shall not be wrapped or well packed, and need not be hand picked, packed, uniform in size or in clean or standard boxes.

(h) The combination fancy and C grade loose shall meet all requirements of C grade loose apples and shall include in each container not less than fifty per cent, by count, of apples meeting all requirements of the fancy loose grade. None of the apples of the grade combination fancy and C grade loose shall be of a size that will pass through a ring two and one-fourth inches in diameter.

(i) The combination commercial and C grade loose shall meet all requirements of C grade loose apples and shall include in each container not less than fifty per cent, by count, of apples meeting all requirements of the commercial loose grade. None of the apples of the grade combination commercial and C grade loose shall be of a size that will pass through a ring two and one-fourth inches in diameter.

Tolerances

Although the tolerances specified for the various standards necessarily are placed on a package basis, not more than one-fourth of the packages in any lot may be permitted to exceed the tolerance established by not more than one-half of the amount allowed. The entire lot shall average within the tolerance established. No container shall have more insect pests or decay than the amount specified in the tolerance established.

Stats 1933, p. 199

SEC. 2. Section 827 of said act is hereby amended to read as follows:

827. As used with reference to apples in this chapter:

Definitions

(a) "Hand picked" means apples which do not show evidence of having been on the ground.

(b) "Clean" means free from dust or dirt and free from visible spray residue.

Well packed

(c) "Well packed" means packed in regular, compact, diagonal arrangement of all of the fruit in any container, the fruit being compacted, at the time of packing, with sufficient solidity so that it will not move in the container when lidded, the top and bottom of the box, when lidded, having a bulge of not less than one-half inch, and, where wrappers are used, all of the apples in the box being properly wrapped, with the exception of the bottom layer, which may be flagged.

Flagged

(d) "Flagged" means incompletely covered by the use of wrappers which are not closed.

Uniform in size.

(e) "Uniform in size" means in boxes containing one hundred twenty-five apples, or less, a variation of not more than one-half of one inch in diameter, when measured through the widest portion of the cross section between the fruits in any one container; in boxes containing one hundred thirty-eight apples, or more, a variation of not more than three-eighths of one inch when so measured.

Cross section

(f) "Cross section" means that section of the apple taken at a right angle to a straight line drawn from the stem end to the blossom end thereof.

Properly matured

(g) "Properly matured" means that the apples to which it refers, at the time they were taken or fell from the tree, had reached that stage of development necessary to insure the proper completion of the ripening process. Apples of the varieties Alexander, Red Astrachan, White Astrachan, Beitigheimer, White Winter Pearmain, Greening, and Fall Pippin need not be properly matured in order to meet the requirements of any grade except extra fancy. Apples of the Gravenstein variety, which are of a size that will not pass through a ring two and five-eighths inches in diameter, need not be properly matured to meet the requirements of C grade loose. Apples of the Gravenstein variety shall be properly matured to meet the requirements of the C grade loose when in the combination fancy and C grade loose or the combination commercial and C grade loose grades.

Insect pests.

(h) "Insect pests" include San Jose scale, codlin moth and other insects or the larvae, nymphs or pupae thereof, and any apple which has been infested with codlin moth and bears evidence of such infestation, with the exception of superficial, well healed codlin moth stings.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and shall therefore take effect immediately.

The facts constituting the necessity are as follows:

During the past several years the growers of Gravenstein apples in this State have experienced considerable difficulty in the profitable marketing of their crop. This was caused particularly in the foreign markets by competition from foreign countries as well as by competition from certain sections of the United States. From a careful study of the facts it has been very apparent that something must be done immediately, otherwise the Gravenstein apple industry will suffer materially. This act will place upon the markets a product far superior to that which has been offered during the past. It is imperative that the growers receive this protection for the coming season's crop which is harvested during normal years, starting the latter part of June and ending about the middle of August. If this law should not be passed as an urgency measure the growers will not receive any benefits until 1936.

CHAPTER 46.

An act to amend section 47a of the California Irrigation District Act by adding thereto a provision authorizing payment of current assessments upon partial redemption.

Stats 1897, p 254, amended

[Approved by the Governor April 11, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Sec. 47a of the California Irrigation District Act is hereby amended to read as follows:

Stats 1931, p 378

Sec. 47a. In all cases where a lot, piece, or parcel of land contained in any assessment has been sold or may hereafter be sold to the district for delinquent assessments and the time for redemption has not expired, a redemption of a portion of said lot, piece or parcel of land may be made, separately from the whole assessment, of any such lot, piece or parcel of land as follows:

Partial redemption from tax sales

If such lot, piece or parcel of land has a separate valuation shown on the assessment book, the collector shall estimate the amount due according to the valuation shown on the assessment book, and the redemption shall be made in the manner provided for in sections 46 and 47 of this act. If such lot, piece or parcel of land or such fractional part of such lot, piece or parcel of land does not have a separate valuation shown on the assessment book, the collector shall submit the description of the lot, piece or parcel of land, or the fractional part thereof, upon which redemption is requested to the assessor, who must place a valuation thereon. The collector shall estimate the amount due according to the valuation so placed upon the parcel upon which redemption is requested, and shall then refer said proposed redemption to the board of directors who may confirm, modify or set aside the act of the assessor, or the board may refuse to authorize such redemption, and the decision of the board shall be final and conclusive, and the collector shall conform therewith and the redemption, if authorized by said board of directors, shall be made in the manner provided for in sections 46 and 47 of this act.

Valuation

Amount due

Upon redemption of a portion of a lot, piece or parcel of land in the manner herein authorized the person redeeming such portion may also pay that part of the current assessment levied against the lot, piece or parcel of land out of which the portion was redeemed, as may be determined by the board to be fair and just, based upon the valuation placed on said lot, piece or parcel of land as shown on the current assessment book. Upon payment of the amount fixed as the sum to be paid as the current assessment on the portion of land so redeemed the collector shall enter on the assessment book a reference to the order of the board authorizing payment of part of the assessment, the amount paid, and date of payment; thereafter the portion redeemed shall be separately described on the assessment books.

Payment of current assessment

CHAPTER 47

An act to amend section 352 of the Political Code, relating to State officers and employees.

[Approved by the Governor April 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1921, p. 1023

SECTION 1. Section 352 of the Political Code is hereby amended to read as follows:

Traveling expenses

352. All heads of departments, chiefs of divisions, assistants, deputies, agents, experts and other employees of a department shall be entitled to receive in addition to their salaries, their actual necessary traveling expenses when away from their headquarters on State business. Actual and necessary traveling expenses shall be allowed such persons when traveling outside of the State, when such traveling and expenses have been approved by the Governor and by the Director of Finance. Except as otherwise expressly provided by any act creating a new department the members of no State board or commission which is created or continued in force by such act, shall receive any compensation for their services, but they shall be allowed necessary expenses incurred in the performance of duty.

CHAPTER 48.

An act authorizing the creation of a personnel system, merit system or civil service system in cities; the creation of the office of personnel director; the appointment of a Civil Service Commission; the delegation of certain authority to said personnel officer or commission in municipalities within this State; and prohibiting certain political activities and providing penalties for the violation of said provisions.

[Approved by the Governor April 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Adoption of personnel system by city.

SECTION 1. The legislative body of any city within this State is hereby authorized to adopt by ordinance a personnel system, merit system, or civil service system, for the selection, employment, classification, advancement, suspension, discharge and retirement of appointive officers and employees. Such legislative body may provide for the appointment of a Civil Service Commission or personnel officer and may delegate to such Civil Service Commission or personnel officer such powers and duties in relation thereto as in its discretion may be deemed advisable.

It is intended by the provisions of this act to enable the legislative body of any municipality within this State to adopt such a personnel system, merit system, or civil service system as may be adaptable to the size and type of municipality involved; such system may consist merely of the setting up of minimum standards of employment and qualifications for the various classes of employment in said municipality or may consist of a comprehensive civil service system as in the sound discretion of said legislative body may be for the best interests of the public service in said municipality. Intent of act

SEC 2. In said ordinance creating such system said legislative body shall designate the departments, appointive officers or employees of the city which shall be placed under such merit system or civil service system; such legislative body may from time to time, by ordinance, add additional departments, appointive officers or employees of the city to the list originally designated in the ordinance creating such system. Said legislative body shall not have the authority to withdraw any departments, appointive officers or employees from the operation of such system unless and until the withdrawal thereof shall have been submitted to the qualified electors of said city at a special or regular municipal election held in said city and shall have been approved by not less than a two-thirds vote of the electors voting on such proposition. Contents of ordinance.

SEC. 3 The legislative body of any municipality may contract with the legislative body or governing board of any other municipality or county within this State, or with any State department for the conducting of competitive examinations to ascertain the fitness of applicants for positions and employment in the city service, and for the performance of any other service in connection with personnel selection and administration. Contracts for conduct of competitive examinations.

SEC 4 Any ordinance adopted by the legislative body of any municipality under the provisions of this act shall include the following provision and penalty: No person holding an office or place in any department placed by the legislative body under a merit system or civil service system, pursuant to the provisions of this act, shall seek or accept election, nomination or appointment as an officer of a political club or organization, or take an active part in a county or municipal political campaign, or serve as a member of a committee of such club or organization or circle, or seek signatures to any petition provided for by any law, or act as a worker at the polls, or distribute badges or pamphlets, dodgers or handbills of any kind favoring or opposing any candidate for election, or for nomination to a public office, whether county or municipal; provided, however, that nothing in this act shall be construed to prevent any such officer or employee from becoming or continuing to be a member of a political club or organization, or from attendance at a political meeting, or from enjoying entire freedom from all interference in casting his Additional contents of ordinance

vote or from seeking or accepting election or appointment to public office.

Any wilful violation thereof or violation through culpable negligence, shall be sufficient grounds to authorize the discharge of any officer or employee.

CHAPTER 49.

Stats 1913, p. 343, amended

An act to amend the title and sections 2, 4 and 5 of an act entitled "An act regulating the payment of wages earned in seasonal labor and prescribing the powers and duties of the Commissioner of the Bureau of Labor Statistics, in relation thereto," approved May 28, 1913 (Statutes 1913, Chapter 198), relative to disputes regarding seasonal labor, and the application of the State Wage Law thereto.

[Approved by the Governor April 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Title amended

SECTION 1. The title to the act cited in the title hereof is hereby amended to read as follows:

An act regulating the payment of wages earned in seasonal labor, prescribing the powers and duties of the Chief of the Division of Labor Statistics and Law Enforcement in relation thereto, providing for the application of certain sections of the State Wage Law thereto and providing penalties for violation of the provisions thereof.

Stats 1913, p. 343,

SEC. 2. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Wages paid in presence of chief or deputy

Sec. 2. Upon application of either the employer or the employee, the wages earned in seasonal labor shall be paid in the presence of the Chief of the Division of Labor Statistics and Law Enforcement, or his deputy or agent.

Stats. 1913, p 343

SEC. 3. Section 4 of the said act is hereby amended to read as follows:

Findings filed

Sec. 4. After final hearing by the said chief, he shall file in the office of the said division a copy of the findings upon facts and his award. The amount of the award of the said chief shall, in the absence of fraud, be conclusively presumed to be the amount of the wages due and unpaid to the employee at the time of the termination of the employment and the award shall be set aside by the courts on the following grounds only:

Presumption

Grounds for setting aside

1. That the said chief acted without or in excess of his powers.

2. That the determination was procured by fraud.

Review

His decision shall be subject to review in the superior court in accordance with the provisions of chapter one of title one of part three of the Code of Civil Procedure, pertaining to writs of review or certiorari, at any time within five days

after notice of same is given to the party or parties affected thereby.

SEC. 4. Section 5 of the said act is hereby amended to read as follows: Stats 1913, p. 343.

Sec. 5. All sections of the State Wage Law (Statutes 1919, Chapter 202, as amended), except sections 2 and 4 thereof, shall apply to the wages covered by this act and both civil and criminal actions may be brought thereunder in the county, or city and county, in which the said seasonal laborers were hired or are to be paid at the termination of the employment. The said chief or his deputies may take the assignment of claims for wages and penalties thereunder from such seasonal laborers and he may, at his discretion, sue on same in court as State Labor Commissioner instead of himself making the determination as to the amount due. Should he elect to determine the matter he may impose the civil penalty of not exceeding thirty days as waiting time under the terms of section 5 of the said State Wage Law. Stats 1919, p. 294. Assignment of wage claims

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CHAPTER 50.

An act to amend sections 4120 and 4121 of the Political Code of the State of California, relating to the books, accounts and vouchers in the office of county treasurers and the examination of the books and records and the counting of the money in said office.

[Approved by the Governor April 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4120 of the Political Code of the State of California, is hereby amended to read as follows: Stats 1907, p. 390.

4120. The books, accounts, and vouchers of the treasurer, including all books, accounts, vouchers or other records in his office relating to reclamation districts, are at all times subject to the inspection and examination of the board of supervisors or grand jury, or by any officers or agents designated by said board of supervisors or grand jury to make such inspection and examination. Examination of treasurer's accounts

SEC. 2. Section 4121 of the Political Code of the State of California, is hereby amended to read as follows: Stats 1907 p. 390

4121. The treasurer must permit the chairman of the board of supervisors, district attorney, and auditor to examine his books and count the money in the treasury, including the books and money of reclamation districts in his custody, whenever they may wish to make an examination or counting. Examination of books and count of money

CHAPTER 51, STATUTES 1935.

An act relating to revenue and taxation, providing for an excise tax on the sale of all oleomargarine containing any fat or oil ingredient other than any one or more of the following: oleo oil, oleo stock, oleo stearine from cattle, neutral lard from hogs, sheep fat, cottonseed oil, peanut oil, corn oil or milk fat; providing a penalty for a violation of the provisions thereof.

[Above and foregoing chapter delayed from going into effect by referendum provisions of Section 1, Article IV, of the State Constitution (petition therefor with sufficient signatures having been filed with the Secretary of State) and will be voted on by the people at the next general election in November, 1936, or at any special election which may be called by the Governor, in his discretion, prior to such regular election.]

1. All substances heretofore known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine and neutral.

2. All mixtures and compounds containing any edible oils or fats other than milk fat made in imitation or semblance of butter or when so made, intended to be sold as butter or for butter or as butter substitute.

(b) "Distributor" means and includes any person, firm or corporation which produces, refines, manufactures or compounds and thereafter sells such oleomargarine in this State for use and sale within this State, or who imports into and sells within this State such oleomargarine, except as hereinafter provided.

(c) "Director" means the Director of Agriculture of the State of California.

Excise tax.

SEC. 2. In addition to all other taxes and license fees required by law, there is hereby imposed and assessed an excise tax of ten (10¢) cents per pound on all oleomargarine sold, offered or exposed for sale or exchanged in the State of California containing any fat or oil ingredient other than any one or more of the following: oleo oil, oleo stock, oleo stearine from cattle, neutral lard from hogs, sheep fat, cottonseed oil, peanut oil, corn oil or milk fat.

Stamps

SEC. 3. Such excise tax shall be paid by the purchase of stamps from the director, who shall determine the form and denominations of such stamps. All distributors within this State shall affix the stamps in the amounts required by the provisions of this act, to each package of oleomargarine that is subject to the tax imposed by section 2 of this act, and when the stamps have been affixed as required herein no further or other stamps shall be required regardless of how often such articles may be sold or resold within this State. All stamps shall be affixed to containers of such oleomargarine in such manner that the container can not be opened or the said oleomargarine removed therefrom without cancelling the stamps.

SEC. 4. It is unlawful for any person, firm or corporation dealing in oleomargarine that is subject to the tax imposed by section 2 of this act, other than a distributor, to receive or accept any delivery or shipment thereof or to pay for the same or to sell or offer the same for sale unless the stamps are affixed thereto in accordance with the provisions of this act. Any such oleomargarine found which is not in the possession of a distributor as defined in this act, which does not have stamps as herein required affixed to the containers thereof is hereby declared to be contraband goods and the same may be seized by the director or by any peace officer in this State when directed by the director to do so. Failure to affix stamps. Contraband goods.

SEC. 5. Every distributor shall render to the director on or before the tenth day of each month a verified statement taken from his books and records of the estimated quantity of oleomargarine that is subject to the tax imposed by section 2 of this act, manufactured or imported for sale and the actual quantity sold during the preceding month, together with any other information that the director may prescribe. Monthly statement

SEC. 6. The director may, at any time within three years after such statement is due, examine the books and records of any person required to make such statement and such books and papers shall at all times be subject to his inspection, or that of his representative, during regular business hours. Examination of records.

SEC. 7. It is unlawful to refuse to permit the director or any of his representatives to make such inspection as provided in section 6, or to fail to keep such books of account as may be prescribed by the director, or to preserve such books for such period as the same shall be open to the inspection of the director, or to alter, cancel or obliterate entries therein for the purpose of falsifying the true facts. Refusal.

SEC. 8. It shall be unlawful to make, alter, forge, counterfeit, or have in possession any stamp provided for herein with intent to defraud the State. A violation of this section is punishable by a fine of not less than one thousand dollars or by imprisonment in the State prison for not less than one year or both. Fictitious stamps. Penalty.

SEC. 9. All moneys received by the director under the provisions of this act shall be paid monthly to the State Treasurer for credit to the general fund. Disposition of money.

SEC. 10. Nothing in this act shall apply to the receipt or sale of oleomargarine which is exempt from State taxation under the Constitution and laws of the United States or to any oleomargarine intended for sale and sold and delivered to points without the boundaries of this State. Exemptions

SEC. 11. If any section, subsection, sentence, clause, phrase or word of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions thereof. Constitutionality.

SEC. 12. The violation of any provision of this act, except where a different penalty is prescribed herein, is a misde- Violation.

meanor and is punishable by a fine of not more than five hundred dollars or imprisonment in the county jail for not more than six months or by both such fine and imprisonment.

CHAPTER 52.

An act to amend sections 1068, 1085, 1103, 1108, 1162, 1269a, 1272a, 1274a, 1280, 1822a and 1822bb of the Code of Civil Procedure, relating to special proceedings.

[Approved by the Governor April 17, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

1872 Code.

SECTION 1. Section 1068 of the Code of Civil Procedure is hereby amended to read as follows:

When and by what courts granted.

1068. A writ of review may be granted by any court, except a municipal, police or justice's court, when an inferior tribunal, board, or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board, or officer, and there is no appeal, nor, in the judgment of the court, any plain, speedy, and adequate remedy.

1872 Code.

SEC. 2. Section 1085 of the Code of Civil Procedure is hereby amended to read as follows:

When and by what courts issued.

1085. It may be issued by any court, except a municipal, justice's or police court, to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station; or to compel the admission of a party to the use and enjoyment of a right or office to which he is entitled, and from which he is unlawfully precluded by such inferior tribunal, corporation, board, or person.

Stats. 1907, p. 838.

SEC. 3. Section 1103 of the Code of Civil Procedure is hereby amended to read as follows:

When and by what courts issued.

1103. It may be issued by any court, except municipal, police or justice's courts, to an inferior tribunal or to a corporation, board, or person, in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law. It is issued upon the verified petition of the person beneficially interested.

Code amdts., 1880, p. 74.

SEC. 4. Section 1108 of the Code of Civil Procedure is hereby amended to read as follows:

Return and hearing

1108. Writs of review, mandate, and prohibition issued by the Supreme Court, a District Court of Appeal, or a superior court, may, in the discretion of the court issuing the writ, be made returnable, and a hearing thereon be had at any time.

Code amdts., 1873-4, p. 347.

SEC. 5. Section 1162 of the Code of Civil Procedure is hereby amended to read as follows:

Service of notice.

1162. The notices required by sections 1161 and 1161a may be served, either:

1. By delivering a copy to the tenant personally; or,

2. If he be absent from his place of residence, and from his usual place of business, by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the mail addressed to the tenant at his place of residence; or,

3. If such place of residence and business can not be ascertained, or a person of suitable age or discretion there can not be found, then by affixing a copy in a conspicuous place on the property, and also delivering a copy to a person there residing, if such person can be found; and also sending a copy through the mail addressed to the tenant at the place where the property is situated. Service upon a subtenant may be made in the same manner.

SEC. 6. Section 1269a of the Code of Civil Procedure is hereby amended to read as follows: Stats 1915, p. 935.

1269a. Whenever the attorney general is informed that any estate has escheated or is about to escheat to the State or that the property involved in any action or special proceeding has escheated or is about to escheat to the State, he may commence an action on behalf of the State to determine its rights to said property or may intervene on its behalf in any action or special proceeding affecting any such estate and contest the rights of any claimant or claimants thereto. He may also apply to the superior court, or any judge thereof, for an order directing the county treasurer to deposit in the State treasury all moneys and effects in his possession which may become payable to the State treasury pursuant to section 1148 of the Probate Code. Action by State for escheated property.

SEC. 7. Section 1272a of the Code of Civil Procedure is hereby amended to read as follows: Stats 1923, p. 71

1272a. When the estate, or any portion thereof, of any decedent has been received by or deposited with the State Treasurer pursuant to section 1148 of the Probate Code, the superior court of the county of Sacramento, State of California, shall have full and exclusive jurisdiction to determine the title to said property and all claims thereto, and any person entitled to succeed to said property, and not a party or privy to any proceedings had under any of the foregoing sections of this title, may, unless otherwise barred, file a petition in the superior court of the county of Sacramento showing his claim or right to the said property, or the proceeds thereof, or to any portion thereof. Said petition shall be verified, and, among other things, must state the facts required to be stated in a petition filed under section 1272 of this code, and upon the filing thereof the same proceedings shall be had as are therein required. Claim to escheated property. Petition.

Whenever the amount claimed by any such person is less than three hundred dollars any such claimant, may, in lieu of filing such petition, present his claim to the State Board of Control, showing the same facts required to be stated in such petition and said board may, upon recommendation of the Attorney General, allow and order paid such claim. When pay- Claim less than $300

ment has been made under this title to any claimant no suit shall thereafter be maintained by any other claimant against the State, or any officer thereof, for or on account of such property.

Stats 1929, p. 591.

SEC. 8. Section 1274a of the Code of Civil Procedure is hereby amended to read as follows:

Deposit of unclaimed property.

1274a. All money or other property distributed in the administration of an estate of a decedent and heretofore or hereafter deposited with a county treasurer to the credit of the distributee, and any money remaining on deposit to the credit of an estate after final distribution, must be forthwith delivered into the State treasury by the county treasurer upon the expiration of one year from the day of such deposit. Money so deposited in the State treasury may be recovered by the person or persons entitled thereto, upon the conditions herein prescribed, in the manner specified in section 1064 of the Probate Code.

Escheat to State.

Money or other property so deposited in the State treasury, if not claimed by the person or persons entitled thereto within five years from the date of such deposit, shall become the property of the State of California by escheat, and the Attorney General shall commence a proceeding on behalf of the State in the superior court for Sacramento County, in accordance with this title, to have it adjudged that the title to such property has vested in the State.

Stats. 1927, p. 404.

SEC. 9. Section 1280 of the Code of Civil Procedure is hereby amended to read as follows:

Validity of arbitration agreements.

1280. A provision in a written contract to settle by arbitration a controversy thereafter arising out of the contract or the refusal to perform the whole or any part thereof, or an agreement in writing to submit an existing controversy to arbitration pursuant to section 1281 of this code, shall be valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity for the revocation of any contract; provided, however, the provisions of this title shall not apply to contracts pertaining to labor.

Stats. 1907, p. 730. See Stats 1935, Ch 712

SEC. 10. Section 1822a of the Code of Civil Procedure is hereby amended to read as follows:

Bond of trustee

1822a. Every person appointed under the provisions of section 1822 must give bond in the amount and as provided for in section 541 of the Probate Code.

Stats 1929, p 651.

SEC. 11. Section 1822bb of the Code of Civil Procedure is hereby amended to read as follows:

See Stats 1935, Ch 712

Sale of property.

1822bb. The trustee may sell any or all of the personal or real property of the missing person when it is considered by the court as being to the best interest of the estate and all parties concerned including the heirs at law or legatees, and for that purpose shall file a petition with the court asking for an order directing and authorizing said sale. This petition shall be set for hearing not sooner than ten days after the filing of said petition and notice thereof shall be given by the clerk of the court by posting a notice at the place

Procedure.

where the court is held. Notice shall also be given by registered mail to each of the persons who would be heirs at law of the missing person, if he were dead, and if it appears that such missing person left a will, then like notice to each legatee mentioned therein, at their respective places of address, a return card being requested with each of said notices so registered in the mail. If the address of any such person is unknown said notice must be mailed as aforesaid to said person at the county seat of the county in which the court is held, and an affidavit of the trustee filed showing that such address is unknown, and stating what efforts he has made to learn the same.

Court order.

On the day of hearing the petition, proof shall be offered in behalf thereof showing the reasons for the making of said sale, and if the court finds that it will be for the best interests of all persons concerned in the estate of said missing person to have said sale made, it shall order the trustee to sell any or all said property, real, personal or both, in the manner provided by the Probate Code for sales of property of deceased persons, and all the provisions of law regarding such sales shall govern the sales of property of missing persons under this section, including the provisions concerning confirmation of the sales by the court; provided, however, that any such sale of real property shall not take place before the expiration of eight months from the date of the appointment and qualification of the trustee.

CHAPTER 53.

An act to amend section 779 of the Political Code, relating to publication of court reports.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Code amdts., 1873-4, p. 69.

SECTION 1. Section 779 of the Political Code is hereby amended to read as follows:

Proposals and awards

779. Before entering into said contract, it shall be the duty of the Secretary of State to advertise for proposals for the publication of said reports, for three days, in one daily paper in Sacramento, and one daily paper in San Francisco. It shall be the duty of said reporter, Secretary of State, and Attorney General, to consider all proposals for the publication of said reports which may be made to them, and to award the contract to the person or persons who may agree to publish and sell the same on the terms most advantageous to the State and public.

CHAPTER 54.

An act confirming and validating the consolidation of irrigation districts, and declaring the urgency thereof, the act to take effect immediately.

[Approved by the Governor April 18, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Consolidation of irrigation districts validated.

Stats. 1897, p. 254.

SECTION 1. In any case in which the State Engineer has heretofore made a written report, recommending the consolidation of two or more irrigation districts organized or existing under the California Irrigation District Act and describing the boundaries of the proposed consolidated district, and an election has been held to determine whether said districts should be consolidated and for the election of officers of such proposed consolidated district, and the result of said election has been declared to be in favor of such consolidation and directors for such proposed consolidated district have been declared elected, and the persons so declared elected as directors have organized as the board of directors of such consolidated district, and a resolution or order of said board of directors specifying the date on which such consolidation became effective and designating a name for such consolidated district and describing the boundaries thereof has been recorded in the office of the county recorder of the county in which the territory within such consolidated district, or any part thereof, is located, and such consolidated district has functioned as an irrigation district for more than one year before the time at which this act takes effect, then the territory declared in said resolution or order to constitute such consolidated district, with any additions thereto or less any exclusions therefrom as may have been made by order of the board of directors of such district on petition or petitions for the inclusion of land therein or the exclusion of land therefrom, is hereby recognized and established as a consolidated irrigation district under the provisions of the act entitled "An act to provide for the consolidation of districts organized or existing under the California Irrigation District Act," approved May 31, 1921, as amended, with the name designated in said resolution or order, and all acts or proceedings in or in connection with such consolidation are hereby confirmed and validated and declared sufficient, and each such consolidated district is hereby constituted and declared to be an irrigation district within the meaning of and subject to the provisions of the California Irrigation District Act and all acts amendatory thereof and supplementary thereto, except as provided in said act approved May 31, 1921, as amended, and each such consolidated district may exercise all the powers now or hereafter conferred upon irrigation districts in this State and may issue bonds as provided in the California Irrigation District Act to fund or refund any outstanding indebtedness contracted by any or all of the districts

Stats. 1921, p. 1018.

participating in such consolidation, provided that such bonds shall be subject to any provisions that may have been made for the apportionment of the indebtedness of such participating districts.

SEC. 2. This act is hereby declared to be an urgency measure within the meaning of section 1 of Article IV of the Constitution, necessary for the immediate preservation of the public peace, health and safety, and shall take effect immediately. The facts constituting such necessity are as follows: Urgency.

All of the districts which have been formed in this State by the consolidation of irrigation districts have taken proceedings for the refunding of bonded indebtedness for which they are liable and have applied to the Reconstruction Finance Corporation, an agency of the United States, for loans to enable them to refinance such indebtedness. On account of the depression prevailing throughout this State for more than four years and still prevailing, it is impossible for such districts to meet the amounts due and to become due by the terms of said outstanding bonds, and if said districts are not enabled to refinance speedily and are compelled to levy the assessments required by the terms of said outstanding bonds, many land owners therein will be unable to pay such assessments and will lose their lands and great distress will exist in such districts, and the ability of such districts to operate their works for the distribution of water will be impaired and the revenues of other governmental agencies will be reduced. In the course of such refunding operations, questions have arisen as to the sufficiency of certain acts and proceedings for the consolidation of such districts, and it is necessary that such acts and proceedings be validated forthwith in order that such refinancing may be speedily effected.

CHAPTER 55.

An act to amend section 4300d of the Political Code by adding thereto a provision specifying the mileage to be charged by constables and marshals in counties of the third class in the service of any writ, order or paper, excepting a warrant of arrest.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4300d of the Political Code is hereby amended to read as follows: Stats. 1923, p. 128.

4300d. Constables and marshals, except as in this title otherwise provided: Constables' and marshals' fees.

For serving summons and complaint, for each defendant served, fifty cents.

Constables' and marshals' fees

For each copy of summons for service, when made by him, twenty-five cents.

For levying writ of attachment or execution, or executing order of arrest or for the delivery of personal property, one dollar.

For serving writ of attachment or execution on any ship, boat, or vessel, three dollars.

For keeping personal property, such sum as the court may order; but no more than three dollars per day shall be allowed for a keeper when necessarily employed.

For taking bond or undertaking, fifty cents.

For copies of writs and other papers, except summons, complaint and subpoenas, per folio, ten cents; provided, that when correct copies are furnished him for use, no charge shall be made for such copies.

For serving any writ, notice, or order, except summons, complaint, or subpoenas, for each person served, fifty cents.

For writing and posting each notice of sale of property, twenty-five cents.

For furnishing notice for publication twenty-five cents.

For serving subpoenas, each witness, including copy, twenty-five cents.

For collecting money on execution, one and one-half per cent.

For executing and delivering certificate of sale, fifty cents.

For executing and delivering constable's deed, one dollar and fifty cents.

For each mile actually traveled within his township in the service of any writ, order or paper, except a warrant of arrest, in going only, per mile, twenty-five cents; provided, that in counties of the third class, the constable or marshal shall receive, for each mile actually traveled within his township, in the service of any writ, order or paper, except a warrant of arrest, in going only, per mile, fifteen cents; and further provided, that in townships which consist in whole or in part of cities of the first and one-half class, the constable or marshal shall receive in lieu of said mileage, his actual traveling expenses going and returning from place of service.

For traveling outside of his township to serve such writ, order, or paper, in going only, fifteen cents; provided, that a constable shall not be required to travel outside of his township to serve any civil process, order, or paper. No constructive mileage allowed.

For each mile necessarily traveled within his county in executing a warrant of arrest, both in going and returning from place of arrest, fifteen cents.

For each mile traveled out of his county, both going and returning from place of arrest, five cents; provided, that for traveling in the performance of two or more official services at the same time, including the service of civil process or criminal warrants, or transportation of persons charged or

convicted of a criminal offense, but one mileage shall be charged.

For executing a search warrant, such fees and mileage as may be allowed for executing warrant of arrest.

For arresting prisoner and bringing him into court, or jail, one dollar.

For summoning a jury, two dollars, including mileage.

For transporting prisoners to and from the county jail, the actual cost of such transportation.

CHAPTER 56.

An act to amend section 814 of the Agricultural Code, relating to lettuce. Stats. 1933, p. 60.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 814 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p. 191.

814. Head lettuce shall not be leafy without head formation and shall be free from slime, decay or rot affecting leaves within the head, internal insect injury, and free from seed stems which have so developed that they are apparent upon external examination; and free from serious damage caused by bursting, tip burn or freezing. Damage caused by bursting is not serious unless the head is burst open or is materially misshapen from this cause. Damage caused by freezing or tip burn is not serious unless it affects any portion of the head inside of the six outer head leaves. Head lettuce.

Not more than ten per cent, by count, of the heads of lettuce in any one container or bulk lot may be below these requirements, but not to exceed one-half of this tolerance, shall be allowed for any one cause.

Head lettuce, when packed, shall not vary in size in any one container more than ten per cent of heads which would pack a size, larger or smaller, than the size marked, and they shall be tightly packed so that it is not possible without damaging or injuring the lettuce, to place additional heads in any of the layers of heads in the container.

All closed containers of packed lettuce shall bear upon them in plain sight and in plain letters on one outside end, the name of the person who first packed or authorized the packing of the lettuce, or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer, and in figures not less than one-half inch in height the exact number of heads contained therein; provided that in the case of ten per cent of

the crates in any lots the contents may vary not more than three heads from the count as marked.

All containers of head lettuce shall be standard containers numbers 45A, 45B, or 45C.

CHAPTER 57.

An act to add a new section to the Code of Civil Procedure to be numbered 2056 relating to motions to strike an answer.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section, to be numbered 2056, is hereby added to the Code of Civil Procedure to read as follows:

Answer not responsive to question.

2056. When, in the trial of any suit, the answer of the witness is not responsive to the question, a motion to strike the answer may be made by either party.

CHAPTER 58.

An act to amend section 2021 of the Code of Civil Procedure, relating to depositions.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1905, p. 137.

SECTION 1. Section 2021 of the Code of Civil Procedure is hereby amended to read as follows:

Depositions in State, when taken.

2021. The testimony of a witness in this State may be taken by deposition in an action at any time after the service of the summons or the appearance of the defendant, and in a special proceeding after a question of fact has arisen therein, in the following cases:

1. When the witness is a party to the action or proceeding or an officer, member, agent, or employee of a corporation, or the agent or employee of a municipal corporation, which corporation or municipal corporation is a party to the action or proceeding, or an agent or employee of an individual who is a party to the action or proceeding, or a person for whose immediate benefit the action or proceeding is prosecuted or defended;

2. When the witness resides out of the county in which his testimony is to be used, or resides in the county but more than fifty miles distant from the place of trial or hearing by the nearest usual traveled route;

3. When the witness is about to leave the county where the action is to be tried, and will probably continue absent when the testimony is required;

4. When the witness, otherwise liable to attend the trial, is nevertheless too infirm to attend;

5. When the testimony is required upon a motion, or in any other case where the oral examination of the witness is not required;

6. When the witness is the only one who can establish facts or a fact material to the issue; provided, that the deposition of such witness shall not be used if his presence can be procured at the time of the trial of the cause.

CHAPTER 59.

An act to amend section 4300c of the Political Code relating to recording fees.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4300c of the Political Code is hereby amended to read as follows: Stats. 1931, p. 1405.

4300c. For recording every instrument, paper, or notice required by law to be recorded, per folio, ten cents. See Stats 1935, Ch. 296.

For indexing every instrument, paper, or notice, for each name, ten cents. Recorder's fees.

For filing every instrument, paper, or notice for record, and making the necessary entries thereon, twenty cents; provided, however, that the minimum fee for filing for record, recording, indexing and making the necessary entries on any written instrument, paper, or notice except as hereinafter or otherwise provided by law, shall be one dollar.

For each certificate under seal, fifty cents.

For any copy of any record or paper on file in the office of the county recorder, when such copy is made by him, per folio, ten cents.

For examining and certifying to a copy of any record or paper on file in the recorder's office when such copy is prepared by another, three cents per folio for comparing such copy with the original.

For every entry of discharge, credit, or release on the margin of record, and indexing same, fifty cents.

For searching the records of his office, for each year, fifty cents.

For abstract of title, for each conveyance or encumbrance, twenty-five cents.

For recording each map or plat where the same is copied in a book of record, for each course, ten cents.

Recorder's fees.

For recording or filing each map wherein land is subdivided in lots, tracts or parcels, five dollars.

For filing building contracts, plans and specifications, one dollar.

For figures or letters on maps or plats, per folio, ten cents; provided, that the fees for recording any map shall not exceed fifty dollars.

For taking acknowledgment of any instrument, fifty cents.

For recording marriage license, and certificate, to be paid by the county clerk, one dollar.

For filing notice of estray stock and all services in estray cases, fifty cents.

For recording each mark or brand, one dollar.

For administering each oath or affirmation, and certifying the same, twenty-five cents.

For filing, indexing, and keeping each paper not required by law to be recorded, twenty-five cents; provided, however, no charge or fee shall be made for recording or indexing any discharge of a soldier, sailor or marine discharged from the Army or Navy of the United States or for issuing certified copies thereof.

For preparing and transmitting to the Secretary of State certificate of mortgage, assignment, or full or partial discharge of mortgage of live stock, vehicles (other than motor vehicles) or other migratory chattels as provided in section 4130; seventy-five cents, twenty-five cents of which shall be forthwith transmitted to the Secretary of State with such certificate as provided in section 4130.

Accounting for fees.

The clerk, sheriff and recorder shall account for all fees in this and the two preceding sections provided for, and the clerk, sheriff, and recorder, unless otherwise provided by law, shall pay the same to the treasurer on the first Monday of the month following their collection, as provided in article fifty-nine of this chapter.

CHAPTER 60.

Stats. 1933, p. 60.

An act to amend section 810.5 of the Agricultural Code, relating to asparagus.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 188.

SECTION 1. Section 810.5 of the Agricultural Code is hereby amended to read as follows:

Asparagus.

810.5. Fresh asparagus shall not be wilted, or crushed (except such injuries as are necessarily caused in proper sorting or packing); stalks shall not have badly broken, badly spreading or badly seeded tips and shall be free from decay and from damage caused by dirt, disease, insects, mechanical

injury or other causes. Stalks of asparagus, when bunch packed, shall not be badly crooked. "Damage" means any injury from the causes mentioned which materially affects the quality. Same.

Not more than ten per cent, by count, of the asparagus stalks in any one container or bulk lot may be below these requirements, but not to exceed one-half of this tolerance shall be allowed for any one cause. Asparagus which fails to meet these requirements only because of being "badly crooked" shall be considered as complying with this standard if the container in which it is packed is plainly marked on the outside of the end bearing other markings required by this section, in letters not less than one-half inch in height, with the word "crooks."

Bunches of asparagus classified according to the following designated size grades shall contain the number of stalks indicated in each classification and shall weigh not less than two pounds net when packed, except that bunches smaller than two pounds net when packed, with a proportionately less number of stalks per bunch, may be so classified if the container is conspicuously marked, on the outside of the end which bears any marks intended to describe the contents of such container, in letters not less than one-half inch in height, with the number of bunches and the minimum weight per bunch. Not less than twelve bunches of asparagus so classified may be packed in standard container number 51 or 52.

Colossal, not more than fourteen stalks to a bunch.

Jumbo, fifteen to twenty stalks to a bunch.

Extra select, twenty-one to twenty-eight stalks to a bunch.

Select, twenty-nine to forty-two stalks to a bunch.

Extra fancy, forty-three to sixty-seven stalks to a bunch.

Fancy, sixty-eight to one hundred stalks to a bunch.

In view of differences in climatic and other natural conditions prevailing south and east of San Gorgonio Pass, which causes fresh asparagus grown in that area to be satisfactory in quality only if a large portion of the stalk is green or colored, and therefore must be cut at a shorter length, as compared to asparagus grown in the area north and west of the San Gorgonio Pass, stalks of asparagus produced in the area south and east of San Gorgonio Pass shall have not more than two inches of white on the butt, except that not more than twenty per cent of the stalks in any bunch, or when not packed in bunches, twenty per cent of the stalks in any container, may have not to exceed two and one-half inches of white. When the stalks of asparagus produced in this area are less than seven and one-fourth inches in length and packed in bunches they shall be classified according to the following designated size grades:

Mammoth, not more than seventeen stalks to a bunch.

Giant, eighteen to twenty-four stalks to a bunch.

Fancy regal, twenty-five to thirty-four stalks to a bunch.

Regal, thirty-five to fifty-two stalks to a bunch.

Fancy standard, fifty-three to seventy-eight stalks to a bunch.

Standard, seventy-nine to one hundred fifteen stalks to a bunch.

"Crooks" when packed in bunches shall have no more than sixty-seven stalks to a bunch.

The number of stalks of asparagus packed in bunches shall not vary more than ten per cent from the count of the grade classification as marked, except that ten per cent, by count, of the bunches in any one container may exceed this tolerance.

Containers.

All containers of asparagus packed in bunches shall bear upon them in plain sight and in plain letters on one outside end, the name of the person who first packed or authorized the packing of the asparagus, or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer, the net weight, and in letters not less than one-half inch in height, the grade classification as herein established, except that crates of bunch packed asparagus which is badly crooked and so marked with the designation "crooks" need not bear any other grade classification; and in the case of bunches smaller than two pounds, with the number of bunches and minimum weight per bunch. When bunches of different grades are packed in one container, the markings on each container shall clearly show the number of bunches of each grade.

If ninety per cent, by count, of the stalks of asparagus in any container have less than fifty per cent of the length of the stalk white, the containers may be marked with the term "green."

Asparagus packed in bunches in which the stalks are seven and one-fourth inches or longer in length shall be in standard container number 51. Asparagus packed in bunches in which the stalks are less than seven and one-fourth inches in length shall be in standard container number 52. Other size containers may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such container, in letters not less than one-half of an inch in height with the words "irregular container."

CHAPTER 61.

An act to amend section 69 of the Civil Code, relating to applications for and issuance of licenses to marry.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 561.

SECTION 1. Section 69 of the Civil Code is hereby amended to read as follows:

69. All persons about to be joined in marriage must first obtain a license therefor, from the county clerk of the county in which the marriage is to be celebrated, which license must show: Marriage licenses.

1. The identity of the parties.
2. Their real and full names, and places of residence.
3. Their ages; and
4. Whether white, Mongolian, Negro, Malayan or mulatto.

No license may be granted when either of the parties, applicants therefor, is an imbecile, or insane, or is at the time of making the application, or proofs herein required, for said license, under the influence of any intoxicating liquor, or narcotic drug; and no license may be issued authorizing the marriage of a white person with a Negro, mulatto, Mongolian or member of the Malay race. If the male is under the age of twenty-one years, or the female is under the age of eighteen years, and such person has not been previously married, no license may be issued by the county clerk unless the consent in writing of the parents of the person under age, or one of such parents, or of his or her guardian, is presented to him, duly verified by such parents, or parent, or guardian; and such consent must be filed by the clerk, and he must state such facts in the license. For the purpose of ascertaining all the facts mentioned or required in this section, the clerk, at the time the license is applied for may, if he deems it necessary in order to satisfy himself as to matters in this section enumerated, examine the applicants for a license on oath, which examination shall be reduced to writing by the clerk, and subscribed by them.

Application for a marriage license must be made at least three days and not more than thirty days, before the license shall be issued, upon a form which the county clerk shall furnish without charge. One of the parties to the marriage must sign the application before the county clerk; the other party need not appear in person at the time of making the application but must sign the application before some officer authorized by law to administer oaths and such officer shall take the acknowledgment of such signature without charge. Upon the expiration of three days and not later than thirty days after receipt of the application, duly executed and signed, the clerk may issue the license. The application shall be substantially in the following form: Application for License to Marry. Application. Form.

Notice is hereby given that _____ a native of _____ of the age of _____ years, residing at (full address to be inserted), and _____ a native of _____ of the age of _____ years, residing at (full address to be inserted), intend within thirty days from date hereof, to apply to the county clerk of _____ County, State of California, for license to marry.

CHAPTER 62.

An act to amend section 403c of the Civil Code, relating to corporations.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1412.

SECTION 1. Section 403c of the Civil Code is hereby amended to read as follows:

Order or certificate of winding up or dissolution.

403c. Order or certificate of winding up and dissolution. (1) When a corporation has been completely wound up without court proceedings therefor, all of its known debts and liabilities actually paid or adequately provided for or paid as far as its assets permit, and its known property distributed, a majority of the directors or trustees shall sign and acknowledge a certificate stating that the corporation has been completely wound up, its known assets distributed, any tax or penalty due under the Bank and Corporation Franchise Tax Act paid, and its other known debts and liabilities actually paid or adequately provided for or paid as far as its assets permit, and that the corporation is dissolved. Such certificate shall be filed in the office of the Secretary of State and a copy, certified by him, shall be filed in the office of the county clerk of the county in which the principal office of the corporation is located. Thereupon corporate existence shall cease except for the purpose of further winding up if needed.

Alternative procedure. Petition

(2) In lieu of filing the certificate provided for in subdivision (1) of this section the directors or trustees, if the winding up has been accomplished without court proceedings, may petition the superior court of the county in which the principal office of the corporation is located for an order declaring the corporation duly wound up and dissolved. Such petition shall be filed in the name of the corporation. Upon the filing of such petition the court shall make an order requiring all persons interested to show cause why an order should not be made declaring the corporation duly wound up and dissolved and shall direct that the order be served by publication of a copy thereof in a newspaper of general circulation in the county where the principal office of the corporation is located, if there be one, or if not, in such newspaper as may be designated by the court, once a week for a period of two consecutive months. Any persons claiming to be interested either as shareholders, creditors or otherwise shall at any time before the expiration of thirty days from the completion of such publications have the right to appear in said proceeding and to contest said petition. Upon the hearing of said petition the court may make an order declaring the corporation duly wound up, its known assets distributed, any tax or penalty due under the Bank and Corporation Franchise Tax Act paid, and its other known debts and liabilities actually paid or adequately provided for or paid as far as its assets permit, the accounts of its directors

Publication.

Hearing.

settled and the directors or trustees discharged from their duties and liabilities to creditors or shareholders, and declaring the corporation dissolved, or it may make such other order and grant such other relief as it may deem proper upon the evidence submitted. If an order be made that the corporation has been duly wound up and dissolved a copy of such order, certified by the clerk of the court, shall be filed in the office of the Secretary of State.

Judgment, filing.

Upon the making of such order, corporate existence shall cease except for the purposes of further winding up if needed and the directors or trustees shall be discharged from their duties and liabilities.

Effect.

CHAPTER 63.

An act to add a new section numbered 1559 to the Probate Code of the State of California, relating to the guardianship of estates.

Stats. 1931, p. 587.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. There is hereby added to the Probate Code a new section numbered 1559 and to read as follows:

New section.

1559. If, upon the settlement of any account, it appears that the estate of the ward has been entirely exhausted through expenditures made for the benefit of the ward or in the management of his estate and such expenditures are approved by the court, the court upon the settlement of the account, shall order the guardianship of the estate of the ward terminated and the guardian of the estate forthwith discharged.

Estate exhausted.

Termination of guardianship.

CHAPTER 64.

An act to amend section 784 of the Probate Code, relating to confirmation of sales of real property by executors and administrators.

Stats 1931, p. 587.

[Approved by the Governor April 18, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 784 of the Probate Code is hereby amended to read as follows:

Stats. 1931, p 639

784. No sale of real property at private sale shall be confirmed by the court unless the sum offered is at least ninety per cent of the appraised value thereof, nor unless such real property has been appraised within one year of the time of

Appraisal of real property sold at private sale.

such sale. If it has not been so appraised, or if the court is satisfied that the appraisement is too high or too low, a new appraisement must be had, as in the case of an original appraisement of an estate. This may be done at any time before the sale or confirmation thereof.

CHAPTER 65.

Stats 1933, p. 1531, amended.

An act to amend section 4 of "An act to regulate the construction of buildings in the State of California, in respect to resistance to horizontal forces, providing penalties for the violation thereof and providing that this act become effective immediately," approved May 26, 1933, relating to the application of said act.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1532.

SECTION 1. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

Buildings exempted.

Sec. 4. This act shall not apply to the following buildings:

(a) Any building not intended primarily for occupancy by human beings and no part of which is located within the limits of an incorporated city or incorporated city and county.

(b) Any building designed and constructed for use exclusively as a dwelling for not more than two families and no part of which is located within the limits of an incorporated city or incorporated city and county.

(c) Any building on which work has actually been commenced prior to the effective date of this act.

(d) Any building not intended primarily for occupancy by human beings, all or a part of which is located within the limits of an incorporated city or an incorporated city and county, when such building is designed and constructed primarily for use in housing poultry, live stock, hay, grain or farming machinery and supplies.

CHAPTER 66.

An act to repeal sections 378, 378a, 378b, 378c, 378d, 378e, 378f, 378g of the Political Code, relating to the Bureau of Commerce.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Sections repealed

SECTION 1. Sections 378, 378a, 378b, 378c, 378d, 378e, 378f, 378g of the Political Code are hereby repealed.

SEC. 2. The books, records, papers, documents and any unexpended balance of any appropriations made to the Bureau of Commerce are hereby transferred from the Bureau of Commerce to the Department of Finance. Bureau of Commerce records.

CHAPTER 67.

An act to amend section 2 of an act entitled, "An act providing for the establishment and administration of industrial farms or industrial road camps in the counties of the State and the commitment thereto and discipline of persons charged with or convicted of public offenses," approved June 3, 1921, relating to the charge for maintaining persons on industrial farms and industrial road camps. Stats 1921, p. 1615, amended.

[Approved by the Governor April 18, 1935. In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 2 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1921, p 1615.

SEC. 2. Before proceeding to establish an industrial farm or industrial road camp in any county the board of supervisors thereof shall adopt a resolution of its intention so to do. Such resolution shall state an amount not to exceed seventy-five cents per person per day for which persons from incorporated cities will be maintained on such farm. Certified copies of such resolution shall be forwarded by the clerk of the board to the clerks of all the incorporated cities within the county. Resolution of intention by supervisors.

Thereupon the legislative body of any such incorporated city wishing to avail itself of the use of such industrial farm shall adopt a resolution setting forth the following matters: Resolution by city.

1. The number of persons sentenced to imprisonment in the jail of such city during the fiscal year last preceding the adoption of the resolution of intention by the board of supervisors;

2. The total number of days for which all such persons were imprisoned in the jail of the city during such fiscal year;

3. A declaration of the desire of the city adopting the resolution to have the prisoners of the city cared for by the county on such industrial farm or industrial road camp and of the agreement of the city to pay said county quarterly for the care of the prisoners of said city at the rate set forth in said resolution of intention.

A certified copy of such resolution shall be forwarded to the clerk of the board of supervisors,

CHAPTER 68.

An act to add section 675.1 to the Political Code, and to repeal section 675b thereof, relating to the approval of salaries by the Department of Finance.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the Political Code, to be numbered 675.1, and to read as follows:

Approval of salaries.

675.1. Unless the Legislature specifically provides otherwise, whenever any State department, board, commission, court or officer fixes the salary or compensation of an employee or officer, which salary is payable out of State funds, the salary shall be subject to the approval of the State Department of Finance before it becomes effective and payable.

Repeal.

SEC. 2. Section 675b of the Political Code is hereby repealed.

CHAPTER 69.

An act to amend section 675a of the Political Code, relating to approval of contracts by the Department of Finance.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1931, p. 846.

SECTION 1. Section 675a of the Political Code is hereby amended to read as follows:

State departmental contracts.

675a. All contracts entered into by any State officer, board, commission, department, or bureau for the purchase of supplies, materials, text books for use in the day and evening elementary schools of the State, or services, shall before the same become effective be transmitted with all papers, estimates and recommendations concerning the same to the State Department of Finance for consideration. If such department approve the same, the contract shall, from the date of such approval, be in force and effect.

No State officer, board, commission, department or bureau shall purchase supplies and materials, or either, in open market, unless permission has been given, upon a presentation of the necessity therefor, by the State Department of Finance; provided, that to meet an emergency, supplies and materials of a perishable nature, in an amount not exceeding one hundred dollars in value, may be purchased by such State officer, board, commission, department, or bureau without the permission of the said Department of Finance.

Every State office, board, commission, or department to whom is given by law the authority to make purchases of

materials or supplies must upon the request of the Department of Finance designate some certain officer or employee in such office, board, commission, or department whose duty it shall be to make such reports at such times and in such manner to the Department of Finance as such department shall from time to time require.

CHAPTER 70.

An act to amend section 1822bb of the Code of Civil Procedure, relating to the management, control, and disposal of estates of missing persons.

[Approved by the Governor April 18, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1822bb of the Code of Civil Procedure is hereby amended as follows: Stats 1935, Ch 52.

1822bb. The trustee may sell any or all of the personal or real property or mortgage or give a deed of trust upon any of the real property of the missing person when it is considered by the court as being to the best interest of the estate and all parties concerned including the heirs at law or legatees, and for that purpose shall file a petition with the court asking for an order directing and authorizing said sale, mortgage, or deed of trust. This petition shall be set for hearing not sooner than ten days after the filing of said petition and notice thereof shall be given by the clerk of the court by posting a notice at the place where the court is held. Notice shall also be given by registered mail to each of the persons who would be heirs at law of the missing person, if he were dead, and if it appears that such missing person left a will, then like notice to each legatee mentioned therein, at their respective places of address, a return card being requested with each of said notices so registered in the mail. If the address of any such person is unknown said notice must be mailed as aforesaid to said person at the county seat of the county in which the court is held, and an affidavit of the trustee filed showing that such address is unknown, and stating what efforts he has made to learn the same.

See Stats. 1935, Ch 712

Sale of property.

Petition.

Notice.

On the day of hearing the petition proof shall be offered in behalf thereof showing the reasons for the making of said sale, mortgage, or deed of trust. If the court finds that it will be for the best interests of all persons concerned in the estate of said missing person to have said sale, mortgage, or deed of trust made, it shall order the trustee to sell any or all said property, real, personal or both, or to mortgage or give a deed of trust upon any of said real property, in the manner provided by this code for sales of property of deceased persons, and all the provisions of law regarding such sales shall govern

Court order.

the sales of property of missing persons under this section, including the provisions concerning confirmation of the sales by the court; provided, however, that any such sale of real property shall not take place before the expiration of eight months from the date of the appointment and qualification of the trustee.

CHAPTER 71.

An act to amend section 662 of the Political Code, relating to the payment of fees to private persons, firms and corporations, declaring the urgency thereof, and providing that it shall take effect immediately.

[Approved by the Governor April 20, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Stats. 1929, p. 894.

SECTION 1. Section 662 of the Political Code is hereby amended to read as follows:

Contracts for recovery of money or property.

662. For the purpose of exercising the powers of supervision mentioned in section 654 of this code, the director is hereby authorized to make and enter into contracts providing for the payment of fees to private persons, firms or corporations, contingent upon the recovery to or for the State through the efforts of any such person, firm or corporation of money or property on account of any unpaid taxes due the State and withheld from the State; or for the collection of excess freight rates which may have been charged against the State.

Before remitting to the treasury any sums collected under the provisions of this section, the Department of Finance may deduct an amount not to exceed fifty per cent of the sum or sums so received, the amount so deducted to be used in paying for services and other expenses incidental to the recovery of money or property as herein set forth.

Payment for recovery.

The State Controller, upon approval of the Department of Finance, is hereby authorized and directed to approve for payment any claim to pay expenses incident to the recovery of such money, which claim is not in excess of fifty per cent of any sum or sums received under the provisions of this section and remitted to the State treasury. Such claims shall be paid out of the fund in the State treasury, to the credit of which said sum or sums have been remitted.

Urgency.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and will therefore take effect immediately. The facts constituting the necessity are that large sums of money owing the State of California in taxes is not being collected on account of tax evasion and unchecked

shipments of taxable merchandise and that unless immediate investigation and action is undertaken, the State will lose large sums of money due it for taxes. The danger mentioned will be avoided if this act goes into immediate effect.

CHAPTER 72.

An act to amend section 26 of the California Irrigation District Act, approved March 31, 1897, relating to directors of irrigation districts.

Stats. 1897, p. 254, amended.

[Approved by the Governor April 26, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 26 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1929, p. 686.

Sec. 26. A director shall be a qualified elector and a freeholder of the irrigation district and a resident of the division which he is elected to represent.

Qualifications of director.

CHAPTER 73.

An act to amend section 1208 of the Political Code, relating to illiterate or helpless voters.

[Approved by the Governor April 26, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1208 of the Political Code is hereby amended to read as follows:

Stats 1927, p. 471.

1208. When it appears from the register that any elector has declared under oath, when he registered, that he can not read, or that by reason of physical disability he is unable to mark his ballot, or when any elector declares under oath, administered by any member of the election board at the time such elector appears at the polling place to vote, that, at such time, he is unable to mark his ballot because of physical disability, he shall receive the assistance of at least one person, and no more than two persons, of his own selection, or, upon request, receive the assistance of two of the officers of election, of different political parties, in the marking thereof, to be chosen as follows: One by the inspector then receiving the ballots, and the other by the judge of the opposite political party which at the last election cast the highest number of votes throughout the State, and in the event there are more judges than one of said party, then by the one of said judges who shall be named by said inspector. Such officers shall

Illiterate or helpless voter.

Assistance

thereafter give no information regarding the marking of said ballot. The officers making such appointments shall make the same in writing, and sign the same, and upon the same paper the persons so appointed shall subscribe and take the following oath before assisting such elector:

Oath

State of California, county of_____, Assembly district number_____, _____ precinct, ss.
_____ and _____, being duly sworn, each for himself, says that he is one of the officers of election appointed to assist_____ (here insert the name of the elector) in marking his ballot, and that he will not give any information, now or hereafter, regarding the same.

_____

_____

Subscribed and sworn to before me, this_____day of _____, A. D. 19____.

Said affidavits may be sworn to before any officer of election competent to administer an oath, and the same, with the indorsements thereon, shall be returned to the county clerk, as provided in section 1261 of this code.

List of the voters who have been assisted in marking their ballots shall be kept by the clerks keeping the poll-lists, and shall be returned and preserved, as the poll-lists are returned and preserved.

CHAPTER 74.

An act to amend sections 105, 112 and 165 of the Code of Civil Procedure, relating to courts of justice.

[Approved by the Governor April 26, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1813.

SECTION 1. Section 105 of the Code of Civil Procedure is hereby amended to read as follows:

Justice may call substitute justice to hold court.

105. At the written request of a justice of the peace, another justice of the peace within the same county, or a city police judge, or judge of a city court or other court of a city, within the same county, who possesses the legal qualifications prescribed for the court of the requesting justice, may attend such court, and thereupon is vested with the power, and may perform all the duties, and issue all the papers or process, of the justice making such request. In any such case the proper entry of the proceedings before the attending justice or judge, subscribed by him, shall be made in the docket or minutes of the court which he so attends, and the same shall be prima facie evidence of such proceedings, and form and become a part of the record of any, or any part of any and all actions, causes, or proceedings had before such attending justice or judge

while so holding court. If any case pending before such attending justice or judge be adjourned, and the cause for requesting his attendance be removed, the justice who made such request may resume jurisdiction.

SEC. 2. Section 112 of the Code of Civil Procedure is hereby amended to read as follows: Stats. 1933, p. 1814.

112. Justices' courts shall have original jurisdiction of civil cases and proceedings as follows: Original jurisdiction of Class A justices' courts.

1. Justices' courts of class A shall have original jurisdiction:

(a) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy, amounts to one thousand dollars or less, except cases at law which involve the title or possession of real estate or the legality of any tax, impost, assessment, toll or municipal fine;

(b) In all proceedings in forcible entry or forcible or unlawful detainer where the rental value is one hundred dollars or less per month, and where the whole amount of damages claimed is one thousand dollars or less, and in such proceedings any competent evidence may be given, and any question properly involved therein may be determined;

(c) In all actions to enforce and foreclose liens on personal property where the amount of such liens is one thousand dollars or less;

(d) In cases in equity, when pleaded as defensive matter in any case at law of which they have jurisdiction;

(e) To charge the interest of a debtor partner with payment of the unsatisfied amount of any judgment rendered by such court in the manner provided in section 2422 of the Civil Code, or any amendment thereof, and in such cases to appoint a receiver and to make any order or perform any act mentioned or authorized in said section; in proceedings under section 689 of this code, or any amendment thereof, to determine title to personal property, seized in an action pending in, or upon execution issued by, such court; to appoint receivers in the cases mentioned in section 547a of this code, or any amendment thereof, and to make all orders and perform all acts mentioned in said section in connection with such cases.

2. Justices' courts of class B shall have original jurisdiction: Original jurisdiction of Class B justices' courts.

(a) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars or less, except cases at law which involve the title or possession of real estate or the legality of any tax, impost, assessment, toll or municipal fine;

(b) In all proceedings in forcible entry, or forcible or unlawful detainer where the rental value is seventy-five dollars or less per month, and where the whole amount of damages claimed is three hundred dollars or less, and in such proceedings any competent evidence may be given and any question properly involved therein may be determined;

(c) In all cases to enforce and foreclose liens on personal property where the amount of such liens is three hundred dollars or less;

(d) To charge the interest of a debtor partner with payment of the unsatisfied amount of any judgment rendered by such court in the manner provided in section 2422 of the Civil Code, or any amendment thereof, and in such cases to appoint a receiver and to make any order or perform any act mentioned or authorized in said section; in proceedings under section 689 of this code, or any amendment thereof, to determine title to personal property, seized in an action pending in, or upon execution issued by, such court; to appoint receivers in the cases mentioned in section 547a of this code, or any amendment thereof, and to make all orders and perform all acts mentioned in said section in connection with such cases.

Code amdts., 1880, p 41.

SEC. 3. Section 165 of the Code of Civil Procedure is hereby amended to read as follows:

Powers of justices at chambers.

165. The justices of the Supreme Court and of the district courts of appeal, or any of them, may, at chambers, grant all orders and writs which are usually granted in the first instance upon an ex parte application, except writs of mandamus, certiorari, and prohibition; and may, in their discretion, hear applications to discharge such orders and writs.

CHAPTER 75.

Stats. 1921, p. 245, amended.

An act to amend "An act to provide for the organization, incorporation, and government of municipal utility districts, authorizing such districts to incur bonded indebtedness for the acquisition and construction of works and property, and to levy and collect taxes to pay the principal and interest thereon," approved May 23, 1921, as amended, by amending sections 5 relating to the division of election precincts, 10 relating to the publication of ordinances, 12 relating to the investment of surplus moneys, 15b relating to the bonds of the district and their use as security, and adding a new section thereto, to be numbered 15c, relating to the issuance of refunding bonds.

[Approved by the Governor April 26, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1921, p. 247.

SECTION 1. Section 5 of the act cited in the title hereof is hereby amended to read as follows:

Division of district into wards.

Sec. 5. Before calling said election the board of supervisors shall divide the proposed district into five wards or subdistricts, the boundaries of which shall be so drawn that each shall contain approximately an equal number of electors, as nearly as may be. The municipalities and any other territory included in the proposed district may be divided for the purpose of establishing the boundaries of said wards or subdistricts.

SEC. 2. Section 10 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1931, p. 92.

Sec. 10. The acts of the board of directors shall be expressed by motion, resolution or ordinance; provided, no ordinance shall be passed by said board on the day of its introduction, nor within three days thereafter, nor at any time other than a regular or adjourned regular meeting. No ordinance, resolution or motion shall have any validity or effect unless passed by the affirmative votes of at least three directors. Except as elsewhere in this act specifically provided all ordinances shall be published once a day for at least seven days in some newspaper of general circulation printed or published or circulated in such district. Motions, resolutions and ordinances.

The enacting clause of all ordinances shall be as follows: Enacting clause.

"Be it enacted by the board of directors of ------ municipal utility district:"

All ordinances shall be signed by the president of the board of directors, or vice president, and be attested by the secretary.

SEC. 3. Section 12 of the act cited in the title hereof is hereby amended to read as follows: Stats 1931, p 93

Sec. 12. Any municipal utility district incorporated as herein provided shall have power: Powers of district.

First—To have perpetual succession.

Second—To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

Third—To adopt a seal and alter it at pleasure.

Fourth—To take by grant, purchase, gift, devise, or lease, or condemn in proceedings under eminent domain, or otherwise acquire, and to hold and enjoy real and personal property of every kind within or without the district necessary to the full or convenient exercise of its powers. The directors of the district may lease, mortgage, sell or otherwise dispose of any real or personal property within or without the district when in their judgment it is for the best interests of the district so to do The provisions of this section shall apply to all sales or mortgages heretofore or hereafter made.

Fifth—To acquire, construct, own, operate, control or use, within or without, or partly within and partly without, the district, works or parts of works for supplying the inhabitants of said district and municipalities therein, with light, water, power, heat, transportation, telephone service, or other means of communication, or means for the disposition of garbage, sewage, or refuse matter; and to do all things necessary or convenient to the full exercise of the powers herein granted; also to purchase any of the commodities or services aforementioned from any other utility district, municipality, person, or private company, and distribute the same. Whenever there is a surplus of water, light, heat or power above that which may be required by such inhabitants or municipalities within the district, such district shall have power to sell or otherwise dispose of such surplus outside of the district to

Powers of district.

persons, firms, and public or private corporations, or municipalities outside said district.

Whenever any of the facilities, works, or utilities of the district, or part thereof, is not used or employed to its fullest capacity for the benefit or requirements of the district or its inhabitants, such district shall have power to enter into an agreement or agreements with counties, cities, municipalities, irrigation districts, public utility companies, or any public corporations or agencies, upon such terms and conditions as may be satisfactory to its board of directors, for renting, leasing, or otherwise using the available portion or parts of such facilities, works, or utilities, and in connection with any such agreement, renting or leasing, the district may undertake or perform any services incidental thereto.

Sixth—To have or exercise the right of eminent domain in the manner provided by law for the condemnation of private property for public use. To take any property necessary or convenient to the exercise of the powers herein granted, whether such property be already devoted to the same use or otherwise. In the proceedings, venue and trial, relative to the exercise of such right the district shall have all the rights, powers and privileges of a municipal corporation, and all rights, powers and privileges herein conferred.

Seventh—To construct works across or along any street or public highway, or over any of the lands which are now or may be the property of this State, and to have the same rights and privileges appertaining thereto as have been or may be granted to municipalities within the State, and to construct its works across any stream of water or watercourse. The district shall restore any such street or highway to its former state as near as may be, and shall not use the same in a manner to unnecessarily impair its usefulness.

Eighth—To borrow money and incur indebtedness, and to issue bonds or other evidences of such indebtedness; also to refund or retire any indebtedness that may exist against or be assumed by the district; provided, no indebtedness shall be incurred exceeding the ordinary annual income and revenue of the district without the approval of a two-thirds vote of the electors voting on the proposition to incur such indebtedness; provided, however, that a further vote of the electors is not required for any indebtedness heretofore or hereafter incurred within the purposes and not exceeding the available amount of any previously authorized bond issue and as to such indebtedness the proceeds of any of such bonds unexpended in the treasury of the district, or the par value of any of such bonds which are unsold shall be deemed a part of the ordinary annual income and revenue of such district; provided further, that any district operating a utility under rules and regulations requiring applicants for extensions to advance the expenses of such extensions and facilities for serving additional territory may enter into agreements to refund to such applicants in a subsequent year the whole or any part of such

expenses so advanced and such refunds may be paid out of the revenues of such subsequent years.

Ninth—To levy and collect, or cause to be levied and collected, taxes for the purpose of carrying on the operations and paying the obligations of the district.

Tenth—To make contracts, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers herein in this act granted.

Eleventh—To proceed in the name of the district in case of condemnation proceedings.

Twelfth—To invest any surplus money in the district treasury, including money in any sinking fund established for the purpose of providing for the payment of the principal or interest of any bonded or other indebtedness or for any other purpose, not required for the immediate necessities of the district, in its own bonds, or in the treasury notes or bonds of the United States, or of this State, or bonds of any city and county, city, school district or county water district situated within the county or counties in which the municipal utility district is situated in whole or in part, or bonds of any county which includes any part of such municipal utility district, and such investment may be made by direct purchase of any issue of such bonds or treasury notes, or part thereof, at the original sale of the same or by the subsequent purchase of such bonds or treasury notes. Any bonds or treasury notes thus purchased and held may from time to time be sold and the proceeds reinvested in bonds or treasury notes as above provided. Sales of any bonds or treasury notes thus purchased and held shall from time to time be made in season so that the proceeds may be applied to the purposes for which the money, with which the bonds or treasury notes were originally purchased, was placed in the treasury of the district.

SEC. 4. Section 15b of the above-entitled act is hereby amended to read as follows: Stats. 1927 p. 135.

Sec. 15b. All bonds heretofore or hereafter issued by the district shall be legal investment for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings and trust companies, and for the State school fund, and for all sinking funds under the control of the State Treasurer, and whenever any moneys or funds may by law now or hereafter enacted be invested in, or loaned upon the security of, bonds of cities, cities and counties, counties, or school districts, in the State of California, such moneys or funds may be invested in, or loaned upon the security of the bonds of the said district; and whenever bonds of cities, cities and counties, counties, or school districts by any law now or hereafter enacted may be used as security for the faithful performance or execution of any court or private trust or of any other act, bonds of the said district may be so used. Legal investments.

The bonds of the district, to the same extent as bonds of any other municipality, shall also be legal for use by any Security for deposits.

State or national bank or banks in the State as security for the deposit of funds of the State or of any county, city and county, city, municipality or other public or municipal corporation within the State.

New section.

SEC. 5. A new section is hereby added to the above-entitled act, to be numbered 15c, and to read as follows:

Refunding bonds.

Sec. 15c. Whenever the board of directors shall by resolution passed by a vote of two-thirds of all its members determine that the refunding of the whole or any portion of its bonded indebtedness will be of advantage to the district, said board may refund such bonded indebtedness or any portion thereof and issue refunding bonds of the district therefor. The refunding bonds shall bear interest at a rate not exceeding the interest rate on the refunded bonds and shall mature serially in amounts to be fixed by the board of directors; provided that the payment of said bonds shall begin not later than one year from the date thereof and be completed in not more than forty years from said date. Said bonds shall be issued in such denominations as the board of directors determine except that no bonds shall be of a less denomination than one hundred dollars nor of a greater denomination than one thousand dollars, and shall be payable on the day and at the place or places fixed in said bonds, with interest at the rate specified therein, which interest shall be payable semi-annually. Said bonds shall be signed by the president of the board of directors of the district or by such officer thereof as the board of directors shall by resolution adopted by a two-thirds vote of all its members authorize and designate for that purpose. They shall also be signed by the treasurer thereof and be countersigned by the secretary thereof. The coupons of said bonds shall be numbered consecutively and be signed by the treasurer. In case any of such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officer before the delivery of said bonds to the purchaser, such signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until the delivery of the bonds.

Said bonds may be issued and sold by the board of directors of the district as they determine but for not less than their par value.

Proceeds of bonds.

The proceeds of the sale of such refunding bonds shall be placed in the treasury of the district to the credit of the "Refunding fund" and shall be applied only to the purchase, or retirement at not more than par and accrued interest, of the bonded indebtedness for which said refunding bonds shall have been issued.

Exchange of bonds.

In lieu of selling such refunding bonds and purchasing with the proceeds thereof the bonds to be refunded, the board of directors of the district may exchange refunding bonds at not less than par and accrued interest for the bonds, so refunded.

Whenever such outstanding bonds shall be refunded, they shall be surrendered to the treasurer of the district, who shall proceed to cancel the same by indorsing on the face thereof the manner in which the refunding shall have been effected (whether by exchange or purchase, and the amount for which so purchased, if any) and by perforating through each bond and each coupon attached thereto, the word "canceled" together with the date of cancellation. Cancellation of outstanding bonds.

All moneys which shall remain in said "Refunding fund" after all outstanding bonds which were proposed to be refunded therefrom have been taken up and canceled, shall be paid into the sinking fund of such district and become a part thereof.

The issuance of said refunding bonds shall not be construed as the incurring or increase of an indebtedness within the meaning of the provisions of section 12, subdivision eighth, or section 15 of this act, or of any other provision of this act.

The board of directors shall provide for the levy and collection of taxes to pay the principal and interest on said bonds and to constitute a sinking fund for the payment of the principal of said bonds on or before maturity in accordance with the provisions of section 15 of this act.

The provisions of section 15b and 16 of this act shall apply to such refunding bonds except that the board of directors may cause refunding bond validation proceedings to be brought within sixty days from the date of the resolution authorizing the issuance of said refunding bonds.

CHAPTER 76.

An act to provide a method for improving public streets, avenues, lanes, alleys, courts and places within municipalities of the sixth class, and for levying and collecting assessments upon property to pay for such improvements, and declaring the urgency hereof, to take effect immediately, and repealing an act approved May 25, 1933, relating to the same subject. Stats 1933, p. 1458, repealed.

[Approved by the Governor April 26, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Definitions. (a) "Municipality" as used in this act shall mean and include any city of the sixth class incorporated under and existing by virtue of the provisions of "An act to provide for the organization, incorporation and government of municipal corporations," approved March 13, 1883. Definitions. Stats 1883, p. 93.

(b) "Streets" as used in this act shall mean and include the whole or any portion of any public street, avenue, lane, alley, court, or places within a municipality of the sixth class.

(c) "Improvement" as used in this act shall mean and include grading or regrading, paving or repaving, macadamizing or remacadamizing, reconstruction or repair of culverts, conduits, crosswalks, steps, parking or driveways, or for the repair of any street as herein defined.

(d) The words "city engineer" as used in this act shall mean the city engineer, superintendent of streets or other officer having the duties and powers ordinarily vested in such officers.

Resolution of intention.

SEC. 2. Whenever the public interest or convenience require the improvement of any street in any municipality and eighty per cent (80%) of the abutting property owners on said street who own property which comprises at least fifty per cent (50%) of the front feet of the property fronting on said street petition the city council for the improvement of same, the city council may, by resolution passed by a four-fifths vote, declare its intention to improve such street. Such resolution shall hereinafter be referred to as the resolution of intention. Such resolution of intention shall describe the street or streets proposed to be improved and fix the time and place when the city council will hear protests in relation to said improvement, which time shall not be less than fifteen days nor more than thirty days from the date of the passage of said resolution of intention. It shall not be necessary to describe in detail such improvements but in such resolution of intention reference may be made to specifications, plans, cross-sections, profiles or any or all thereof pertaining to such improvement on file in the office of the city engineer for further particulars and descriptions of such improvement.

The city council shall not adopt said resolution of intention unless there are available to pay the entire cost of labor on the proposed improvement, funds obtained for such purpose from the Reconstruction Finance Corporation or other Federal agency or from a charitable or relief organization or funds made available by the State for unemployment relief.

Publication of resolution.

SEC. 3. The city clerk shall cause said resolution of intention to be published twice in some newspaper of general circulation published in said municipality. If no newspaper be published in said city, then the publication shall be made in some newspaper published in the county in which said city is located.

Posting of notices of improvement.

Upon the adoption of said resolution of intention, the city engineer shall thereupon cause to be conspicuously posted along all streets where work is to be done or improvement made, not more than three hundred feet apart and not less than three in all, notices of the passage of said resolution of intention. Said notices shall be headed "Notices of Improvement" in letters not less than one inch in height and shall in legibile characters state the fact of the passage of said resolution, the date of its approval, the character of the improvement proposed, and shall refer to said resolution for further particulars. Said notices shall also contain a statement of the time and place

when written protests to the proposed improvement may be filed with the city clerk, and the date, hour and place said protests will be heard by the city council as stated in the resolution of intention. In every case, all posting shall be completed at least ten days before the date set for hearing protests.

Mailing of notices of adoption of resolution of intention.

SEC. 4. The council shall direct the clerk to mail notices of the adoption of the resolution of intention to all persons owning real property proposed to be assessed, whose names and addresses appear on the last assessment roll for city taxes prior thereto or as known to the clerk, but the mailing of such notices shall not be essential to obtaining jurisdiction by the council and the failure so to do shall not affect in any manner the validity of any proceedings taken hereunder. Such notices shall contain a statement of the time, place and purpose of the hearing on the resolution of intention and a statement of the total estimated cost of the proposed improvement, together with a statement that any person interested may file protest as provided in this act. Said notice shall be mailed at least fifteen days prior to the date fixed for said hearing. The city clerk shall, upon the completion of the mailing of said notices, file with the city council an affidavit setting forth the time and manner of the compliance with the above requirements for mailing notices.

Protest.

SEC. 5. At any time, not later than the time set for hearing objections to the proposed improvement, as provided in the resolution of intention, the owner of any real property abutting on that portion or portions of the street or streets to be improved may file with the city clerk, addressed to the city council, a written protest respecting such improvements describing the property owned by him abutting on said improvement. At the time set for hearing protests or at the time to which the hearing of protests may be continued, the city council shall hear such protest or protests and pass upon the same and its decision thereupon shall be final and conclusive.

Commencement of work

SEC. 6. If no written protest has been delivered to the city clerk up to the hour for hearing the protest provided in the resolution of intention or upon the overruling of any protest or protests filed, the city council may, by resolution, order such improvement and may direct the city engineer to make such improvement and to purchase the materials and employ the labor necessary therefor, and the city clerk shall deliver a copy of such order to the city engineer, who shall forthwith commence and proceed diligently with and complete such improvement without unnecessary delay and substantially in accordance with the specifications therefor.

Expenditures over $500

If the expenditures for such improvement authorized by this act exceed the sum of five hundred dollars, the city council may advertise for bids and proceed in accordance with the provisions of section 874 of "An act to provide for the organization, incorporation and government of municipal corpora-

Stats. 1933, p. 1334

tions," approved March 13, 1883; or the city council may direct the city engineer to make such improvement in the manner provided in the first paragraph of this section.

Computation and assessment of cost.

SEC. 7. Upon the completion of the improvements, the city engineer shall compute the cost and incidental expenses thereof, exclusive of any and all costs of labor on the improvement, and shall assess such amount against the several parcels of property fronting or abutting on the street or parts of streets along such improvement. The amount of each assessment shall become a lien against the parcel of property of record so assessed as of the date of the filing with the city council of the petition for improvement of the street or parts of streets; provided that said lien shall be subject to the confirmation of said assessment by the city council, as hereinafter provided.

Assessment roll.

SEC. 8. The city engineer shall prepare an assessment roll which shall briefly refer to the resolution of intention pursuant to which the improvements were made and shall show in detail the items of cost thereof, together with all incidental expenses; the name of each street improved; a description of each lot or parcel assessed; the amount of each assessment against each lot or portion of the lot so assessed; the name of the owner of each lot or portion thereof assessed as such ownership appears on the assessment roll of the city or as known to the city engineer, and the date of said assessment. There shall be appended to said assessment roll a certificate of the city engineer that said assessment roll shows in detail the item of costs and expenses of making such improvement. There shall be attached to said assessment roll a diagram delineating each street on which any work has been done, showing the relative location of each lot or portion thereof, the number to correspond with the number of the assessments. Said assessment roll shall also provide space to show the penalties for delinquency in the payment of the assessment and the date of payment. The said assessment shall be filed with the city clerk.

Notice of filing of assessment Publication.

SEC. 9. Said clerk shall then give notice of the filing of said assessment and of a time to be therein fixed by said clerk when all persons interested in the work done or in the assessment will be heard by the city council Such notice shall be posted for not less than five days on or near the council chamber door and, in addition, to be published twice in a newspaper published in such city, if there be one, and if there be none, then in some newspaper published in the county in which such city is located. The first of such publications shall be not less than fifteen days before the time fixed for such hearing.

Mailing of notice

Such notice shall also be given by mailing a notice at least fifteen days prior to the time fixed for such hearing to the owner of each lot listed according to the name and address appearing on the last assessment roll for city taxes prior thereto or as known to the clerk. Such notices shall designate

the property abutting on said improvement and belonging to said owner by street number or some other description sufficient to enable the property owner to identify the property and a statement of the amount proposed to be assessed against such property. The city clerk shall, upon the completion of such mailing, file with the city council an affidavit setting forth the time and manner of the compliance with the above requirement for such mailing. The failure of the clerk to give such notice by mailing or of the person addressed to receive same shall not affect the jurisdiction of the council to proceed with the hearing noticed. Reference shall be made in said notices to the resolution of intention, the date of its passage, or a description of the work therein mentioned and no other description thereof shall be necessary

Protest against assessment.

SEC. 10. Any property owner affected under this act feeling aggrieved by the act or determination of said city engineer or said city council relating to said improvement, or who may claim that said improvement was not made in a workmanlike manner or having any objections to the correctness or legality of the entries in said assessment roll, may, in writing, at any time prior to the time for hearing protests stated in the notice provided for in section 9 hereof, make and file with the city clerk his objections or protests at the time so fixed for protests. The city engineer shall present to the city council said assessment roll and the entries thereon pertaining to said assessment roll. The city council at said time shall consider any and all objections or protests which may have been duly filed. Thereupon, or at any time to which the matter may be adjourned, the city council may remedy or correct any error or informality in the proceedings and revise and correct any of the acts and determinations of said city engineer or any other officer of the city relating to said improvement, and may confirm, amend, set aside, alter, modify or correct said changes entered in said assessment roll in such manner as it shall deem just and equitable. The decision and determination of the city council in such matters shall be final and conclusive upon all persons entitled to object or protest under the provisions of this act.

Confirmation of assessment.

SEC. 11. Upon confirmation of said assessment, the city engineer shall record said roll in a suitable record book and shall give notice by publication once in a newspaper published in such city, if there be one, and if there be none, then in some newspaper published in the county in which such city is located, that said assessment has been confirmed and that all sums assessed in said assessment roll pursuant to this act are due and payable immediately and that the payment of said sum or sums is to be made to the city engineer within forty-five days after the date of the first publication, which date shall be stated in said notice. Said notice shall also contain a statement that all assessments not paid before the expiration of said forty-five days will become delinquent and that from and after the date of such delinquency all assess-

Delinquent assessment.

ments shall bear interest at the rate of six per cent per annum for a period not to exceed twelve months, and upon the expiration of said twelve months following the date of delinquency, a penalty of ten per cent of the assessment will be imposed and added thereto.

Mailing of notice of assessment after confirmation

SEC. 12. The city engineer shall immediately, upon publication of the notice required by section 11 hereof, mail, postage prepaid, to each property owner or reputed owners of property to be assessed for said improvement, at his last known address as the same appears on the assessment roll of said city or as known by the city engineer, a notice of the amount of his assessment, the date on which same will be delinquent, and the costs and penalties that will accrue in the event of nonpayment before delinquency.

Assessments become delinquent, when.

SEC. 13. Upon the expiration of the said period of forty-five days, all assessments then unpaid shall become delinquent and the city engineer shall cause each such assessment to be marked "Delinquent" in said assessment roll and shall cause the costs and penalties as set forth in section 11 hereof to be added thereto and recorded in said assessment roll.

Disposition and record of money

SEC. 14. All moneys due and collected by the city engineer for such improvement shall be properly entered in a suitable record book as provided for in section 11 hereof and said moneys shall be turned over to the city treasury at the expiration of any month in which any collections have been made accompanied by a statement of credits as entered in said record book of the city engineer.

Penalty for delinquent assessments

SEC. 15. The city engineer shall, on the first day of July of each and every year, add a penalty of five per cent to the amount of each delinquent assessment unpaid on said date, provided such assessment has been delinquent and unpaid for a period of at least twelve months and has already had imposed and added thereto the costs and penalties prescribed in section 11 hereof; and thereupon he shall deliver to the city clerk who, in turn, shall deliver to the county assessor, the assessment roll, together with an abstract of the entries in said assessment roll herein provided to be kept. Such abstract shall show each and every delinquent assessment, together with the costs and penalties, the property affected and the amount charged there against.

Abstract of entries.

Lien for penalties and delinquent assessments

The amount of such charges and penalties shall be a lien against the respective property charged therewith of the same character and effect and shall be collected in the same manner and at the same time as city taxes, between the fifteenth day of November of each and every year and the date upon which taxes become payable. Such charge or charges and penalties shall bear the same costs and penalties that delinquent taxes bear as provided by law.

Cost to city and to property owner

SEC. 16. The city council may, by resolution, at the time the resolution of intention is adopted, assume the payment of a proportion of the cost of said improvement or all costs over and above a certain amount. The cost to the owners

of property abutting on said street proposed to be improved, shall in no event exceed ten per cent of the assessed valuation of said property, excluding improvements thereon, and any assessment levied to pay the cost of such improvement shall not exceed ten per cent of the assessed valuation of said property.

Effect on Stats 1931, p. 1372.

SEC. 17. Nothing contained in this act shall be construed to supersede, limit or change any of the provisions of the Special Assessment, Investigation, Limitation and Majority Protest Act of 1931.

Outstanding assessments

No action or proceedings for the improvement of any street in any municipality shall be taken under the provisions of this act when there exists or is outstanding any assessment whatsoever for street improvement against the property abutting said street for which the improvement is proposed.

Constitutionality.

SEC. 18. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Repeal. Stats 1933, p 1458

SEC. 19. "An act to provide a method for improving public streets, avenues, lanes, alleys, courts and places within municipalities of the sixth class, and for levying and collecting assessments upon property to pay for such improvements, and declaring the urgency hereof, to take effect immediately," approved May 25, 1933, is hereby repealed.

Urgency

SEC. 20. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health, and safety within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into immediate effect.

The facts constituting such necessity are as follows:

The continuance of the widespread depression has kept many people out of employment and continues to make it impossible for them to obtain work. By allowing street improvements to be made in accordance with this act, such work can be begun more quickly and thereby employment can be furnished to needy persons throughout the State, thereby relieving unemployment and removing many persons from the relief rolls.

Termination of act.

SEC. 21. This act shall become ineffective and inoperative on and after May 1, 1936.

CHAPTER 77.

Stats. 1933, p. 394.

An act to amend sections 691, 694, 695, 696, 697, and 865 of the Fish and Game Code and to add section 697.5 thereto, and to repeal section 691.6 thereof, relating to fishing.

[Approved by the Governor April 24, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 457.

SECTION 1. Section 691 of the Fish and Game Code is hereby amended to read as follows:

Striped bass.

691. Striped bass may be taken only by angling with hook and line and at any time subject to the restrictions contained in this article. Not more than three hooks, artificial lures excepted, may be used on any line for the purpose of taking striped bass.

Repeal

SEC. 2. Section 691.6 of the Fish and Game Code is hereby repealed.

Stats 1933, p 458.

SEC. 3. Section 694 of the Fish and Game Code is hereby amended to read as follows:

Size limit.

694. It is unlawful to take or possess any striped bass less than 12 inches in length. Striped bass shall be measured from the tip of the snout to the extreme tip of the tail.

Stats 1933, p. 458.

SEC. 4. Section 695 of the Fish and Game Code is hereby amended to read as follows:

Bag limit.

695. Not more than 5 striped bass may be taken by any person during one day. Not more than one daily bag limit may be possessed by any person during one day.

Stats 1933, p 458

SEC. 5. Section 696 of the Fish and Game Code is hereby amended to read as follows:

Sale.

696. It is unlawful to buy or sell striped bass. The possession or transportation of striped bass for the purpose of sale is hereby prohibited.

Stats. 1933, p. 458.

SEC. 6. Section 697 of the Fish and Game Code is hereby amended to read as follows:

Removal from State.

697. No striped bass may be transported or carried out of or into this State.

New section

SEC. 7. Section 697.5 is hereby added to the Fish and Game Code to read as follows:

District 12B

697 5. Any striped bass incidentally taken with lawfully taken shad in district 12B must be turned over to city, county or State institutions under regulations to be prescribed by the commission.

Stats. 1933, p 472.

SEC. 8. Section 865 of the Fish and Game Code is hereby amended to read as follows:

See Stats. 1935, Ch 399.

865. It is unlawful to use any net except a gill net to take shad. Such nets may be used to take shad, only as follows:

Shad.

(1) They may be used in district 12B, excluding all sloughs except Broad Slough, between February 15 and May 15.

(2) They may be used in district 12C, excluding all sloughs.

(3) They may not be used between sunrise Saturday and sunset of the following Sunday.

CHAPTER 78.

An act to provide for the formation of districts within municipalities for the acquisition, construction or extension of water works, water systems or water distribution systems; for the issuance, sale and payment of bonds of such districts to meet the cost of such water works, water systems or water distribution systems; and for the acquisition, construction or extension of such water works, water systems or water distribution systems.

[Approved by the Governor April 26, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Municipal water districts.

SECTION 1. Any portion of a municipality incorporated under the laws of this State may be formed into a municipal water district for the purpose of creating an indebtedness, to be represented by bonds of said district, the proceeds from the sale of which shall be used for the acquisition, construction or extension of water works, water systems or water distribution systems for supplying said district and the inhabitants thereof with water for domestic, agricultural, industrial or other purposes which such municipality is authorized by law to acquire, construct or extend. Such districts shall be formed and such bonds shall be issued and sold in the manner and under the proceedings hereinafter set forth.

Petition

SEC. 2. Whenever a petition verified by one or more persons and signed by not less than ten per cent of the qualified electors residing in the territory which is proposed to be formed into a municipal water district, setting forth a general description of the water works, water system or water distribution system to be acquired, constructed or extended and a general description of the exterior boundaries of such proposed district, shall have been filed in the office of the clerk of the legislative body of said city, and the genuineness of the signature thereto shall have been certified to by the city clerk, said legislative body may adopt an ordinance declaring its intention to call an election in said proposed district, or as the same may have been modified as herein provided, for the purpose of submitting to the qualified electors of said district the proposition of authorizing the issuance and sale of bonds of such district in the manner and for the purpose set forth in said ordinance of intention. Said legislative body shall have power to change or modify the boundaries of said district and the nature, character or extent of such proposed water works, water system or water distribution system. Said ordinance of intention shall also contain:

Ordinance of intention for election.

Contents of ordinance.

1. An accurate description of the exterior boundaries of the proposed municipal water district;

2. A general description of the water works, water system or water distribution system proposed to be acquired, constructed or extended;

3. An estimate of the cost of the proposed water works, water system or water distribution system and an estimate of the incidental expense in connection therewith;

4. That upon a certain date fixed therein an election will be held in said district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of such district to pay the cost and expenses of the proposed water works, water system or water distribution system, and that a map showing the exterior boundaries of said district with relation to the territory immediately contiguous thereto, and a general description of the proposed water works, water system or water distribution system are on file in the office of the clerk of the legislative body of such city; which said map shall govern for all details as to the extent of the said district;

5. A date, hour and place fixed for the hearing of protests.

Publication of ordinance.

SEC. 3. Said ordinance shall be published once a day for at least six days in some newspaper of general circulation published at least six days a week in said city, or once a week for two weeks in some newspaper published less than six days per week in such municipality, and one insertion each week for two succeeding weeks shall be sufficient publication in such newspaper published less than six days per week. Such ordinance, unless otherwise provided by charter of the municipality, shall take effect upon the completion of said publication. In municipalities where no such newspaper is published such ordinance shall be posted in three public places therein, and in case of posting notice such ordinance shall take effect two weeks after date of such posting of notice.

Protest

SEC. 4. Any person interested, objecting to the formation of said district, or to the extent of said district, or to the proposed water works, water system or water distribution system, or to the acquiring, construction or extension thereof, or to the inclusion of his property in said district, may file a written protest, setting forth such objection, with the clerk of the legislative body at or before the time set for the hearing of said petition. The clerk of said legislative body shall indorse on each such protest the date of its reception by him, and, at the time appointed for the hearing above provided for, shall present to said board all protests so filed with him. Said legislative body shall hear said protests at the time appointed or at any time to which the hearing thereof may be adjourned, and pass upon the same, and its decision thereon shall be final and conclusive. If any of such protests against the proposed water works, water system or water distribution system, or against the acquisition, construction or extension thereof be sustained, no further proceeding shall be had or taken pursuant to the petition, but a new petition for the same or a similar purpose may be filed at any time after the expiration of six months from the date such protest was sustained. If any of such protests be against the extent of said district, or against the inclusion of property in said district, then the

Modification of boundaries.

legislative body shall have power to make such changes in the boundaries of the proposed district as it shall find to be proper and advisable, and shall define and establish such boundaries, but said legislative body shall not modify such boundaries so as to include any territory which will not in its judgment, be benefited by said water works, water system or water distribution system.

Said legislative body shall not modify such boundaries except after notice of its intention so to do, given by one insertion in said newspaper, describing the proposed modification, and specifying a time for hearing objections to such modification, which time shall be at least ten days after the publication of said notice. Written objections to said proposed modification may be filed with the clerk of said legislative body by any interested person at or before the time set for hearing the same. Said legislative body shall hear and pass upon such objections at the time appointed, or at any time to which the hearing thereof may be adjourned, and its decision thereon shall be final and conclusive. If such objections, or any of them, be sustained, no further proceedings pursuant to such petition shall be taken, but a new petition for the same or a similar purpose may be filed at any time after the expiration of six months from the date such protest was sustained.

Objections to modification.

At the expiration of the time within which protests may be filed, if none be filed, or if protests be filed and after hearing be denied, or at the expiration of the time within which objections to the modification of the boundaries of the district, in case such modification be proposed, may be filed, if none be filed, or if such objections be filed, and, after hearing, be overruled, as above provided, then said legislative body shall be deemed to have acquired jurisdiction to proceed further in accordance with the provisions of this act.

SEC. 5. At any time after said legislative body shall have so acquired jurisdiction, it may call an election to be held within the district described in the ordinance or resolution calling the election, which description shall conform with any changes in boundaries that may have been made under section 4 hereof, and provide for the submission to the qualified voters thereof, the proposition of incurring a debt by the issuance of bonds of such district, for the purposes set forth in the ordinance of intention. The ordinance or resolution calling such election, shall also recite the objects and purposes for which the proposed indebtedness is to be incurred, the nature of the water works, water system or water distribution system, contemplated thereby, the estimated cost thereof, the estimated cost of the incidental expense in connection therewith, the amount of the principal of the indebtedness to be incurred therefor, which principal of indebtedness shall not exceed twenty-five per cent of the assessed value of the taxable land in said district as shown by the assessment-roll of such city last equalized at the time such election is held, and the rate of interest to be paid on such indebtedness; provided,

Calling election.

Rate of interest.

however, that in its discretion said legislative body may recite in such ordinance or resolution a maximum rate of interest to be paid on such indebtedness, which rate when so recited, shall not be exceeded in the issuance of bonds for such indebtedness; and said ordinance or resolution shall fix the date on which such election shall be held, the manner of holding the same and the manner of voting for or against said proposition. The maximum rate of interest to be paid on such indebtedness shall be six per centum per annum, payable semiannually.

Precincts.

SEC. 6. For the purposes of said election said legislative body shall in said ordinance, or resolution, establish one or more precincts within the boundaries of said district, designate a polling place and appoint one inspector, one judge and one clerk for each such precinct. In all particulars not recited in such ordinance, or resolution, such election shall be held as provided by law for the holding of general municipal elections in such city. Said ordinance, or resolution, ordering the holding of said election shall, prior to the date fixed for such election be published five times in a daily, or twice in a weekly or semiweekly newspaper of general circulation, printed and published in said city and designated by said legislative body for said purpose. In cities where no such newspaper is published, such ordinance, or resolution, shall be posted in three public places therein two weeks preceding the date fixed for the holding of such election. No other notice of such election need be given. If at such election two-thirds of all the voters voting at said election, shall vote in favor of incurring such bonded indebtedness, then such legislative body shall thereupon be authorized and empowered to issue the bonds of said district for the amount provided for in such proceedings, payable out of funds of such district, to be provided as in this act prescribed.

Publication of calling of election.

Two-thirds majority.

Bonds, form, manner of payment.

SEC. 7. Said legislative body shall, subject to the provisions of this act, prescribe the form of said bonds, and of the interest coupons attached thereto. Said bonds shall be payable in the following manner:

Manner of payment. A part, to be determined by said legislative body, and which shall not be less than one-fortieth part of the whole amount of such indebtedness, shall be payable each and every year, on a day and date, and at a place to be fixed by said legislative body and designated in such bonds, together with the interest on all sums unpaid on such date, until the whole of said indebtedness shall have been paid; provided, however, that said legislative body may in its discretion determine and fix a date for the earliest maturity of the principal of such bonds, not more than ten (10) years from the date of the issue of such bonds, but in this event the whole amount of such indebtedness must be made payable in equal annual parts in not to exceed forty years from the time of contracting the same.

The bonds shall be issued in such denomination as said legislative body may determine, except that no bonds shall be of a less denomination than one hundred dollars, nor of a greater denomination than one thousand dollars, and shall be payable on the day and at the place fixed in such bonds, and with interest at the rate specified in such bonds, which rate shall not be in excess of six per centum per annum, and shall be paid semiannually; and said bonds shall be signed by the chief executive of the municipality, or by such other officer thereof as the legislative body of the municipality shall, by resolution adopted by a two-thirds vote of all its members, authorize and designate for that purpose, and also signed by the treasurer thereof, and shall be countersigned by the clerk. The interest coupons on said bonds shall be numbered consecutively and signed by the treasurer of such municipality by his engraved or lithographed signature. In case any such officers, whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signature or countersignature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the delivery of the bonds.

Denomination.

Interest coupons.

At any time prior to the sale of said bonds and notwithstanding the fact that a tax may have been levied to pay principal and interest or principal or interest of any of said unsold bonds, the said unsold bonds may be redated and the maturities, denominations, form, interest rate or any thereof may be changed, and, after such changes are made, the bonds issued pursuant thereto may be sold; provided, the interest rate of the bonds shall not exceed the rate authorized at the election. If a tax has theretofore been levied to pay principal and interest or principal or interest of any of said unsold bonds, the said tax, when collected, shall be used to pay the principal and interest or principal or interest of the bonds actually issued and sold.

Unsold bonds.

SEC. 8. Said legislative body may issue and sell the bonds of such district authorized as hereinabove provided, at not less than par value, and the proceeds of the sale of such bonds shall be placed in the treasury of such municipality to the credit of the proper district fund and shall be applied exclusively to the purposes and objects mentioned in the ordinance or resolution ordering the holding of the bond election as aforesaid and to the incidental expense in connection therewith.

Issuance and sale.

At any time prior to the actual sale of any of the bonds of any issue authorized under the provisions of this act, a petition verified by one or more persons and signed by not less than twenty-five per cent of the qualified electors residing in the municipal water district and praying that no bonds be sold and the entire issue be canceled and all proceedings thereunder abandoned may be filed in the office of the clerk of the legislative body of said city.

Petition for abandonment and cancellation.

Election on question of abandonment and cancellation

The genuineness of the signatures thereto must be examined and certified to by the city clerk within two weeks from and after the filing thereof and within three weeks after the clerk has so certified the legislative body of the city must by ordinance call an election and submit to the qualified electors within the district the proposition of whether or not the bonds shall be canceled and all proceedings for the issuance thereof abandoned. The ordinance or resolution calling such election shall fix the date thereof and recite the objects and purposes for which the proposed bonded indebtedness was to be incurred, the nature of the water works, water system or water distribution system contemplated thereby, the estimated cost thereof, the estimated cost of the incidental expenses in connection therewith, the amount of the principal of the indebtedness to be incurred, and the rate of interest all as specified in the ordinance or resolution calling the election upon the proposition of incurring the bonded debt. In all other particulars such election shall be called and held in the manner provided by section 6 of this act.

If at such election a majority of the voters voting thereat vote in favor of canceling the bonds and abandoning proceedings for the issuance thereof, then such legislative body shall order the bonds canceled and declare the proceedings for the issuance thereof abandoned and thereafter the legislative body shall have no power to issue the said bonds. If said bonds have been printed or prepared for delivery they shall forthwith be destroyed.

In case the proceeding is abandoned the legislative body of such city shall, at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect a tax upon the taxable land within the boundaries of the district theretofore formed under this act, sufficient to pay the engineering, legal and other incidental expenses incurred by such city in the proceedings theretofore had under the provisions of this act and to reimburse the said city for such sums as it may have advanced therefor, and from the funds derived from said tax shall pay such engineering, legal and other incidental expenses and reimburse the city for such sums as it has advanced therefor.

Levy and collection of tax.

SEC. 9. The legislative body of such city shall, at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect a tax each year upon the taxable property in such district sufficient to pay the interest on such bonds for that year, and such portion of the principal thereof as is to become due before the time for making the next general tax levy; provided, however, that if the maturity of the indebtedness created by the issue of such bonds be made to begin more than one year after the date of such issue, such tax shall be levied and collected, at the time and in the manner aforesaid, each year sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal there-

of on or before maturity. Such tax shall be in addition to all other taxes levied for municipal purposes and when collected shall be paid into the treasury of such city and be used for the payment of the principal and interest on such bonds, and for no other purpose. The principal and interest on such bonds shall be paid by the treasurer of such city in the manner provided by law for the payment of principal and interest on bonds of such city.

Payment of bonds.

SEC. 10. All contracts for the construction or extension of any water works, water system or water distribution system, or for furnishing labor, materials or supplies therefor as herein provided, shall be let to the lowest responsible bidder. The legislative body of such city shall advertise for two or more days in a newspaper of general circulation printed and published in such city, inviting sealed proposals for furnishing labor, materials and supplies for the proposed water works, water system or water distribution system before any contract shall be made therefor. The said legislative body shall have the right to require such bonds as it may deem best from the successful bidder to insure the faithful performance of the contract, and shall also have the right to reject any and all bids; provided, however, that nothing herein contained shall be construed as prohibiting the municipality itself from constructing or extending such water works, water system or water distribution system and employing the labor necessary therefor, without a contractor; and provided further, that in municipalities operating under a charter heretofore or hereafter framed under the provisions of the Constitution of the State of California, all acts required to be performed subsequent to the sale of such bonds by this act, shall be done and performed by the proper body, board, officer or commission of such municipality, as is required or authorized by such charter to perform such acts, and in case such charter also prescribes the manner of letting and entering into contracts for the furnishing of labor, materials or supplies for the constructing or extending of such water works, water system or water distribution system, the contracts therefor shall be let and entered into in conformity with such charter.

Contracts for construction.

Bids

Work done by municipality

Chartered cities.

SEC. 11. Said municipality shall, by and through its proper officers, have full power and authority to expend the proceeds acquired from the sale of such bonds for the acquisition, construction or extension of the water works, water system or water distribution system set forth in the ordinance calling said election, and shall also have full power and authority to acquire, construct or extend such water works, water system or water distribution system and such water works, water system or water distribution system so acquired, constructed or extended shall be the property of such municipality.

Powers of municipality to expend bond proceeds and control system.

SEC. 12. Whenever the legislative body of any municipality in which a municipal water district has been formed hereunder, shall by resolution declare that it is no longer necessary to

Sinking fund.

expend the money raised by the sale of bonds of such municipal water district for the purpose for which said bonds were voted, by reason of the fact that such purpose has been accomplished by other means, or by reason of the fact that the acquisition, construction or extension of the water works, water system or water distribution system for which said bonds were voted is no longer required by the public interest, convenience, and necessity, or if a surplus remains in said bond fund after the completion of such water works, water system or water distribution system for which said bonds were voted, the legislative body of said municipality shall by resolution order that said money be placed into a sinking fund for the purpose of paying the principal and interest of said bonds.

Purchase of outstanding bonds.

In the event that after the legislative body shall have found that it is no longer necessary to expend the money raised by the sale of bonds for any municipal water district for the purpose for which said bonds were voted as therein provided; or if upon the completion of such water works, water system or water distribution system a surplus exists in the sinking fund created for the purpose of paying the principal and interest on said bonds, then and in that event the legislative body may authorize and direct the city treasurer to advertise for the purchase of any outstanding bonds at par. Said treasurer shall thereupon cause to be published once in a newspaper of general circulation in the municipality a notice that upon a day and hour certain the said treasurer will purchase at par and to the extent of the surplus remaining any outstanding bonds of the district. In purchasing said bonds the treasurer shall purchase any bonds offered in the inverse order of their maturity. Any bonds so purchased shall be canceled and the interest and sinking fund credited therewith.

CHAPTER 79.

An act to validate bonds, including refunding bonds, of irrigation districts and all proceedings relative thereto, and to provide for the levy and collection of taxes to pay the principal and interest on such bonds.

[Approved by the Governor April 26, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Validation of bonds

SECTION 1. Whenever proceedings have heretofore been taken by any irrigation district organized or existing under any law or laws of this State, for the issuance and sale or exchange of bonds, including refunding bonds, of such district for any purpose or purposes, all acts and proceedings of the board of directors of said district and all acts of the board of supervisors of the county or counties in which such district or any part thereof is situated and all acts of public officers in

connection therewith leading up to and including the issuance of such bonds, including refunding bonds, if they have hitherto been issued or sold or exchanged, and all such acts and proceedings heretofore taken if such bonds, including refunding bonds, are not yet issued or sold or exchanged, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and the power of such district to issue such bonds, including such refunding bonds, is hereby ratified, confirmed and declared, and such bonds and refunding bonds heretofore issued and sold or exchanged are declared to be and shall be, in the form and manner in which such bonds and refunding bonds have been actually issued and delivered, the legal and binding obligations of and against such district, and the bonds and refunding bonds heretofore authorized to be issued which may be hereafter issued and sold or exchanged are declared to be and shall be the legal and binding obligations of such district, and the full faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds, including refunding bonds.

Powers of district board of directors

SEC. 2. For the purpose of paying the interest on such bonds or refunding bonds as it becomes due and the principal thereof at maturity, the board of directors of the district and other officers who are charged with duties in connection with the assessment, levy and collection of taxes, shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds, for the payment of the principal and interest of bonds of such districts, at the times and in the manner respectively set forth in the respective law or laws authorizing or purporting to authorize the incurring of bonded indebtedness or issuance of bonds by such districts and the payment thereof.

CHAPTER 80.

An act to validate the organization and incorporation of municipal corporations.

[Approved by the Governor April 26, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Validation

SECTION 1. All municipal corporations, the organization and incorporation of which have been authenticated by the boards of supervisors in this State declaring the same incorporated, as municipal corporations of the classes to which such corporations may respectively belong, and a certi-

fied copy of which order has been filed by such boards of supervisors in the office of the Secretary of State, and which corporations thereafter have acted in the form and manner of municipal corporations under the provisions of "An act to provide for the organization, incorporation and government of municipal corporations," approved March 13, 1883, and the amendments thereto, are hereby declared to be and to have been municipal corporations from the date of filing the certified copy of said order of the boards of supervisors with the Secretary of State; and all acts of the said municipal corporation heretofore performed according to the act aforesaid, are hereby validated and declared to be legal; provided, however, that all municipal corporations shall be excepted from this act where the right to act as such is being contested or inquired into in legal proceedings brought within six months after a certified copy of the order of the board of supervisors was filed in the office of the Secretary of State

Stats 1883, p. 93.

Exception.

CHAPTER 81.

Stats. 1931, p. 587.

An act to add to the Probate Code a new section, to be numbered 1068, relating to the discharge of executors and administrators and the termination of probate proceedings.

[Approved by the Governor April 26, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the Probate Code, to be numbered 1068, and to read as follows:

Discharge when no property subject to administration.

1068. A verified petition may be signed and filed by or on behalf of the executor or administrator setting forth the fact that it appears that there is no property of any kind belonging to the estate and subject to administration, and praying for the termination of further proceedings and for his discharge. The clerk of the court must set the petition for hearing by the court and give notice thereof for the period and in the manner required by section 1200 of this code. If it appears to the satisfaction of the court upon such hearing that the facts stated in the petition are true it shall make its order terminating the proceeding and discharging the executor or administrator. The verified petition referred to in this section may be filed and an order may be entered thereon without the return of an inventory provided for by Chapter 9 of Division III of this code.

CHAPTER 82.

An act to require governmental units to furnish reports to the State Department of Finance concerning bonds and bonded indebtedness.

[Approved by the Governor April 26, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. As used in this act "governmental unit" includes county, city and county, municipal corporation, political subdivision of the State, and every special district having the power to borrow money or to create indebtedness against itself or against any property within its boundaries. "Governmental unit" defined

SEC. 2. Within sixty days after the effective date of this act each governmental unit shall submit to the Department of Finance the information hereinafter specified as to all bonds of such governmental unit heretofore authorized and unpaid, indicating those outstanding, those issued but not yet sold, and those authorized but not yet issued. Information as to bonds

SEC. 3. For the purposes of this act, bonds issued under any proceeding over which the governing body of a governmental unit has jurisdiction shall be deemed bonds of such governmental unit. Bonds to which act applicable.

SEC. 4. Within thirty days after the authorization for the issuance of any bonds hereafter authorized the governmental unit authorized to issue such bonds shall submit a report thereof to the Department of Finance, specifying the information required by this act to be given concerning bonds heretofore authorized. Report of authorization of bonds

SEC. 5. Reports required by this act as to any bonds shall contain the following information: Contents of report.

(a) The name of the issue.

(b) The denomination or denominations.

(c) The number of bonds of each denomination.

(d) The total indebtedness represented by such bonds.

(e) The interest rate and dates of payment of interest.

(f) The maturity date or dates.

(g) Whether or not such bonds are callable, and if so, the terms and date or dates upon which they may be called.

(h) The method of raising revenue to pay the interest and principal of such bonds.

SEC. 6. The sale by a governmental unit of any bonds previously reported to the Department of Finance as authorized but not issued or as issued but not sold, shall be reported to said department within thirty days after any such sale. Bonds previously reported as unissued or unsold

SEC. 7. The county auditor in the case of a county or any district or other unit the financial records of which are kept by said auditor, or the officer, or board, responsible for the keeping of such records in the case of any city, district, or other unit the financial records of which are not kept by the Responsibility for making reports.

county auditor, shall be responsible for the making of such reports, and shall be subject to removal from office for failure or neglect to comply with the provisions of this act.

Applicability. SEC. 8. In the event this act or any portion thereof is held to be inapplicable to any governmental unit as herein defined, such holding shall not affect the applicability of this act or any portion thereof to any other governmental unit.

CHAPTER 83.

An act relating to the investment of funds in the State treasury.

[Approved by the Governor April 26, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Investment of State funds in State warrants

SECTION 1. Wherever any State officer, board or employee is authorized to invest funds in the State treasury in securities which are legal investments for savings banks, such officer, board or employee is authorized to invest such funds in registered warrants of the State.

Repeal

SEC. 2. Any act or parts of acts in conflict herewith are hereby repealed.

CHAPTER 84.

An act to amend section 4041.17 of the Political Code, relating to the acquisition of real property by boards of supervisors.

[Approved by the Governor April 26, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1929, p. 1458.

SECTION 1. Section 4041.17 of the Political Code is hereby amended to read as follows:

Acquisition of water rights, real and personal property.

4041.17. Under such limitations and restrictions as are prescribed by law, and in addition to jurisdiction and powers otherwise conferred, the boards of supervisors, in their respective counties, shall have the jurisdiction and powers to purchase, receive by donation, lease or otherwise acquire water rights or real or personal property necessary for the use of the county, for a courthouse, jail, hospital, historical museum, aquarium, art gallery, art institute, stadium, and almshouse, and an exposition building or buildings, public pleasure ground, public parks, botanical gardens, and other public purposes, and also property upon which to sink wells to obtain water for sprinkling roads and other county purposes, and to

improve, preserve, take care of, manage and control the same. Except in the case of real property, including any water right or other interest therein, the purchase price of which is three hundred dollars or less, no purchase of real property shall be made unless a notice of the intention of the board of supervisors to make such purchase, describing the property to be purchased, the price to be paid therefor, from whom it is proposed to be purchased, and fixing the time when the board will meet to consummate such purchase, has been published for at least three weeks in some newspaper of general circulation published in the county; or if none be published in the county, then that such notice has been posted at least three weeks prior to the time when the board meets to consummate such purchase, in at least three public places in each supervisorial district.

CHAPTER 85.

An act to amend section 98 of the California Irrigation District Act and to repeal sections 99, 99½, 106, 107 and 108 of said act, all relating to the cancellation and destruction of unissued or unsold bonds and coupons of irrigation districts, and declaring the urgency thereof.

Stats. 1897, p. 254, amended

[Approved by the Governor April 26, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 98 of the California Irrigation District Act is hereby amended to read as follows:

Stats. 1897, p. 284.

Sec. 98. Whenever the whole or any portion of any issue of bonds of any irrigation district organized or existing under the provisions of this act, including original and funding and refunding issues or any of them, shall remain unsold or unissued for more than one year after the date of the election at which such bonds were authorized, the board of directors of said district may in its discretion, by a resolution adopted by the affirmative votes of directors constituting at least two-thirds of the membership of said board, cancel all or any of said bonds so remaining unsold or unissued and all coupons attached or appurtenant thereto, and thereafter no other bonds shall be issued in pursuance of the proceedings taken in relation to the issuance of the bonds so canceled; provided, that whenever any such resolution is offered the consideration thereof shall be postponed to a date to be fixed by the board and said resolution shall be published once a week for at least two successive weeks in a newspaper published in the county in which the office of the district is located together with a notice stating the time fixed by the board for the consideration of said resolution. Any bonds and coupons so canceled shall be destroyed under the direction of said board,

Cancellation of bonds.

Repeals

SEC. 2. Section 99 of the California Irrigation District Act is hereby repealed.

SEC. 3. Section 99½ of the California Irrigation District Act is hereby repealed.

SEC. 4. Section 106 of the California Irrigation District Act is hereby repealed.

SEC. 5. Section 107 of the California Irrigation District Act is hereby repealed.

SEC. 6. Section 108 of the California Irrigation District Act is hereby repealed.

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and shall therefore take effect immediately.

The following is a statement of the facts constituting such necessity:

Urgency.

Due to present depressed economic conditions many bond issues of irrigation districts previously authorized but unsold can not be sold and other bonds issued by such districts are in default, and it is necessary that such outstanding bonds be refinanced in order that said districts may continue to function. Federal agencies have offered to come to the relief of such districts but as a condition precedent to the granting of such aid by the Federal agencies it is necessary that such authorized or unsold bonds be immediately canceled, and it is necessary that means be afforded for the immediate cancellation and destruction of such unissued and unsold bonds and coupons as herein provided.

CHAPTER 86.

An act to amend sections 656 and 663 of the Political Code, to abolish the Division of Service and Supply in the Department of Finance and to provide for the membership of the State Board of Control as a result thereof.

[Approved by the Governor April 26, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

Stats 1931, p 843

SECTION 1. Section 656 of the Political Code is hereby amended to read as follows:

Organization of the department

656. For the purpose of administration, the department shall be forthwith organized by the director, with the approval of the Governor, in such manner as shall be deemed necessary properly to segregate and conduct the work of the department. There shall be in the department a Division of Budgets and Accounts. The Director of Finance shall have power to arrange and classify the work of the department, and with the approval of the Governor may create such other divisions and subdivi-

sions as may be necessary, and change or abolish the same from time to time. The chief of each division shall receive such annual salary as may be fixed by the Director of Finance, with the approval of the Governor, and before entering upon the duties of his office shall execute to the State of California an official bond in the penal sum of twenty-five thousand dollars. The Director of Finance may also be chief of the Division of Budgets and Accounts without additional compensation. The director shall have power to appoint and fix the salary of one attorney for the Division of State Lands.

SEC. 2. Section 663 of the Political Code is hereby amended to read as follows: Stats 1931, p 844.

663. A State Board of Control is hereby created to consist of the Director of Finance and the State Controller, both acting ex officio, and a third member to be appointed by and serve at the pleasure of the Governor. The third member may be a State officer who shall act ex officio. If not a State officer acting ex officio, the third member of the board shall receive ten dollars for every day of actual attendance at meetings of the board, together with his necessary traveling expenses in attending such meetings; such allowances to be paid from the appropriation made available for the support of the Department of Finance. State Board of Control.

The members of the State Board of Control shall receive no additional compensation for their services as ex officio members of said board. The Director of Finance shall be chairman of said Board of Control.

The board must keep a record of all its proceedings and any member may cause his dissent to the action of the majority upon any matter to be entered upon such record.

The board may appoint a secretary and assistant secretaries who shall hold office at its pleasure. It shall be the duty of the secretary to keep a full and true record of all proceedings of the board, to issue all necessary process, writs, warrants and notices, and to perform such other duties as the board may prescribe. The secretary and the assistant secretaries shall have power to administer oaths, certify to all official acts, and issue subpenas for the attendance of witnesses and the production of papers, books, accounts, documents, testimony in any inquiry, investigation, hearing or proceeding in any part of the State. Secretaries.

The board shall have power to employ such officers, experts, engineers, statisticians, accountants, inspectors, clerks and employees as it may deem necessary to perform the duties and exercise the powers conferred by law upon the board. The board shall have power to employ examiners who shall have the power to administer oaths, examine witnesses, issue subpenas and receive evidence, under such rules and regulations as the board may adopt. Other employees

The board shall have a seal, bearing the following inscription: "State Board of Control." The seal shall be affixed Seal

to all writs and authentications of copies of records and to such other instruments as the board shall direct.

Powers and duties.

A majority of the board shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the board. No vacancy in the board shall impair the right of the remaining members to exercise all the powers of the board. The act of a majority of the board when in session as a board shall be deemed to be the act of the board; but any investigation, inquiry or hearing which the board has power to undertake or to hold may be undertaken or held by or before any member or members designated for the purpose by the board. The evidence in any investigation, inquiry or hearing may be taken by the member or members to whom such investigation, inquiry or hearing has been assigned or, in his or their behalf, by an examiner designated for that purpose. Every finding, opinion and order made by the member or members, so designated, pursuant to such investigation, inquiry or hearing, when approved or confirmed by the board and ordered filed in its office at State Capitol, Sacramento, shall be deemed to be the finding, opinion and order of the board.

CHAPTER 87.

An act to add two new sections to the Political Code to be numbered 359c and 359d, to provide for vacations of officers and employees of the State of California, with pay, and empowering the State Personnel Board to promulgate rules and regulations governing the same, in so far as applicable to such members of the Civil Service, and to repeal a certain act therein specified.

[Approved by the Governor April 26, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the Political Code to be numbered 359c and to read as follows:

State employees' vacations

359c. Except as otherwise provided by law, each officer and employee of the State of California shall be entitled to a vacation of not to exceed fifteen days' duration, excluding Sundays and holidays, with pay, during each year of continuous service. The time when such vacations shall be taken shall be determined by the appointing power of such officer or employee.

New section.

SEC. 2. A new section is hereby added to the Political Code to be numbered 359d and to read as follows:

Rules and regulations concerning vacations

359d. The State Personnel Board shall promulgate rules and regulations governing vacations for all officers and employees who are members of the civil service, which shall prescribe for vacations with pay to such officers and employees,

who have been employed for a period of at least six months and less than one year, and for an accumulation of vacations to be taken in the next succeeding year. The appointing power of any officer or employee not a member of the civil service may promulgate rules and regulations governing vacations for such officer or employee not inconsistent with the provisions of this act.

SEC. 3. Chapter 250, Statutes of California, 1909, is hereby repealed. Repeal.

CHAPTER 88.

An act to amend section 6 of an act entitled "An act to provide for the formation, organization and government of storm-water districts, for the purpose of protecting the land therein from damage from storm water and from the waters of any innavigable stream, watercourse, canyon or wash, for the construction of the necessary works of protection by said district, and for the levying of taxes and assessments to pay for the cost of constructing, repairing and maintaining such improvements," approved March 13, 1909. Stats 1909, p. 339, amended.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 6 of an act entitled "An act to provide for the formation, organization and government of storm-water districts, for the purpose of protecting the land therein from damage from storm water and from the waters of any innavigable stream, watercourse, canyon or wash, for the construction of the necessary works of protection by said district, and for the levying of taxes and assessments to pay for the cost of constructing, repairing and maintaining such improvements," approved March 13, 1909, is hereby amended to read as follows: Stats 1909, p 341

Sec. 6. Upon the formation of such storm-water district the said board of supervisors must call an election therein for the election of three trustees of such district. Notice of said election stating the time, place or places and purpose thereof, and the names of the election officers shall be given by the board by publication in some newspaper of general circulation designated by the board and published in the county, for two weeks before said election. Such election shall, except as herein otherwise provided, be held in conformity to the law for holding special elections, as to matters provided for thereby, and as to other matters in conformity to the general election law, so far as applicable; but no sample ballots shall be sent out. The election board shall count the votes as soon as the polls are closed, and

Election of trustees.

Conduct of election.

Canvass of returns.

Organization of trustees.

Vacancy in office of trustee.

forward the returns of the election to said board of supervisors. Said board of supervisors at their next regular meeting thereafter shall canvass said returns, and issue certificates of election to the persons elected. The board of trustees so elected shall meet and organize on the next Monday after their certificates of election are issued to them, and shall hold office until the first day of July next succeeding the first regular election of trustees hereinafter provided for after the formation of said district, and until their successors are elected and qualified. On the first Friday of June of each even-numbered year there shall be held an election in said storm-water district for the purpose of electing three trustees of said district. Such regular election must be called by the board of trustees of such district in the manner herein provided for calling the first election, and the election shall be held in the same manner as the said first election, and certificates of election shall be issued by the trustees. Should a vacancy occur or be found to exist in the office of trustee, the board of supervisors shall fill the same by appointment. Such appointee shall possess the same qualifications as are required by this act for trustees, and shall hold his office until the next biennial election after his appointment, or until his successor is elected and qualified.

CHAPTER 89.

An act to confirm and validate the boundaries of school districts, high school districts and junior college districts of every kind and class and declaring the urgency thereof.

[Approved by the Governor April 27, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Validation of school district boundaries

SECTION 1. The boundaries of every school district, high school district or junior college district, of any kind or class, as the same one year prior to the taking effect of this act, were established or were actually defined on the maps or plats of such district provided or furnished to the assessor of the county or counties in which such district, or any part thereof, is situated, are hereby confirmed, validated and declared to be legally established; provided that within one year prior to the taking effect of this act any school tax purporting to be for school purposes of such school district, high school district or junior college district has been levied in such district.

Urgency.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California and shall take effect immediately. The following is a statement of the facts constituting such necessity: The boundaries of many

school districts, high school districts and junior college districts within the State of California have been established, enlarged, changed or altered within the last two years, and many of such districts thereafter have voted bonds for raising money with which to purchase school lots, for building or purchasing one or more school buildings, or making alterations or additions to same, or restoring or rebuilding school buildings damaged, injured or destroyed by fire or other public calamity, for insuring school buildings, for supplying school buildings with furniture or necessary apparatus, for improving school grounds, for liquidating any indebtedness already incurred for said purposes or refunding any valid outstanding indebtedness of such districts evidenced by bonds or warrants thereof. The proceedings in the establishment, enlargement, change or alteration of boundaries of such districts in many instances were irregular and by reason of such minor irregularities and defects in such proceedings not jurisdictional such bonds can not now be sold. The present school facilities of such districts are inadequate to meet the needs of the pupils in such districts, and it is necessary and urgent that such proceedings be validated at an early date.

CHAPTER 90.

An act to legalize refunding bonds heretofore issued and sold, or to be issued and sold, by counties or cities and counties where authority for such issuance has already been given by a vote of not less than two-thirds of the qualified electors of such counties or cities and counties voting upon the proposition of incurring such indebtedness, and providing for a levy of taxes to pay the principal and interest of such refunding bonds.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. In all cases where the board of supervisors of any county or city and county in this State has deemed it necessary to refund an outstanding indebtedness evidenced by bonds or warrants of such county, and has called an election for the purpose of submitting to the qualified electors of such county or city and county the proposition whether such indebtedness shall be refunded, and where not less than two-thirds of all the qualified electors voting on any such proposition shall have voted in favor of refunding such indebtedness, and authorized the issuance of refunding bonds of such county or city and county for such purposes, the power of such county or city and county to issue refunding bonds not exceeding the amount so authorized and all acts and proceedings of such county or city and county

Validation of bonds

leading up to and including the issuance and sale, or the proposed issuance and sale of refunding bonds to such amount are hereby legalized, ratified, confirmed and declared valid to all intents and purposes; and all such refunding bonds, sold either before or after the passage of this act for not less than their par value, are hereby legalized and declared to be legal and valid obligations of and against such county or city and county so issuing and selling the same, and the full faith and credit of such county or city and county is hereby pledged for the prompt payment and redemption of the principal and interest of such refunding bonds.

Tax levy.

SEC. 2. The board of supervisors of such county or city and county, at the time of making the next general tax levy after incurring the indebtedness of any such refunding bonds, and annually thereafter until all of such refunding bonds are paid or until there shall be a sum in the treasury of such county or city and county set apart for that purpose sufficient to meet all sums coming due for principal and interest on such refunding bonds, must levy a tax for that year upon the taxable property of such county or city and county for the interest and redemption of such refunding bonds, which shall be in addition to all other taxes, and such tax must not be less than sufficient to pay the interest on such refunding bonds, and such portion of the principal, if any, as is to become due before the time for making the next general tax levy and in any event must be sufficient to raise annually for the first half of the term such refunding bonds have to run, a sufficient sum to pay the interest thereon; and during the balance of the term sufficient to pay such annual interest, and to provide annually a proportion of the principal of such refunding bonds equal to a sum produced by taking the whole amount of such refunding bonds outstanding and dividing it by the number of years such refunding bonds then have to run. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for county or city and county purposes and shall be collected at the time and in the same manner as other county or city and county taxes are collected and be used for no other purpose than for the payment of said refunding bonds and the accruing interest thereon.

Exceptions

SEC. 3. This act shall not operate to legalize any refunding bonds of any county or city and county that have not, at the time of the passage of this act, received the affirmative vote of not less than two-thirds of the qualified electors of such county or city and county voting upon the proposition of refunding such indebtedness, or any refunding bonds which have been sold for less than their par value, or any refunding bonds which mature at a date more than forty years from the time of their issuance.

CHAPTER 91.

An act to validate the organization and existence of school districts, high school districts and junior college districts of every kind and class.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. All school districts, high school districts, and junior college districts, of any kind or class, which have acted and existed as such for more than one year prior to the taking effect of this act, are hereby declared to be legally and duly formed, organized, established, incorporated and existing, and such school districts, high school districts and junior college districts shall have all the rights and privileges and be subjected to all the duties and obligations of duly formed, organized, established or incorporated school districts, high school districts, and junior college districts, respectively. Validation of school districts.

CHAPTER 92.

An act to legalize refunding bonds heretofore issued or sold or to be issued and sold by municipalities, and providing for a levy of taxes to pay the principal and interest of such bonds.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. In all cases where the legislative branch of any municipality in this State has deemed it necessary to refund any outstanding indebtedness of such municipality evidenced by bonds thereof by the proposed issuance of refunding bonds of such municipality, the power of such municipality to issue such refunding bonds, and all the acts and proceedings of such municipality leading up to and including the issuance and sale or the proposed issuance and sale of such refunding bonds are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and all such refunding bonds sold either before or after the passage of this act for not less than their par value are hereby legalized and declared to be legal and valid obligations of and against such municipality so issuing and selling the same, and the full faith and credit of such municipality are hereby pledged for the prompt payment and redemption of the principal and interest of said refunding bonds. Validation of bonds

SEC. 2. The legislative branch of such municipality shall, at the time of fixing the general tax levy and in the manner Tax levy.

for such general tax levy provided, levy and collect annually each year until said refunding bonds are paid or until there shall be a sum in the treasury of said municipal corporation set apart for that purpose sufficient to meet all sums coming due for the principal and interest on such refunding bonds, a tax sufficient to pay the annual interest on such refunding bonds and also such part of the principal thereof as shall become due before the time for fixing the next general tax levy. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes and shall be collected at the time and in the same manner as other municipal taxes are collected and be used for no other purpose than for the payment of said refunding bonds and the accruing interest thereon.

Exceptions

SEC. 3. This act shall not operate to legalize any refunding bonds of any municipality issued to refund any outstanding indebtedness evidenced by warrants of such municipality or by judgment or judgments or evidenced in any way other than by bonds of such municipality, nor shall this act operate to legalize any refunding bonds which have been sold for less than their par value, or any refunding bonds which mature at a date more than forty years from the time of their issuance.

CHAPTER 93.

An act to legalize bonds heretofore issued and sold, or to be issued and sold, by municipalities where authority for such issuance has already been given by a vote of not less than two-thirds of the electors of such municipalities voting upon the question of incurring such indebtedness and providing for a levy of taxes to pay the principal and interest of such bonds.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Validation of bonds

SECTION 1. In all cases where the legislative branch of any municipality in this State has deemed it necessary to incur an indebtedness in excess of the ordinary annual income and the revenue of such municipality, and has called an election for the purpose of submitting to the qualified electors of such municipality the question whether such indebtedness shall be incurred, and where at such election so held, after due notice thereof was given, for the time and in the manner prescribed by law, not less than two-thirds of all the qualified electors voting thereat shall have voted in favor of incurring

such indebtedness, and the mode of creating such indebtedness has been by the proposed issuance of the bonds of such municipality, the power of such municipality to issue such bonds and all the acts and proceedings of such municipality leading up to and including the issuance and sale, or the proposed issuance and sale of such bonds are hereby legalized, ratified, confirmed and declared valid to all intents and purposes; and all such bonds, sold either before or after the passage of this act for not less than their par value, are hereby legalized and declared to be legal and valid obligations of and against such municipality so issuing and selling the same, and the faith and credit of such municipality is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds.

Tax levy.

SEC. 2. The legislative branch of such municipal corporation shall at the time of fixing the general tax levy and in the manner for such general tax levy provided, levy and collect annually each year until said bonds are paid, or until there shall be a sum in the treasury of said municipal corporation set apart for that purpose sufficient to meet all sums coming due for the principal and interest on such bonds, a tax sufficient to pay the annual interest on such bonds and also such part of the principal thereof as shall become due before the time for fixing the next general tax levy; provided, however, that if the maturity of the indebtedness created by the issue of bonds be made to begin more than one year after the date of the issuance of such bonds, such tax shall be levied and collected at the time and in the manner aforesaid annually each year, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof on or before maturity. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes and shall be collected at the time and in the same manner as other municipal taxes are collected and be used for no other purpose than for the payment of said bonds and the accruing interest thereon.

Exceptions

SEC. 3. This act shall not operate to legalize any bonds of any municipality that have not, at the time of the passage of this act, been authorized by the vote of not less than two-thirds of the qualified electors of such municipality voting at any such election, or any bonds which have been sold for less than their par value, or any bonds which mature at a date more than forty years from the time of their issuance.

CHAPTER 94.

An act to validate all proceedings for the issuance of bonds and all bonds heretofore issued or sold by any water conservation district and directing the levy and collection of a tax sufficient to pay the principal and interest thereof.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Validation of bond proceedings

SECTION 1. When in any water conservation district organized under the Water Conservation Act of 1929 or under any amendments or reenactments of said act, proceedings have been taken for the purpose of issuing or selling bonds of such district for any purpose or purposes, all acts and proceedings of the board of directors of such district and all other acts and proceedings leading up to and including the issuance of such bonds if they have been heretofore sold and all such acts and proceedings heretofore had although the bonds are not yet sold are hereby legalized, confirmed and validated to all intents and purposes and the power of such district and of the board of directors thereof to issue and sell such bonds is hereby ratified, confirmed and approved and said bonds heretofore sold are declared to be and shall be in the form and manner in which said bonds have been actually sold and delivered the legal and valid obligations of and against such district and the said bonds heretofore authorized to be issued and hereafter sold and delivered are declared to be and shall be legal and binding obligations of such district and all the lands in such district shall be and remain liable to be assessed for the payment of said bonds until the same are fully paid.

Tax levy

SEC. 2. Both the principal and interest of said bonds shall be paid from an annual tax levied upon all the lands within such district in the manner and under the procedure prescribed in said act, and all of the lands within such district shall be and remain liable to taxation for the payment of the principal and interest of said bonds as herein and in said act provided; and for the purpose of paying the principal and interest of such bonds issued or to be issued as it becomes due, the officers of such district and the boards of supervisors, clerks, assessors, treasurers, tax collectors and other officers of the county or counties within which said water conservation district is situated in whole or in part shall have the powers and perform the duties provided by law relative to the assessment, levy and collection of taxes and custody of funds for the payment of the principal and interest of bonds of water conservation districts.

CHAPTER 95.

An act to validate the organization and existence of water conservation districts.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Whenever the board of supervisors of any county has heretofore declared any portion of such county to be a water conservation district under the provisions of the Water Conservation Act of 1929 or under the provisions of such act as amended or reenacted and such district has existed as such for a period of one year prior to the taking effect of this act, all acts and proceedings of such board of supervisors and all acts of all public officers leading up to and including the formation of such district or districts are hereby legalized, ratified and confirmed and declared valid for all intents and purposes and every such district so organized is hereby declared to be a valid and legally existing water conservation district.

Validation of water conservation districts.

CHAPTER 96.

An act to validate bonds, including refunding bonds, of reclamation districts and all proceedings relative thereto, and to provide for the levy and collection of taxes to pay the principal and interest of such bonds.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Whenever proceedings have heretofore been taken by any reclamation district organized or existing under any law or laws of this State, for the issuance and sale of bonds, including refunding bonds, of such district for any purpose or purposes, all acts and proceedings of the board of trustees of such district and all acts of the board of supervisors of the county or counties in which such district or any part thereof is situated and all acts of public officers in connection therewith leading up to and including the issuance of such bonds, including refunding bonds, if they have hitherto been issued or sold, and all such acts and proceedings heretofore taken if such bonds, including refunding bonds, are not yet issued or sold, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and the power of such district to issue such bonds, including such refunding bonds, is hereby ratified, confirmed, and declared, and such bonds and refunding bonds heretofore issued and sold are declared to be and shall be, in the form and manner in which

Validation of bonds.

such bonds and refunding bonds have been actually issued and delivered, the legal and binding obligations of and against such district, and the bonds and refunding bonds heretofore authorized to be issued which may be hereafter issued and sold are declared to be and shall be the legal and binding obligations of such district, and the full faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds, including refunding bonds.

Tax levy.

SEC. 2. For the purpose of paying the interest on such bonds or refunding bonds as it becomes due and the principal thereof at maturity, the board of trustees of the district and the boards of supervisors of the county or counties in which such reclamation district, or any part thereof, lies, and the various county officers of the respective counties who are charged with duties in connection with the assessment, levy and collection of taxes, shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds, for the payment of the principal and interest of bonds of such districts, at the times and in the manner respectively set forth in the respective law or laws authorizing or purporting to authorize the incurring of bonded indebtedness or issuance of bonds by such districts.

CHAPTER 97.

An act to validate all proceedings for the issuance of bonds and all bonds heretofore issued or sold or to be issued or sold by any acquisition and improvement district, and authorizing and directing the levy and collection of a tax sufficient to pay the principal and interest thereof, and declaring the urgency thereof.

[Approved by the Governor April 27, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Validation of bonds.

SECTION 1. When in any acquisition and improvement district organized under the provisions of the Acquisition and Improvement Act of 1925, and pursuant to a resolution of intention adopted prior to the first day of January, 1933, proceedings have been taken for the purpose of issuing or selling bonds of such district for any purpose or purposes, all acts and proceedings of the legislative body conducting the proceedings in such district and all other acts and proceedings leading up to and including the issuance of such bonds, if they have been heretofore sold, and all such acts and proceedings heretofore had, although the bonds are not yet sold, are hereby legalized, confirmed and validated to all intents and purposes, and the power of such district and of the legislative body conducting

the proceedings in such district to issue and sell such bonds is hereby ratified, confirmed and approved, and said bonds heretofore sold are declared to be and shall be, in the form and manner in which said bonds have been actually sold and delivered, the legal and valid obligations of and against such district, and the said bonds heretofore authorized to be issued and hereafter sold and delivered are declared to be and shall be legal and binding obligations of such district, and all the real property in such district shall be and remain liable to be assessed for the payment of said bonds until the same are fully paid.

Tax levy

SEC. 2. For the purpose of paying the interest on such bonds as it becomes due and the principal thereof on or before maturity, the assessors, treasurers, boards of supervisors and other officers of the respective counties or municipalities shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds for the payment of the principal and interest of bonds of acquisition and improvement districts. It shall be and is hereby made the duty of the legislative body which is required under the provisions of said Acquisition and Improvement Act of 1925, to levy all special assessment taxes therein provided for, to levy and collect at the time and in the manner in said act provided, a special assessment tax upon all of the lands within any such district clearly sufficient to pay the principal and interest of said bonds as the same shall become payable; and such legislative body is hereby vested with power and jurisdiction to do all and singular the things herein and in said Acquisition and Improvement Act of 1925 required to be done by it for the purpose of providing funds sufficient to pay the principal and interest of said bonds as the same become due.

Urgency.

SEC. 3. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health or safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such necessity: Certain counties and municipalities, by resolutions of intention adopted prior to the first day of January, 1933, have taken proceedings to effect necessary public improvements through the medium of acquisition and improvement districts, in which proceedings minor irregularities, not jurisdictional, have delayed said improvements which are immediately necessary for the peace, safety and welfare of the various counties and municipalities in this State. When such irregularities are cured and obviated by this act, said improvements can be promptly made, thereby assuring employment to many people who are at the present time without means of support, and thereby giving relief to the citizens of this State.

CHAPTER 98.

An act to validate bonds, including refunding bonds, of irrigation districts and all proceedings relative thereto, and to provide for the levy and collection of taxes to pay the principal and interest of such bonds.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Validation of bonds.

SECTION 1. Whenever proceedings have heretofore been taken by any irrigation district organized or existing under any law or laws of this State for the issuance or sale or exchange of bonds, including refunding bonds, of such district for any purpose or purposes, or for the issuance of bonds for sale to the United States or any agency thereof, including the Reconstruction Finance Corporation or the Federal Emergency Administration of Public Works, all acts and proceedings of the board of directors of said district, and all acts of the board of supervisors of the county or counties in which such district, or any part thereof, is situated, and all acts of public officers in connection therewith leading up to and including the issuance of such bonds, including refunding bonds, if they have hitherto been issued or sold at public or private sale or exchanged, or if they have hitherto been issued and delivered to the United States, or any agency thereof, including the Reconstruction Finance Corporation or the Federal Emergency Administration of Public Works, and all such acts and proceedings heretofore taken, if such bonds, including refunding bonds, are not yet issued or sold or exchanged or so delivered, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and the power of such district to issue such bonds, including refunding bonds, is hereby ratified, confirmed and declared, and such bonds and refunding bonds heretofore issued and sold at public or private sale or exchanged or issued or delivered to the United States, or any agency thereof, including the Reconstruction Finance Corporation and the Federal Emergency Administration of Public Works, are declared to be and shall be, in the form and manner in which such bonds and refunding bonds have been actually issued and delivered, the legal and binding obligations of and against such district, and the bonds and refunding bonds heretofore authorized to be issued which may be hereafter issued or sold at public or private sale or exchanged or delivered to the United States, or any agency thereof, including the Reconstruction Finance Corporation and the Federal Emergency Administration of Public Works are declared to be and shall be the legal and binding obligations of such district, and the full faith and credit of such district are hereby pledged for the prompt payment and redemption of the principal and interest of said bonds, including refunding bonds.

SEC. 2. For the purpose of paying the interest on such bonds or refunding bonds as it becomes due and the principal thereof at maturity, the board of directors of the district and other officers who are charged with duties in connection with the assessment, levy and collection of taxes, shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds, for the payment of the principal and interest of bonds of such districts, at the times and in the manner respectively set forth in the respective law or laws authorizing or purporting to authorize the incurring of bonded indebtedness or issuance of bonds by such districts and the payment thereof. Tax levy.

CHAPTER 99.

An act to validate the organization and existence of acquisition and improvement districts and declaring the urgency thereof.

[Approved by the Governor April 27, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Whenever the board of supervisors of any county under or pursuant to a resolution of intention adopted prior to the first day of January, 1933, declared any portion of such county to be an acquisition and improvement district under the provisions of an act entitled: "An act to provide for the acquisition of, including the laying out, opening, extending, widening, straightening, and acquiring in any manner, in whole or in part, and for the improvement of and work upon public highways, roads, streets, avenues, boulevards, lanes, alleys, courts, places, parks, pleasure grounds, commons, and all public ways and other property and rights of way of the public, including any property over which possession and right of use have been obtained under the provisions of section 14 of Article I of the Constitution of the State of California, in whole or in part, whether lying entirely within unincorporated territory of a county or the territory of a municipality, or lying within such unincorporated territory and one or more municipalities, or lying within two or more municipalities, or forming the exterior boundary of any municipality where the same joins unincorporated territory of a county or the territory of another municipality, whether partly or wholly within or without said boundary, and the establishment and change of grade thereof; and providing for the payment of the costs and expenses of such acquisitions and such work and improvements, and the issuance and effect of bonds therefor and the payment of such bonds by special assessment taxes raised in assessment districts established for Validation of acquisition and improvement districts

that purpose, and the enforcement of such bonds and taxes; and providing for aid from counties and municipalities in such acquisitions, work and improvements; and providing for the establishment and administration of revolving funds to assist in the carrying out of such acquisitions, work and improvements," approved May 23, 1925, or under the provisions of such act as amended, and such district has existed as such for a period of one year prior to the taking effect of this act, all acts and proceedings of such county and all acts and proceedings of any municipality or municipalities within which such district may lie in part, and all acts of all public officers leading up to and including the formation of such district are hereby legalized, ratified and confirmed and declared valid for all intents and purposes, and any such district is hereby declared to be a legal acquisition and improvement district.

SEC. 2. Whenever the legislative body of any municipality has heretofore under or pursuant to a resolution of intention adopted prior to the first day of January, 1933, declared any portion of such municipality or any portion of such municipality and unincorporated territory joining the exterior boundaries of such municipality to be an acquisition and improvement district under the provisions of such act, or under the provisions of such act as amended, and such district has existed as such for a period of one year prior to the taking effect of this act, all acts and proceedings of such municipality, and all acts and proceedings of any county and of any other municipality or municipalities within which such district may lie in part, and all acts of all public officers leading up to and including the formation of such district are hereby legalized, ratified and confirmed and declared valid for all intents and purposes, and any such district is hereby declared to be a legal acquisition and improvement district.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health or safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such necessity: Certain counties and municipalities, by resolutions of intention adopted prior to the first day of January, 1933, have taken proceedings to effect necessary public improvements through the medium of acquisition and improvement districts, in which proceedings minor irregularities, not jurisdictional, have delayed said improvements which are immediately necessary for the peace, safety and welfare of the various counties and municipalities in this State. When such irregularities are cured and obviated by this act, said improvements can be promptly made, thereby assuring employment to many people who are at the present time without means of support, and thereby giving relief to the citizens of this State.

CHAPTER 100.

An act to legalize bonds heretofore issued and sold or to be issued and sold by bridge and highway districts.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. In all cases where any bridge and highway district heretofore organized under the provisions of an act of the Legislature of the State of California entitled, "An act to provide for the incorporation and organization and management of bridge and highway districts and to provide for the acquisition and construction by said districts of highways, bridges and approaches thereto, and for the acquisition of all property necessary therefor, and also to provide for the issuance and payment of bonds by said districts, for the levying of taxes and the collection of tolls by said districts, and for the annexation of additional territory thereto," approved May 25, 1923, has heretofore taken any proceedings for the purpose of authorizing, issuing or selling bonds of such district for any purpose or purposes for which bonds are authorized to be issued or sold and where an election has been called and held to vote upon a proposition of incurring such bonded indebtedness of such district and more than two-thirds of the votes cast at such election upon such proposition were favorable to the incurring of such indebtedness, all of the acts and proceedings of the board of directors and officers of such district, and all of the acts and proceedings of the boards of supervisors of the respective counties or cities and counties in which such district is situated, either in whole or in part, and all of the acts and proceedings of the county clerks and registrars of voters and other officers of such counties or cities and counties relating to such election or issuance of such bonds, are hereby legalized, ratified, confirmed and validated to all intents and purposes; and all such acts and proceedings heretofore had, although the bonds authorized to be issued thereby are not now sold or delivered, are hereby legalized, ratified, confirmed and validated to all intents and purposes, and the power of such district and of the board of directors thereof to issue and sell said bonds is hereby ratified, confirmed and declared and said bonds, the proceedings for the issuance of which are hereby ratified, whenever hereafter sold in accordance with the provisions of said act, shall be the valid and legally binding obligations of and against said district. Validation of bonds.

SEC. 2. Both the principal and interest of said bonds shall be paid from an annual tax levied upon all the taxable property within such district in the manner and under the procedure prescribed in said act, and all of the taxable property within such district shall be and remain liable to taxation for the payment of the principal and interest of said bonds as herein and in said act provided; and for the purpose of paying Tax levy

the principal and interest of such bonds issued or to be issued, as it becomes due, the officers of such district and the boards of supervisors, clerks, assessors, treasurers, tax collectors and other officers of the respective counties or cities and counties within which said bridge and highway district is situated, in whole or in part, shall have the powers and perform the duties provided by law relative to the assessment, levy and collection of taxes and custody of funds for the payment of the principal and interest of bonds of bridge and highway districts; provided always, however, that the proceeds of sale of said bonds may be used for the payment of interest on said bonds to the extent authorized or permitted by said act, and any revenues of such bridge and highway districts may be applied to the extent to which the same are available to the payment of principal and/or interest of the bonded indebtedness of any such districts.

Exceptions

SEC. 3. This act shall not operate to legalize any bonds which mature more than forty (40) years from their date or dates or which will exceed the limitation of indebtedness prescribed by said act.

CHAPTER 101.

An act to amend section 4300b of the Political Code of the State of California by adding thereto a provision fixing a fee to be charged by sheriffs for arresting prisoners and bringing them into court or jail.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1929, p. 633.

SECTION 1. Section 4300b of the Political Code is hereby amended to read as follows:

Sheriff's fees

4300b. For serving any process, writ, order, or paper, except as in this section provided, required by law to be served by the sheriff, fifty cents.

For serving a writ of attachment, execution, or order for the delivery of personal property, one dollar.

For taking any bond or undertaking, fifty cents.

For serving an attachment or execution on any ship, boat, or vessel, three dollars.

For keeping and caring for property under attachment or execution, such sum as the court may fix; provided, that no greater sum than five dollars per day shall be allowed to a keeper when necessarily employed.

For a copy of any writ, process, or paper actually made by him, when required or demanded according to law, per folio, ten cents; provided, that when correct copies are furnished to him for use, no charge shall be made for such copies.

For advertising sale of property and posting notice, exclusive of cost of publication, or furnishing notice for publication, each, fifty cents.

For publication of notice in newspaper, the reasonable cost of publication, subject to the approval of the court.

For serving writ of possession or restitution, putting a person in possession of the premises, and removing the occupant, one dollar and fifty cents.

For subpoenaing witnesses, including copy of subpoena, each, twenty-five cents.

For summoning trial jury of twelve or less, two dollars; for each additional juror, ten cents.

For traveling in the service of any paper required by law to be served, for each mile actually and necessarily traveled, one way only, fifteen cents, when such travel can be made by rail; in other cases twenty-five cents. No constructive mileage to be allowed.

For collecting money on execution, with or without levy, one per cent on the first thousand dollars or less, and one-half of one per cent on all sums over one thousand dollars.

For executing and delivering sheriff's deed, one dollar and fifty cents.

For executing and delivering certificate of sale, fifty cents.

For transporting prisoners to the county jail, the actual cost of such transportation.

For executing and delivering any other instrument, ten cents per folio.

For arresting prisoner and bringing him into court, or jail, pursuant to process issuing out of a justice's court, one dollar.

CHAPTER 102.

An act to amend sections 165 and 166 of the Civil Code relating to inventories of the separate property owned by a husband or wife, and making the filing of such inventory notice and prima facie evidence of title.

[Approved by the Governor April 27, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 165 of the Civil Code is hereby amended to read as follows: 1872 code

165. A full and complete inventory of the separate personal property of either spouse may be made out and signed by such spouse, acknowledged or proved in the manner required by law for the acknowledgment or proof of a grant of real property, and recorded in the office of the recorder of the county in which the parties reside. Inventory of separate property.

Code amdts 1873-4, p 193

SEC. 2. Section 166 of the Civil Code is hereby amended to read as follows:

Notice and evidence of title.

166. The filing of the inventory in the recorder's office is notice and prima facie evidence of the title of the party filing such inventory.

CHAPTER 103.

An act to prohibit under certain conditions, sales under certain chattel mortgages, to extend the statute of limitations upon such obligations, to make voidable at the insiance of the owner any sale made in violation of the act, to prescribe the time within which an action to avoid such a sale may be brought, and to declare the urgency thereof, and to provide that this act take effect immediately.

[Approved by the Governor April 27, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Sales under chattel mortgage

SECTION 1. No sale shall be made under any power of sale contained in any chattel mortgage heretofore executed upon any personal property located in and used in connection with the operation of any building located upon real property, sale of which real property under any mortgage or deed of trust is postponed by the filing of a petition and the recording of notice thereof under Chapter 7 of Statutes of 1935, until on or after such date as a sale of such real property is lawfully held under such mortgage or deed of trust.

SEC. 2. In all cases in which the time within which an action upon an obligation founded upon a written instrument secured by a chattel mortgage may be commenced would expire by virtue of section 337 of the Code of Civil Procedure during the period when any sale under power of sale contained in such chattel mortgage is postponed by virtue of the provisions of this act, such time is hereby extended to and including September 1, 1935.

Stats 1935, Ch 614

Sales in violation of act.

SEC. 3. Any sale of property under a chattel mortgage with power of sale made in violation of this act shall be voidable, at the instance of the owner of such property at the time of sale provided that any action to avoid such sale must be brought within one year of the date of such sale.

SEC. 4. This act shall remain in effect only until September 1, 1935.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into immediate effect.

The facts constituting the necessity are as follows: A severe economic depression exists throughout the State, rendering

many of its citizens unable to pay the principal sum of their debts or to otherwise finance their loans. As a result thereof, through foreclosure actions, they are being deprived of their property. The provisions of the mortgage moratorium statute are being evaded by persons who in addition to the security afforded by real estate mortgages and deeds of trust on real estate, also take chattel mortgages to secure the same obligation. Consequently the evil sought to be corrected by statutes relating to moratoria on mortgages and deeds of trusts on real estate can not be completely effective unless the situation covered by this act is remedied.

CHAPTER 104.

An act to amend section 1208 of the Code of Civil Procedure, relating to liens upon animals.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1208 of the Code of Civil Procedure is hereby amended to read as follows: Stats 1931, p. 1703

1208. Any person having a lien upon any animal or animals under the provisions of sections 597a, or 597f, of the Penal Code may satisfy such lien as follows: If such lien be not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding such lien may resort to the proper court to satisfy the claim; or he, three days after the charges against such property become due, may sell the same, or such undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no paper published in the county, then by posting notices of the sale in three of the most public places in the town or township for three days previous to the sale. Said notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale must be applied to the discharge of the lien and the costs of sale; the remainder, if any, must be paid over to the owner, if known, and if not known must be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasurer.

Liens upon certain animals

Sale

Notice

Proceeds of sale

CHAPTER 105.

Stats 1931, p 587.

An act to amend section 1554 of the Probate Code, relating to accounts of guardians of insane persons.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p 679.

SECTION 1. Section 1554 of the Probate Code is hereby amended to read as follows:

Notice to Attorney General, etc

1554. No account of the guardian of an insane person who is or has been during the guardianship confined in a State hospital in this State shall be settled or allowed unless notice of the time and place of hearing and a copy of the account have been given to the Director of Institutions or the Attorney General at least five days before the hearing.

CHAPTER 106.

An act to add a new section to the Penal Code, to be numbered section 593b, relating to climbing upon poles, towers and other structures supporting wires or cables, transmitting electric energy.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the Penal Code, to be numbered 593b, and to read as follows:

Climbing poles, etc.

593b. Every person who shall, without the written permission of the owner, lessee, or person or corporation operating any electrical transmission line, distributing line or system, climb upon any pole, tower or other structure which is a part of such line or system and is supporting or is designed to support a wire or wires, cable or cables, for the transmission or distribution of electric energy, shall be deemed guilty of a misdemeanor; provided, that nothing herein shall apply to employees of either privately or publicly owned public utilities engaged in the performance of their duties.

Penalty

CHAPTER 107.

Stats 1911, p. 1192, amended.

An act to amend an act entitled "An act providing for the issuance of improvement bonds to represent certain special assessments for public improvements, and providing for

the effect and enforcement of such bonds," approved April 27, 1911, by amending sections 5 and 15 thereof, relating to special assessment bonds.

[Approved by the Governor April 27, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. That section 5 of an act entitled "An act providing for the issuance of improvement bonds to represent certain special assessments for public improvements, and providing for the effect and enforcement of such bonds," approved April 27, 1911, be and the same is hereby amended to read as follows: Stats 1931, p 1624

Sec. 5. The city treasurer shall enter in a book kept for that purpose in his office, a record of each bond issued hereunder, specifying the date of its issue, the amount for which issued, to whom delivered, its duration and a description of the lot against which issued. Payments of principal and interest on account of any bond issued hereunder shall be made to the city treasurer, who shall keep a separate account of all such payments (entering the same in the record herein required to be kept), and place the same in appropriate funds for the payment of principal and interest of the bonds on account of which paid, and who shall, upon the surrender of the coupons attached to said bond, pay to the holder thereof, or his order, the amount called for by said coupons out of the funds in his possession applicable thereto. Record of bonds

The owner of or any person interested in any lot or parcel of land upon which a bond has been issued under the terms of this act may at any time before commencement of proceedings for sale pay off such bond and discharge the land described in the bond from the lien of the assessment, by paying to the city treasurer, for the holder of such bond, the amount then unpaid on the principal sum thereof, together with the amount of interest as shown on the two interest coupons maturing first after the date of such payment and all penalties accrued and unpaid. Upon such payment being made to the city treasurer he shall forthwith mark paid in his record of such bond assessment to represent which such bond was issued, and thereupon the lien of said assessment shall cease and the city treasurer shall forthwith notify the holder of the bond and call in the same. The city treasurer shall enter in his record of such bond the amount paid and the date of payment, and upon the lien of the assessment being extinguished as aforesaid, shall cancel said bond and file it in his office. Payment of bonds

The city treasurer is hereby authorized and directed to accept payments of interest unaccompanied by payments of principal installments due, and to mark his record accordingly; provided, however, that the acceptance of such interest payments shall not affect the delinquent status of any installments of principal.

Stats 1913, p. 2098.

SEC. 2. That section 15 of an act entitled "An act providing for the issuance of improvement bonds to represent certain special assessments for public improvements, and providing for the effect and enforcement of such bonds," approved April 27, 1911, be and the same is hereby amended to read as follows:

Sale and redemption.

Sec. 15. Immediately on the sale, the purchaser shall become vested with a lien on the property so sold to him, to the extent of his bid, and is only divested of such lien by the payment to the city treasurer of the purchase money, including costs herein provided for, with interest thereon at the rate of one per cent per month from the date of sale. The city treasurer shall issue for each sale an original and a duplicate of certificate of sale reciting therein the date, number and series of the bond under which the sale was made, describing the land sold and giving the date of sale, purchaser's name, amount paid, and the number of the certificate. He shall deliver the original certificate to the purchaser and shall record the duplicate in the office of the recorder of the county in which the land sold is situated. The recorder shall collect a fee of fifty cents for such recording, and on presentation of the receipt of the city treasurer for the total amount of the redemption money he shall without charge mark the word "redeemed," the date, and by whom redeemed, on the margin of the book where the entry of such certificate is made.

CHAPTER 108.

An act to amend section 377 of the Code of Civil Procedure, relating to the maintenance of actions for damages against persons responsible for the death of another.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Code amdts 1873-4, p 294

SECTION 1. Section 377 of the Code of Civil Procedure is hereby amended to read as follows:

Suits by representatives for death by wrongful act

377. When the death of a person not being a minor, or when the death of a minor person who leaves surviving him either a husband or wife or child or children, is caused by the wrongful act or neglect of another, his heirs or personal representatives may maintain an action for damages against the person causing the death, or if such person be employed by another person who is responsible for his conduct, then also against such other person. In every action under this and the preceding section, such damages may be given as under all the circumstances of the case, may be just.

CHAPTER 109.

An act to amend section 1207 of the Penal Code, relating to entry of judgment.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1207 of the Penal Code is hereby amended to read as follows: Stats 1927, p. 1756.

1207. When judgment upon a conviction is rendered, the clerk must enter the same in the minutes, stating briefly the offense for which the conviction was had, and the fact of a prior conviction, if any, and must, within five days, annex together and file the following papers, which constitute a record of the action: Entry of judgment

1. The indictment or information, and a copy of the minutes of the plea or demurrer or the case as certified to the superior court, and all rulings thereon.
2. A copy of the judgment.

CHAPTER 110.

An act to amend section 10 of an act entitled "An act to authorize and control the deposit in banks of money belonging to or in the custody of the State and to repeal all acts or parts of acts in conflict with this act," approved April 12, 1923, relating to the deposit of money belonging to or in the custody of the State. Stats. 1923, p. 21, amended

[Approved by the Governor April 27, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 10 of the act cited in the title hereof is hereby amended to read as follows: Stats 1931, p 230

Sec. 10. All moneys belonging to or in the custody of the State under the control of any officer or employee of the State, other than the State Treasurer, except petty cash funds authorized by the State Department of Finance, shall be deposited as active deposits in such State or National bank or banks in this State and under such conditions as the State Director of Finance may prescribe; provided, this section shall not be construed to repeal or amend any provision of law now requiring officers or employees to make daily, weekly or monthly settlements. Any bank receiving deposit under the provisions of this section may be required to deposit with the State Treasurer such security as is hereinbefore provided in the case of active depositaries. Deposit of State money

CHAPTER 111.

An act to amend section 351 of, and to add section 351a to, the Political Code, relating to officers of departments of the State government.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1921, p. 1023.

SECTION 1. Section 351 of the Political Code is hereby amended to read as follows:

Chiefs of divisions

351. Except as otherwise provided by law, each division of a department shall be in charge of a chief who shall be appointed by the head of the department and receive such compensation as may be fixed by law. When a new division is created and a new chief appointed the salary of the chief shall be fixed by the Governor until fixed by the Legislature, such salary not to exceed the compensation paid for like services. The head of each department shall with the approval of the Governor, except as otherwise provided by law, have power to appoint such chiefs, assistants, deputies, agents, experts, and other employees as are necessary for the administration of the affairs of the department, to prescribe their duties and to fix their salaries in accordance with classifications made by the Civil Service Commission; provided, however, that the head of a department shall have no authority on the part of the State to incur obligations for salaries exceeding the amount of moneys made available by law for that purpose. The head of each department and all chiefs of divisions, deputies and secretaries, of a department, shall be civil executive officers.

New section.

SEC. 2. Section 351a is hereby added to the Political Code, to read as follows:

Official bonds

351a. The Director of Finance may require any person who has charge of, handles or has access to any property of the State to file an official bond in an amount to be fixed by him. In addition to any bonds required by the Director of Finance the head of each department may require any division chief, assistant, deputy, agent, expert or other employee in his department to execute an official bond in the amount determined by the head of the department.

CHAPTER 112.

An act to amend section 1408 of the Penal Code, relating to the order for delivery of property to the owner.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

1872 Code

SECTION 1. Section 1408 of the Penal Code is hereby amended to read as follows:

1408. On satisfactory proof of the ownership of the property the magistrate before whom the complaint is laid, or who examines the charge against the person accused of stealing or embezzling it, must order it to be delivered to the owner, on his paying the necessary expenses incurred in its preservation, to be certified by the magistrate. The order entitles the owner to demand and receive the property. Order for delivery to owner.

CHAPTER 113.

An act to amend section 29 of "The California Irrigation District Act," approved March 31, 1897, as amended, relating to the purpose for which property may be held by said district, and providing for the sale or lease of same. Stats 1897, p. 254, amended.

[Approved by the Governor April 27, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 29 of the California Irrigation District Act, is hereby amended to read as follows: Stats 1909, p 1075

Sec. 29. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in such irrigation district and shall be held by such district in trust for and is hereby dedicated and set apart to the uses and purposes set forth in this act. The board of directors of said district is hereby authorized and empowered on behalf of the district to hold, use, acquire, manage, occupy, possess, sell or lease said property as herein provided. Title to property. Power of board of directors

The board of directors of said district may determine by resolution duly entered upon their minutes that any property, real or personal, held by said irrigation district is no longer necessary to be retained for the uses and purposes thereof and may thereafter sell or lease such property upon such terms and conditions as may appear to said board to be for the best interest of the said district. All conveyances or leases shall be executed by the secretary and president of said district on behalf of said district and in accordance with a resolution of the board of directors previously passed and adopted and must be for a valuable consideration. Leases

Whenever it appears to the board of directors that any particular parcel of real property held by the district may be leased for the purpose of developing, taking, removing or extracting therefrom minerals, oil, gas or other hydrocarbons, without interfering with the use of said real property for the purpose for which it is dedicated, the board of directors shall pass a resolution, duly entered upon their minutes, that such real property may be so leased and may thereafter lease such real property for the purpose or purposes specified in said resolution, upon such terms as the board shall deem most beneficial to the district.

CHAPTER 114.

An act to validate bonds of school districts, high school districts and junior college districts of every kind and class, and providing for the levy of a tax to pay the same.

[Approved by the Governor April 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Validation of bonds

SECTION 1. Where in any school district, high school district, or junior college district, of any kind or class, proceedings have been taken for the purpose of voting, issuing and selling bonds of such district for any purpose or purposes, all acts and proceedings of the officers of election and of the board of trustees, board of education, or other governing body of such district, and all acts and proceedings of the board of supervisors of the county within which such district, or a part thereof, is situated, leading up to and including the issuance of such bonds if they have been heretofore sold, and all such acts and proceedings heretofore had, although the bonds are not sold, are hereby legalized, ratified, confirmed and validated to all intents and purposes, and the power of such district and of the board of supervisors of the county in which such district, or a part thereof, is situated to issue such bonds is hereby ratified, confirmed and declared, and bonds heretofore sold are declared to be and shall be, in the form and manner in which such bonds have been actually issued and delivered, the legal and binding obligations of and against such district and bonds hereafter sold are declared to be and shall be legal and binding obligations of such district, and the full faith and credit of such district is hereby declared to be pledged for the prompt payment and redemption of the principal and interest of said bonds.

Tax levy

SEC. 2. For the purpose of paying interest on such bonds as it becomes due and the principal thereof at maturity, the assessors, treasurers, boards of supervisors and other officers of the respective counties shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds for the payment of the principal and interest of bonds of school districts, high school districts and junior college districts of every kind and class, respectively.

Exceptions

SEC. 3. This act shall not operate to legalize any bonds which have been sold for less than par, nor legalize any bonds the issuance of which has not received the assent of two-thirds of the qualified electors of such district voting at an election held for the purpose of determining whether such indebtedness should be incurred, nor to legalize any bonds which mature more than forty years from the time of their issuance.

CHAPTER 115.

An act to legalize bonds heretofore issued and sold, or to be issued and sold, by counties or cities and counties where authority for such issuance has already been given by a vote of not less than two-thirds of the qualified electors of such counties or cities and counties voting upon the proposition of incurring such indebtedness, and providing for a levy of taxes to pay the principal and interest of such bonds.

[Approved by the Governor April 30, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. In all cases where the board of supervisors of any county or city and county in this State has deemed it necessary to incur an indebtedness in excess of the ordinary annual income and the revenue of such county or city and county, and has called an election for the purpose of submitting to the qualified electors of such county or city and county the proposition whether such indebtedness shall be incurred for any purposes for which the board of supervisors thereof are authorized to expend the funds of such county or city and county, and where not less than two-thirds of all the qualified electors voting on any such proposition shall have voted in favor of incurring such indebtedness, and authorized the issuance of bonds of such county or city and county for such purposes, the power of such county or city and county to issue bonds not exceeding the amount so authorized and all the acts and proceedings of such county or city and county leading up to and including the issuance and sale, or the proposed issuance and sale of bonds to such amount are hereby legalized, ratified, confirmed and declared valid to all intents and purposes; and all such bonds, sold either before or after the passage of this act for not less than their par value, are hereby legalized and declared to be legal and valid obligations of and against such county or city and county so issuing and selling the same, and the faith and credit of such county or city and county is hereby pledged for the prompt payment and redemption of the principal and interest of such bonds. Validation of bonds.

SEC. 2. The board of supervisors of such county or city and county, at the time of making the next general tax levy after incurring the indebtedness of any such bonds, and annually thereafter until all of such bonds are paid or until there shall be a sum in the treasury of such county or city and county set apart for that purpose sufficient to meet all sums coming due for principal and interest on such bonds, must levy a tax for that year upon the taxable property of such county or city and county for the interest and redemption of such bonds, which Tax levy.

shall be in addition to all other taxes, and such tax must not be less than sufficient to pay the interest on such bonds, and such portion of the principal, if any, as is to become due before the time for making the next general tax levy and in any event must be sufficient to raise annually for the first half of the term such bonds have to run, a sufficient sum to pay the interest thereon; and during the balance of the term sufficient to pay such annual interest, and to provide annually a proportion of the principal of such bonds equal to a sum produced by taking the whole amount of such bonds outstanding and dividing it by the number of years such bonds then have to run. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for county or city and county purposes and shall be collected at the time and in the same manner as other county or city and county taxes are collected and be used for no other purpose than for the payment of said bonds and the accruing interest thereon.

Exceptions

SEC. 3. This act shall not operate to legalize any bonds of any county or city and county that have not, at the time of the passage of this act, received the affirmative vote of not less than two-thirds of the qualified electors of such county or city and county voting upon the proposition of incurring such indebtedness, or any bonds which have been sold for less than their par value, or any bonds which mature at a date more than forty years from the time of their issuance.

CHAPTER 116.

An act to validate bonds of flood control districts, including refunding bonds, and all proceedings relative thereto and to provide for the levy and collection of taxes to pay the principal and interest of such bonds.

[Approved by the Governor April 30, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Validation of bonds.

SECTION 1. Whenever proceedings have heretofore been taken by any flood control district organized or existing under any law or laws of this State for the issuance and sale of bonds of such district for any purpose or purposes, including refunding bonds, all acts and proceedings of the board of trustees of such district, and all acts of public officers in connection therewith leading up to and including the issuance of such bonds if they have hitherto been issued or sold, and all such acts and proceedings heretofore taken if such bonds are not yet issued or sold are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and the power of such district to issue such bonds is hereby ratified, con-

firmed and declared, and such bonds heretofore issued and sold are declared to be and shall be in the form and manner in which such bonds have been actually issued and delivered the legal and binding obligations of and against such district, and the bonds heretofore authorized to be issued which may be hereafter issued and sold are declared to be and shall be the legal and binding obligations of such district, and the full faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds, including refunding bonds.

SEC. 2. For the purpose of paying the interest on such bonds as it becomes due and the principal thereof at maturity the board of trustees of such district and the various public officers who are charged with duties in connection with the assessment and collection of taxes shall have the same power and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds for the payment of the principal and interest of bonds of such district at the time and in the manner respectively set forth in the respective law or laws authorizing or purporting to authorize the incurring of bonded indebtedness or issuance of bonds by such district. Tax levy.

CHAPTER 117.

An act to validate proceedings for the annexation of territory to, incorporation in, and inclusion thereof, within municipal corporations.

[Approved by the Governor April 30, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Any territory which purports to have been heretofore annexed to, incorporated in, and included within a municipal corporation under any proceedings taken for that purpose, the certified record whereof shall have heretofore been filed by the Secretary of State, is hereby declared to be and to have been, since the filing of said record, duly annexed to, incorporated in, and included within such municipal corporation; and all proceedings for the annexation of such territory are hereby validated and declared legal; provided, however, that this act shall not operate to legalize an annexation where the legality of the proceedings for such annexation is being contested or inquired into in legal proceedings which are now pending and undetermined. Validation of proceedings. Exception.

CHAPTER 118.

An act to validate bonds of municipal improvement districts, and providing for the levy of a tax to pay the same.

[Approved by the Governor April 30, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Validation of bonds

Stats 1915, p 99

SECTION 1. Whenever the legislative branch of any municipality has heretofore called an election under the provisions of an act entitled, "An act to provide for the formation of districts within municipalities for the acquisition or construction of public improvements, works and public utilities; for the issuance, sale and payment of bonds of such districts to meet the cost of such improvements; and for the acquisition or construction of such improvements," approved April 20, 1915, or under said act as amended, for the purpose of submitting to the qualified electors of any municipal improvement district formed in such municipality the question whether an indebtedness shall be incurred by such municipal improvement district for the acquisition or construction of any public improvement, work or public utility or property or easement to be used in connection with any public improvement, work or public utility, and where at such election not less than two-thirds of all the voters voting thereat shall have heretofore voted in favor of incurring such indebtedness, and the mode of creating such indebtedness has been by the proposed issuance of the bonds of such municipal improvement district, the power to issue such bonds and all the acts and proceedings of such municipality leading up to and including the issuance and sale or the proposed issuance and sale of such bonds are hereby legalized, ratified, confirmed, and declared valid to all intents and purposes; and the bonds heretofore issued and sold are declared to be and shall be, in the actual form in which such bonds have been issued, the legal and binding obligations of and against such district; and the bonds heretofore authorized to be issued which may be hereafter issued and sold, are declared to be and shall be the legal and binding obligations of and against such district; and the full faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of all said bonds.

Tax levy

SEC. 2. The legislative branch of such municipal corporation shall at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect annually each year until said bonds are paid or until there shall be a sum in the treasury of said municipal corporation set apart for that purpose, sufficient to meet all sums coming due for the principal and interest on such bonds, a tax upon the taxable property in such district sufficient to pay the interest on such bonds for that year and such portion of the principal thereof as is to become due before the time for mak-

ing the next general tax levy; provided, however, that if the maturity of the indebtedness created by the issue of such bonds be made to begin more than one year after the date of the issuance of such bonds, such tax shall be levied and collected at the time and in the manner aforesaid annually each year sufficient to pay the interest on such indebtedness as it falls due and also to constitute a sinking fund for the payment of the principal thereof on or before maturity. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes and shall be collected at the time and in the same manner as other municipal taxes are collected and be used for no other purpose than for the payment of said bonds and the accruing interest thereon.

Exceptions.

SEC. 3. This act shall not operate to legalize any bonds which have been sold for less than par, nor to legalize any bonds the issuance of which has not received the assent of two-thirds of the qualified electors of such municipal improvement district voting at an election held for the purpose of determining whether such indebtedness should be incurred, nor to legalize any bonds which mature at a date more than forty years from the time of their issuance.

CHAPTER 119.

An act to validate bonds, including refunding bonds, of sanitary districts and all proceedings relative thereto, and to provide for the levy and collection of taxes to pay the principal and interest of such bonds.

[Approved by the Governor April 30, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

Validation of bonds.

SECTION 1. Whenever proceedings have heretofore been taken by any sanitary district organized or existing under any law or laws of this State, for the issuance and sale of bonds, including refunding bonds, of such district for any purpose or purposes, all acts and proceedings of the board of directors of such district and all acts of the board of supervisors of the county or counties in which such district or any part thereof is situated and all acts of public officers in connection therewith leading up to and including the issuance of such bonds, including refunding bonds, if they have hitherto been issued or sold, and all such acts and proceedings heretofore taken if such bonds, including refunding bonds, are not yet issued or sold, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and the power of such district to issue such bonds, including such refunding bonds, is hereby ratified, confirmed and declared, and such bonds and refunding bonds heretofore issued and sold are declared to be and shall be, in the form and manner in which such bonds and refunding bonds

have been actually issued and delivered, the legal and binding obligations of and against such district, and the bonds and refunding bonds heretofore authorized to be issued which may be hereafter issued and sold are declared to be and shall be the legal and binding obligations of such district, and the full faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds, including refunding bonds.

Tax levy

SEC. 2. For the purpose of paying the interest on such bonds or refunding bonds as it becomes due and the principal thereof at maturity, the board of directors of the district and other officers who are charged with duties in connection with the assessment, levy and collection of taxes, shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds, for the payment of the principal and interest of bonds of such districts, at the times and in the manner respectively set forth in the respective law or laws authorizing or purporting to authorize the incurring of bonded indebtedness or issuance of bonds by such districts and the payment thereof.

CHAPTER 120.

An act to validate all proceedings for the issuance of bonds and all bonds heretofore issued or sold or to be issued or sold by any municipal water district, and directing the levy and collection of a tax sufficient to pay the principal and interest thereof.

[Approved by the Governor April 30, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Validation of bonds

SECTION 1. Whenever proceedings have heretofore been taken by any municipal water district organized or existing under any law or laws of this State, for the issuance and sale of bonds of such district for any purpose or purposes, all acts and proceedings of the board of directors of such district and all acts of the board of supervisors of the county or counties in which such district or any part thereof is situated and all acts of public officers in connection therewith leading up to and including the issuance of such bonds, if they have hitherto been issued or sold and all such acts and proceedings heretofore taken if such bonds are not yet issued or sold, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and the power of such district to issue such bonds is hereby ratified confirmed and declared, and such bonds heretofore issued and sold are declared to be and shall be, in the form and manner in which such bonds have been actually issued and

delivered, the legal and binding obligations of and against such district, and the bonds heretofore authorized to be issued which may be hereafter issued and sold are declared to be and shall be the legal and binding obligations of such district, and the full faith and credit of such district are hereby pledged for the prompt payment and redemption of the principal and interest of said bonds.

Tax levy.

SEC. 2. For the purpose of paying the interest on such bonds as it becomes due and the principal thereof at maturity, the board of directors of the district and other officers who are charged with duties in connection with the assessment, levy and collection of taxes, shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds, for the payment of the principal and interest of bonds of such districts, at the times and in the manner respectively set forth in the respective law or laws authorizing or purporting to authorize the incurring of bonded indebtedness or issuance of bonds by such districts and the payment thereof.

CHAPTER 121.

An act to validate the organization and existence of municipal water districts.

[Approved by the Governor April 30, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Validation of municipal water districts

Stats 1911, p. 1290.

SECTION 1. Whenever the board of supervisors of any county has heretofore declared any portion of such county to be a municipal water district under the provisions of an act entitled, "An act to provide for the incorporation and organization and management of municipal water districts and to provide for the acquisition or construction by said districts of waterworks, and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts," approved May 1, 1911, or under the provisions of such act as amended, and such district has existed as such for a period of one year prior to the taking effect of this act, all acts and proceedings of such board of supervisors and all acts of all public officers leading up to and including the formation of such district or districts are hereby legalized, ratified and confirmed and declared valid for all intents and purposes, and every such district so organized is hereby declared to be a valid and legally existing municipal water district.

CHAPTER 122.

An act to validate the organization and existence of county water districts.

[Approved by the Governor April 30, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Validation of county water districts.

SECTION 1. Whenever the board of supervisors of any county has heretofore declared any portion of such county, whether including therein one or more municipal corporations, or part thereof, to be a county water district under the provisions of an act entitled "An act to provide for the incorporation and organization and management of county water districts and to provide for the acquisition of water rights or construction thereby of waterworks and for the acquisition of all property necessary therefor and also to provide for the distribution and sale of water by said districts," approved June 10, 1913, or under the provisions of such act as amended, and such district has existed as such for a period of six months prior to the taking effect of this act, all acts and proceedings of such board of supervisors, and all acts of all public officers leading up to and including the formation of such district are hereby legalized, ratified and declared valid for all intents and purposes, and every such district so organized is hereby declared to be a valid and legally existing county water district.

Stats. 1913, p. 1049

CHAPTER 123.

An act confirming and validating the formation or organization and existence of irrigation districts, and declaring the urgency thereof.

[Approved by the Governor April 30, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Validation of irrigation districts

SECTION 1. In all cases where the board of supervisors of any county in this State has purported to form or organize an irrigation district under any law or laws of this State, and such purported formation or organization has been completed for a period of six months previous to the taking effect of this act, and such irrigation district has acted or functioned as a district for a period of six months previous to the taking effect of this act, all acts and proceedings taken for the purpose of forming or organizing such district are hereby legalized, validated and declared to be sufficient, and such irrigation district is hereby declared to be duly formed and organized under its appropriate name as of the time of its purported formation, with boundaries as shown or indicated in the order

of said board of supervisors, and shall have all the rights and privileges and be subject to all the duties and obligations of a duly formed or organized irrigation district.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such necessity: One irrigation district has been formed within the two years last past under proceedings which were irregular, although in substantial compliance with the provisions of the California Irrigation District Act, and by reason of such minor irregularities and defects in such proceedings, not jurisdictional, said district is unable to obtain a necessary water supply for the lands of said district and to impound flood waters and thereby to protect lands from threatened overflow. The work for such purposes, in order to be effective in any way during 1935, must be commenced before this act would take effect without the enactment of this section, and it is therefore necessary for the immediate preservation of public safety that this act take effect immediately. Urgency.

CHAPTER 124.

An act to legalize bonds heretofore issued and sold or to be issued and sold by port districts where authority for such issuance has already been given by a vote of not less than two-thirds of the electors of such port districts voting upon the question of incurring such indebtedness, and providing for a levy of taxes to pay the principal and interest of such bonds.

[Approved by the Governor April 30, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. In all cases where the port commission of any port district in this State organized under an act of the Legislature entitled, "An act to provide for the creation, organization and government of port districts; to enumerate the powers thereof; to authorize the incurring of indebtedness, the borrowing of money and the issuance of bonds, and other evidences of indebtedness of such districts and to provide for the mortgaging, pledging, or hypothecating of property of such districts and the issuance of revenue notes, certificates or warrants payable solely and exclusively from the revenues to be realized from a particular utility or property acquired or to be acquired with the proceeds of such obligations; to provide for the levy and collection of taxes by such districts and the allocation, mortgage, pledge or hypothecation of the revenues of such districts or any property of such districts; Validation of bonds. Stats. 1931, p. 2138.

to authorize municipal corporations in such districts to surrender and transfer certain municipal powers to such districts and to grant certain municipal property to such districts for the purpose of carrying out the objects and purposes of this act; to authorize port districts to enter into agreements with the State of California or any political subdivision therein or with the United States of America; and to authorize port districts to do and perform all acts and things necessary or appropriate to carry out the purposes of this act," approved June 18, 1931, or under any amendments to said act, has deemed it necessary to incur an indebtedness in excess of the ordinary annual income and revenue of such port district and has called an election for the purpose of submitting to the qualified electors of such port district the question whether such indebtedness shall be incurred, and where at such election so held after due notice thereof was given for the time and in the manner prescribed by law not less than two-thirds of all the qualified electors voting thereat shall have voted in favor of incurring such indebtedness and the mode of creating such indebtedness has been by the proposed issuance of the bonds of such port district, the power of such port district to issue such bonds, and all the acts and proceedings of such port district leading up to and including the issuance and sale, or the proposed issuance and sale, of such bonds are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and all such bonds sold either before or after the passage of this act for not less than their par value are hereby legalized and declared to be legal and valid obligations of and against such port district so issuing and selling the same, and the full faith and credit of such port district are hereby pledged for the prompt payment and redemption of the principal and interest of said bonds.

Tax levy

SEC. 2. For the purpose of paying the interest on such bonds as it becomes due and the principal thereof at maturity, the board of directors of the district and other officers who are charged with duties in connection with the assessment, levy and collection of taxes shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds for the payment of the principal and interest of bonds of such districts at the time and in the manner set forth in said act of the Legislature authorizing or purporting to authorize the incurring of bonded indebtedness or issuance of bonds by such districts and the payment thereof.

Exceptions

SEC. 3. This act shall not operate to legalize any bonds of any port district that have not at the time of the passage of this act been authorized by the vote of not less than two-thirds of the qualified electors of such port district voting at any such election, or any bonds which have been sold for less than their par value, or any bonds which mature at a date more than forty years from the time of their issuance.

CHAPTER 125.

An act to legalize revenue bonds heretofore issued or sold or to be issued and sold by port districts, and providing for a levy of taxes to pay the principal and interest of such bonds.

[Approved by the Governor April 30, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. In all cases where the board of directors of any port district in this State has deemed it necessary to create a bonded debt up to but not in excess of one per cent of the assessed value of all taxable real and personal property within the port district for the purpose of providing funds for the acquisition or construction of revenue producing harbor improvements of a self-liquidating character to be issued and sold to the United States of America, or any of its departments, agencies or instrumentalities, including the Reconstruction Finance Corporation, the power of such port district to issue such bonds, and all the acts and proceedings of such port district leading up to and including the issuance and sale or the proposed issuance and sale of such bonds to the United States of America, or to any of its departments, agencies or instrumentalities, including the Reconstruction Finance Corporation, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and all such bonds sold either before or after the passage of this act for not less than their par value to the United States of America, or any of its departments, agencies or instrumentalities, including the Reconstruction Finance Corporation, are hereby legalized and declared to be valid and legal obligations of and against such port district so issuing and selling the same, and the full faith and credit of such port districts are hereby pledged for the prompt payment and redemption of the principal and interest of said revenue bonds. Validation of bonds

SEC. 2. For the purpose of paying the interest on such bonds as it becomes due and the principal thereof at maturity, the board of directors of the district and other officers who are charged with duties in connection with the assessment, levy and collection of taxes shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds for the payment of the principal and interest of bonds of such districts at the time and in the manner set forth in said act of the Legislature authorizing or purporting to authorize the incurring of bonded indebtedness or issuance of bonds by such districts and the payment thereof. Tax levy

SEC. 3. This act shall not operate to legalize any bonds of any port district in excess of one per cent of the assessed value of all taxable real and personal property within the port dis- Exceptions

trict, or any bonds which have been issued or sold other than to the United States of America, or any of its departments, agencies or instrumentalities, including the Reconstruction Finance Corporation, or any bonds which have been issued for any purpose other than providing funds for the acquisition or construction of revenue producing harbor improvements of a self-liquidating character, or any bonds which have been sold for less than their par value or any bonds which mature at a date more than thirty years from the time of their issuance.

CHAPTER 126.

An act prohibiting the use of certain canes, except by blind persons, providing protection against accidents to such persons, and providing penalties for violation hereof.

[Approved by the Governor April 30, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Canes for blind.

SECTION 1. No person, except those wholly or partially blind, shall carry or use on any street, highway, or in any other public place a cane or walking stick which is white in color, or white tipped with red.

Precaution against accidents

SEC. 2. Any pedestrian who is not wholly or partially blind, or any driver of a vehicle who approaches or comes in contact with a person wholly or partially blind, carrying a cane or walking stick white in color, or white tipped with red, shall immediately come to a full stop and take such precautions before proceeding as may be necessary to avoid accident or injury to the person wholly or partially blind.

Penalty.

SEC. 3. Any person other than a person wholly or partially blind who shall carry a cane or walking stick such as is described in this act, contrary to the provisions of this act, or who shall fail to heed the approach of a person carrying such a cane as is described by this act, or who shall fail to come to a stop upon approaching or coming in contact with a person so carrying such a cane or walking stick, or who shall fail to take precaution against accident or injury to such a person after coming to a stop, as provided for herein is guilty of a misdemeanor.

CHAPTER 127.

An act validating the formation and existence of certain harbor districts and all proceedings for the issuance of bonds and all bonds heretofore issued or sold or to be issued or sold by

such districts and authorizing the levy and collection of taxes sufficient to pay the principal and interest thereof.

[Approved by the Governor April 30, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. In all cases where the board of supervisors of any county in this State has purported to form or organize a harbor district under the provisions of an act entitled "An act providing for the formation, government and operation of harbor districts for the improvement or development of harbors, the calling and conducting of elections in such districts, the issuance and disposal of the bonds thereof and the assessment and levy of taxes for the payment of such bonds, principal and interest and for the ordinary expenses of such districts," approved April 20, 1927, or under the provisions of such act as amended, and such district has issued any bonds, all acts and proceedings of such board of supervisors and all acts of all public officials leading up to and including the formation of such district are hereby legalized, ratified and declared valid for all intents and purposes and any such district is hereby declared to be a legal, valid and existing harbor district. Validation of harbor districts Stats 1927, p 362.

SEC. 2. Where proceedings have been taken for the issuing and selling of bonds of any harbor district formed or organized under said act for any purpose or purposes, all the acts and proceedings of the board of supervisors of the county in which such district or any part thereof is situated and all the acts of all public officers in connection therewith leading up to and including the issuance of such bonds, if they have heretofore been issued or sold and all such acts and proceedings heretofore had, although the bonds are not yet issued or sold, are hereby legalized, ratified, confirmed and validated to all intents and purposes, and the power of such district to issue and sell such bonds is hereby ratified, confirmed and approved and said bonds heretofore sold are declared to be and shall be, in the form and manner in which said bonds have been actually sold and delivered, the legal and valid obligations of and against such district, and said bonds heretofore authorized to be issued and hereafter sold and delivered are declared to be and shall be legal and binding obligations of such district and the full faith and credit of such district is hereby declared to be pledged for the prompt payment of the principal and interest thereof. Validation of bonds

SEC. 3. So long as any of said bonds shall be outstanding and unpaid the board of supervisors of the county in which such district lies shall at the time of fixing the general tax levy and in the manner for such general tax levy provided, levy and collect annually until said bonds are paid, or until there shall be a sum in the treasury of the county set apart for that purpose to meet all sums coming due for principal and interest on such bonds, a tax sufficient to pay the Tax levy.

annual interest on such bonds and also such part of the principal thereof as shall become due before the time for fixing the next general tax levy.

The taxes herein required to be levied shall be levied upon all of the taxable property within the harbor district and therein taxable for county purposes, and shall be in addition to all other taxes levied for county purposes, and shall be collected at the same time and in the same manner as other county taxes are collected, and be used for no other purpose than the payment of said bonds and accruing interest.

CHAPTER 128.

Stats 1931, p. 587.

An act to add sections 762, 763 and 764 to, and to repeal sections 789, 790 and 791 of, the Probate Code, relating to sales of property.

[Approved by the Governor April 30, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 762 is hereby added to the Probate Code to read as follows:

Sale of encumbered property

762. When real or personal property is sold which is subject to a mortgage, deed of trust, or other lien which is a valid claim against the estate, and which has been allowed, the purchase money must be applied, after paying the necessary expenses of the sale, first, to the payment and satisfaction of the mortgage, deed of trust, or other lien, and the residue, if any, in due course of administration. The application of the purchase money to the satisfaction of the mortgage, deed of trust, or other lien must be made without delay; and the property is subject to such mortgage, deed of trust, or other lien until the purchase money has been actually so applied.

New section

SEC. 2. Section 763 is hereby added to the Probate Code to read as follows:

Disposition of money

763. The purchase money, or so much thereof as may be sufficient to pay such mortgage, deed of trust, or other lien, with interest, and any lawful costs and charges thereon, may be paid to the clerk of the court, whereupon the mortgage, deed of trust, or other lien upon the property shall cease, and the purchase money must be paid over by the clerk of the court without delay, in payment of the expenses of sale, and in satisfaction of the obligation to secure which the mortgage, deed of trust, or other lien, was taken, and the surplus, if any, at once returned to the executor or administrator, unless for good cause shown, after notice to the executor or administrator, the court otherwise directs.

New section

SEC. 3. Section 764 is hereby added to the Probate Code to read as follows:

764. At any sale of real or personal property upon which there is a mortgage, deed of trust, or lien, the holder thereof may become the purchaser, and his receipt for the amount due him from the proceeds of the sale is a payment pro tanto. If the amount for which he purchased the property is insufficient to defray the expenses and discharge his mortgage, deed of trust, or other lien, he must pay the clerk of the court an amount sufficient to pay such expenses. Purchase of property by holder.

SEC. 4. Sections 789, 790 and 791 of the Probate Code are hereby repealed. Sections repealed.

CHAPTER 129.

An act to validate the organization and existence of regional park districts.

[Approved by the Governor April 30, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Whenever the board of supervisors of any county has heretofore declared any contiguous portion of such county (consisting of two municipalities together with one or more other municipalities and/or any parcel or parcels of city or county territory therein) to be a regional park district under the provisions of an act entitled "An act providing for the incorporation, government, and management of regional park districts, including therein city and county territory, for the purpose of acquiring, improving, and maintaining parks, playgrounds, beaches, parkways, scenic drives, boulevards and other facilities for public recreation; providing for the management and government of such districts; authorizing such districts to incur bonded indebtedness and to levy and collect taxes to pay the principal and interest on bonds and for carrying out the purposes of this act; and providing for the powers of such districts; and imposing certain duties and functions in connection with such districts upon certain county officers; and providing that this act shall take effect immediately," approved August 7, 1933, and has designated a name for such district and has declared certain persons elected as the directors thereof, and the persons declared elected as directors have organized as a board and said board has acted as a board of directors of such district for a period of at least six months prior to the taking effect of this act, all acts and proceedings of such board of supervisors and all acts of all public officers and the electors leading up to, including and in connection with the formation and organization of such district or districts are hereby legalized, ratified and confirmed and declared valid for all intents and purposes, and every such district so organized is hereby declared to be a

Validation of regional park districts

Stats. 1933, p. 2664.

valid and legally existing regional park district with the name designated by said board of supervisors and with the boundaries established by said board of supervisors, or with such modification of said boundaries as may have been made by order of such board.

CHAPTER 130.

An act to amend section 4030 of the Political Code, relating to vacancies in county boards of supervisors.

[Approved by the Governor April 30, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1907, p. 364.

SECTION 1. Section 4030 of the Political Code is hereby amended to read as follows:

Filling vacancy in office of supervisor

4030. Whenever a vacancy occurs in the board of supervisors of a county, the Governor shall fill the vacancy, and the appointee shall hold office until the election and qualification of his successor. In such case the election of a supervisor shall be held at the next general election to fill the vacancy for the unexpired term, unless such term expires on the first Monday after the first day of January succeeding said election.

When a vacancy occurs from the failure of the person elected to file his oath or bond as provided by law, and such person is appointed to fill the vacancy, he shall hold office for the unexpired term. This provision shall be retroactive and shall apply to persons heretofore or hereafter appointed to fill such vacancies occurring heretofore and subsequent to the primary election held August 28, 1934, as well as to persons appointed to fill such vacancies hereafter occurring.

CHAPTER 131.

Stats 1921, p. 1094, repealed.

An act to repeal "An act to regulate the business of selling live stock at public auction and requiring live stock auctioneers to obtain a license and to execute a bond to the State of California, and providing penalties for violation of this act, and repealing acts in conflict herewith," approved June 1, 1921.

[Approved by the Governor April 30, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Repeal.

SECTION 1. The act cited in the title hereof is hereby repealed.

CHAPTER 132.

An act validating the formation, organization and existence of the "Orange County Water District," and the election of its directors.

[Approved by the Governor April 30, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The formation, organization, and existence of the Orange County Water District, as established by Chapter 924 of the Statutes of 1933, is hereby confirmed and validated; and the election of the first board of directors of said district is also hereby confirmed and validated, notwithstanding any informalities in the conduct of said election. Validation of Orange County Water District.

CHAPTER 133.

An act to amend sections 45 and 47 of the California Irrigation District Act and to repeal section 46 of said act, all relating to certificates of sale and redemption therefrom, and the issuance of deeds. Stats 1897 p. 254, amended

[Approved by the Governor May 2, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 45 of the California Irrigation District Act is hereby amended to read as follows: Stats 1933 p. 1629

Sec. 45. After the sale the collector shall make out in duplicate a certificate of sale for each lot, piece or tract of land separately assessed and sold, giving a description of the property sold and the amount paid therefor, and stating that it was sold for a delinquent assessment and when the purchaser will be entitled to a deed. The certificate must be signed by the collector, and one copy shall be retained by him and the other filed in the office of the county recorder of the county in which the property is situated. The district as such purchaser may sell, assign and transfer such certificate of sale for a consideration of not less than the amount of the assessment, penalties and costs, and thereupon the secretary of the board of directors shall notify the collector of such assignment. On receiving the certificate of sale the county recorder must file it in book form, and prepare an index thereto in which in separate columns he must enter the name of the person to whom the land was assessed as recited in the certificate, the name of the assessing district and the date of sale. The certificate of sale may be in substantially the following form, Certificate of sale. Form.

with the blanks properly filled in accordance with the facts in each case:

Certificate of Sale.

_____Irrigation District No._____

I, the undersigned collector of_____Irrigation District, hereby certify that on the___day of_____, 19___, I did, after notice given as provided by law, sell to_____Irrigation District, hereinafter called the purchaser, for the sum of_____ dollars ($_____) that certain real property within said district and in the county of_____, State of California, bounded or described as follows, to wit:

(Insert description.)

Said land was assessed to_____.

Said land was sold for a delinquent assessment levied thereon by the board of directors of said district, and the amount aforesaid was the sum due and unpaid under said assessment and the penalties and costs accruing thereon. The purchaser will be entitled to a deed to said property at any time after three years from the date of said sale unless in the meantime said property is redeemed as provided by law.

WITNESS my hand and the seal of said district this_____ day of_____, 19___.

(District seal.)

_____

Collector of_____Irrigation District.

Stats 1931, p 440

SEC. 2. Section 47 of the California Irrigation District Act is hereby amended to read as follows:

Redemption of property

Sec. 47. A redemption of the property sold may be made within three (3) years from the date of sale, or at any time thereafter before a deed has been made and delivered, by payment in lawful money of the United States to the collector of the district of the amount for which the property was sold, plus a penalty of three-fourths (¾) of one per cent per month from the date of sale until redemption. Redemption money so paid for the use of a certificate holder other than the district shall be held by the collector for, and on demand paid to, the holder of the certificate, and in each report the collector makes to the board of directors, he must state the respective sums of redemption money so held by him and the names of the persons entitled to receive such money if known to him. On receipt of the redemption money, plus the amount of any recorder's fee fixed by law for the service hereinafter provided for, the collector shall issue in duplicate a certificate reciting the payment thereof and stating the date and number of the certificate of sale to which the redemption applies. In case of a redemption of a part of any land described in a certificate of sale, the part so redeemed shall be described in the certificate of redemption. Upon presentation by the collector of one of the executed copies of such certificate of redemption to the county recorder in whose office the cer-

tificate of sale is on file, said recorder must attach said certificate of redemption to the certificate of sale to which it relates, or file the same, and shall mark the word "redeemed," or "partially redeemed" as the case may be, the date and by whom redeemed on the margin of the certificate of sale. If the property is not redeemed within the time herein provided, the collector or his successor in office, upon demand, must make to the purchaser, or his assignee, holding the certificate of sale, a deed to the property, which deed shall refer to the date of the sale and state that no person redeemed the property during the time allowed by law for its redemption. The collector shall receive from the purchaser for the use of the district two dollars ($2.00) for making such deed, except when the deed is made to the district. The deed made by the collector may be in substantially the following form, the blanks being filled to show the facts in each case:

Form of collector's deed

Collector's Deed.

_____Irrigation District.

WHEREAS, on the____day of_____, 19___, the collector of _____Irrigation District did sell to_____for a delinquent assessment theretofore levied by the board of directors of said district that certain real property within said district and in the county of_____, State of California, bounded or described as follows, to wit:

(Insert description.)

AND WHEREAS, no person has redeemed said land from said sale and the time for redemption has now elapsed, and said purchaser has demanded a deed to said land; now, therefore,

I, the undersigned collector of said district, do hereby grant to the said_____all of the real property aforesaid.

WITNESS my hand and the seal of said district this_____ day of_____, 19___.

(District seal.)

_____

Collector of_____Irrigation District.

If the deed shall be demanded pursuant to any sale whereof the certificate shall have been assigned the foregoing form of deed shall be amended by striking out the words "and said purchaser has demanded a deed to said land" and inserting in lieu thereof substantially the following: "and the certificate of said sale has been assigned to_____, who has demanded a deed to said land." In case partial redemption has been made the above form shall be modified so as to conform to the facts. Where property has been sold to the district and a deed for it has been given to the district as the purchaser, such district shall have the same rights thereto, and to the rents, issues and profits thereof, as a private purchaser. The title so acquired by the district may be conveyed by deed, executed and acknowledged by the president and secretary of the board of directors; provided, that authority to so convey must be con-

ferred by resolution of the board of directors entered on its minutes fixing the price at which such sale may be made.

Repeal

SEC. 3. Section 46 of the California Irrigation District Act is hereby repealed.

CHAPTER 134.

An act authorizing municipalities to afford special assessment relief by the appropriation of money for the reduction of special assessments and the payments on bonds issued to represent such assessments, and by the payment of any portion of the principal or interest of, or by the purchase or redemption at a discount of, or by the transfer to the interest and sinking fund for the discharge and payment of bonds, the proceeds of which have been used for the acquisition of rights of way or easements for, or for the construction, maintenance, improvement or repair of streets, bridges and culverts within such cities, and providing a method for the making of such appropriations.

[Approved by the Governor May 2, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Resolution

SECTION 1. The legislative body of any municipality may by resolution, adopted by a four-fifths vote of the members thereof, determine that any improvement of streets within such municipality is of more than local benefit, that the assessments theretofore levied against the property fronting thereon or in the assessment district are unjust and are in excess of the benefits derived from such improvements, and that public moneys be appropriated to reduce such assessments. Such resolution shall refer to said improvement as designated in the assessment proceedings, state the amount of money to be appropriated and the fund or funds from which it is to be paid.

Appropriation.

SEC. 2. Thereafter and in accordance with such resolution an appropriation may be made from any fund of the city which may be used for the construction, maintenance, improvement or repair of streets, or for the acquisition of rights of way therefor, or from any other fund available for the purposes of this act.

Purposes

SEC. 3. Said appropriations may be made to reduce special assessments and special assessment bonds levied and issued against real property fronting upon such public improvements or in the district estimated to have been benefited thereby; for the payment of any portion of the principal or interest of, or for the purchase and redemption at a discount of, or the transfer to the interest and sinking fund for the discharge and payment of bonds, the proceeds of which have been used for the acquisition of rights of way or easements for, or for the construction, maintenance, improvement or repair of streets bridges or culverts within such municipality.

CHAPTER 135.

An act to remit to holders of certificates of purchase of State lands one-half of any penalty which has accrued on account of failure of any such purchaser to pay interest when due, in consideration of the payment by any such purchaser, on or before December 31, 1935, to the State of California, of any sums due the State on account of interest, plus the remaining one-half of any accrued penalties.

[Approved by the Governor May 2, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Each and every purchaser of any lands sold by the State of California by virtue of certificates of purchase shall be entitled to a remission of one-half of any penalty accrued on account of failure to pay interest in accordance with the law governing the sale of any such land, upon condition that any such purchaser make payment in full to the State of California on or before December 31, 1935, of any and all sums then due the State on account of interest, together with the balance of any such penalty. Remission of penalties

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CHAPTER 136.

An act to confirm, ratify and make valid ordinances heretofore passed by the city council or the people of any incorporated city creating a Civil Service Commission and placing employees of the city under control of said civil service commission.

[Approved by the Governor May 2, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Ordinances creating civil service commissions and placing employees thereunder, are hereby ratified. Civil service ordinances

SEC. 2. In all acts where, prior to the passage of this act, a civil service commission has been created by ordinance either by the city council or by the electors of the city, and employees of the city have been placed under such civil service commission, such ordinance shall be, and shall be held and deemed as valid and legal as the same would have been if express authority to pass such ordinance had been heretofore granted by the Legislature. Validation

CHAPTER 137.

Stats 1935, Ex Sess 1934, Ch 7, amended

An act to amend an act entitled "An act relating to the redemption of property sold to irrigation districts for delinquent assessments, and declaring the urgency thereof," approved September 20, 1934, by amending sections 1 and 3 of said act and adding a new section to be numbered 4 and to validate redemptions heretofore made, and declaring the urgency thereof

[Approved by the Governor May 2, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Stats 1935, p 25

SECTION 1. Section 1 of said act is hereby amended to read as follows:

Redemption of land sold to irrigation district

Section 1. In all cases where land has been sold to an irrigation district prior to September 30, 1934, for any delinquent irrigation district tax or assessment and the district still holds the certificate of sale, and a deed for the land has not been taken by the district at any time prior to redemption of the land as provided by law, or by this act, and if all installments of taxes or assessments which have become due and payable after July 1, 1934, are paid, then the owner of said land may, notwithstanding any of the provisions of sections 43 and 46 of the California Irrigation District Act, or the provisions of any other section or sections of said act or the provisions of the Palo Verde Irrigation District Act, as amended, redeem the same by the payment of the original amount of all unpaid assessments in ten equal annual installments plus seven per cent interest on said total amount from July 1, 1934, to the date of the first payment, and thereafter interest at the same rate on all deferred payments. More than one installment may be paid on or before the due date thereof. The first installment shall be paid on or before July 1, 1935, and the second installment shall be paid on or before July 1, 1936, and each succeeding installment on or before July 1 of each respective calendar year thereafter, provided that no such installment shall be accepted by the collector unless there is paid therewith or shall have been paid prior thereto the full amount of any assessment or assessments that shall have become due and payable since the payment of the last previous installment, together with all penalties and costs, if any, which shall have accrued thereon. No other amount shall be required to be paid in order to effect such redemption either by way of penalties for delinquencies, redemption penalties or costs. This act is not intended to repeal or modify any of the provisions of the California Irrigation District Act, nor any of the provisions of the Palo Verde Irrigation District Act, as amended, except as to those sales for delinquent assessments made prior to September 30, 1934.

Stats 1933, pp 1629, 1630 See Stats 1935, Ch 133

Stats 1923, p 1067.

Stats 1935, p 25

SEC. 2. Section 3 of said act is hereby amended to read as follows:

Sec. 3 This act shall not affect the operation of any existing law providing for such redemption by installments, but shall be a separate independent means of such redemption. Provided, that the redemptioner may at his option change from any previous installment plan of redemption provided by law for the redemption of such property and redeem the same by the payment of the amount of the unpaid portion of the total amount of said delinquent assessments as in this act provided, in which event he shall receive credit for all payments exclusive of interest made under such previous plan. Effect of act.

SEC. 3. Any payment on account of the redemption of any land heretofore received by the collector of any irrigation district under an erroneous construction of the act of which this act is amendatory is hereby declared valid and sufficient for the purpose for which such payment was accepted, provided such payment was in an amount equal to at least one-tenth of the total amount of the assessments then delinquent on said land. Payments heretofore received

SEC. 4. This act is hereby declared to be an urgency measure within the meaning of section 1 of Article IV of the Constitution necessary for the immediate preservation of the public peace, health and safety and as such shall take effect immediately. Urgency.

The following is a statement of facts constituting such necessity:

The act amended by this act was passed as an urgency measure and the necessity for the same still exists. Many redemptions have been made in accordance with the provisions of the act, or in an attempt to comply with the provisions of the act, but owing to the wording of the act various irrigation district collectors have placed different interpretations on some of its provisions. This act is for the purpose of clarifying those provisions and as the right of the landowner to make redemption under the act will expire on July 1, 1935, it is necessary that this act take effect immediately.

CHAPTER 138.

An act to amend sections 3366 and 4041.14 and to repeal section 3381 of the Political Code, relating to the licensing of businesses by the counties.

[Approved by the Governor May 2, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 3366 of the Political Code is hereby amended to read as follows: Stats 1921, p. 163.

3366. Boards of supervisors of the counties of the State, and the legislative bodies of the incorporated cities and towns therein, shall, in the exercise of their police powers, and for the purpose of regulation, as herein provided, and not other- Power to impose business license tax

wise, have power to license all and every kind of business not prohibited by law, and transacted and carried on within the limits of their respective jurisdictions, and all shows, exhibitions and lawful games carried on therein, to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise; provided, that every honorably discharged or honorably released soldier, sailor, or marine of the United States or Confederate States who has served in the Civil War, any Indian war, the Spanish-American War, any Philippine Insurrection or in the Chinese Relief Expedition, or in the World War of 1914 and years following, who is physically unable to obtain a livelihood by manual labor, and who shall be a qualified elector of the State of California, shall have the right to distribute circulars, and to hawk, peddle, and vend any goods, wares or merchandise, except spirituous, malt, vinous or other intoxicating liquor, without payment of any license tax or fee whatsoever, whether municipal, county or State, and the board of supervisors or legislative body shall issue to such soldier, sailor or marine, without cost, a license therefor; provided, however, no license can be collected or any penalty for the nonpayment thereof enforced against any commercial traveler whose business is limited to the goods, wares, and merchandise sold or dealt in in this State at wholesale; provided further, that counties may for the purpose of revenue license individuals, other than merchants having a fixed place of business in the county, their employees, and farmers selling farm products produced by them, acting as hawkers, itinerant peddlers or itinerant vendors.

Veterans exempt.

Effect on certain cities

This section shall not be deemed to repeal any act vesting municipal corporations with power to license for revenue purposes.

Stats 1929, p 1457

SEC. 2. Section 4041.14 of the Political Code is hereby amended to read as follows:

Power to impose license tax

4041.14. Under such limitations and restrictions as are prescribed by law, and in addition to jurisdiction and powers otherwise conferred, the boards of supervisors, in their respective counties, shall have the jurisdiction and powers to license, in the exercise of their police powers, and for the purpose of regulation, as herein provided, and not otherwise, all and every kind of business not prohibited by law, and transacted and carried on within the limits of their respective jurisdictions, and all shows, exhibitions, and lawful games carried on therein, to fix the rate of license tax upon the same, and to provide for the collection of the same by suit or otherwise; provided, that every soldier, sailor or marine of the United States who has received an honorable discharge or a release from active duty under honorable conditions from such service shall have the right to hawk, peddle and vend any goods, wares or merchandise, except spirituous, malt, vinous or other intoxicating liquor, without payment of any license, tax or fee whatsoever, whether municipal, county or State, and the board of supervisors or legislative body shall issue to such soldier, sailor or marine without

Veterans exempt.

cost, a license therefor; provided, however, no license can be collected, or any penalty for the nonpayment thereof enforced against any commercial traveler whose business is limited to the goods, wares and merchandise sold or dealt in in this State at wholesale; provided further, that counties may for the purpose of revenue license individuals, other than merchants having a fixed place of business in the county, their employees, and farmers selling farm products produced by them, acting as hawkers, itinerant peddlers or itinerant vendors. License for revenue.

SEC. 3. Section 3384 of the Political Code is hereby repealed. Repeal

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CHAPTER 139.

An act to add a new section to be numbered section 28a to an act entitled "An act to provide for work in and upon public streets, avenues, lanes, alleys, courts, places, sidewalks, highways, roads, and other public property and rights of way, in whole or in part, including property over which possession and right of use has been obtained under the provisions of section 14 of Article I of the Constitution within municipalities, or within unincorporated territory and one or more municipalities, or lying within two or more municipalities, and for establishing and changing the grades of any such public streets, avenues, lanes, alleys, courts, places, sidewalks, highways, roads, properties or rights of way; and providing for the issuance and payment of street improvement bonds to represent certain assessments for the cost thereof, and providing a method for the payment of such bonds," approved April 7, 1911, relating to assessments and bonds. Stats. 1911, p. 730, amended

[Approved by the Governor May 2, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. That the act cited in the title hereof is hereby amended by the addition of a new section, number 28a, to read as follows: New section

Sec. 28a. Notwithstanding any other provision of this act, the city council of any municipality proceeding thereunder shall have power at any time before the assessments levied thereunder are fully paid and discharged to order a reassessment under the following terms and conditions: Reassessment.

Whenever the city council shall determine that the improvement for which an assessment was previously made was for the construction, alteration, repair, improvement or betterment of any major traffic artery designed for or generally used by the people of the municipality as a whole, the said city council may, in its discretion, determine to aid the same by appropriating any funds available for such purpose. It Appropriations in aid of construction, etc.

shall not be necessary to set forth or give notice of such contribution in the resolution of intention or other proceedings hereunder. Upon appropriating any such funds in aid of any of the work, the city council by resolution shall thereupon direct the street superintendent to apportion said sum to be advanced because of the said appropriation pro rata between all properties assessed upon the original assessment for aiding the work or any reassessment made therefor, whichever is the latest in point of time. Such sum shall be apportioned in the same ratio that the original assessments bore to the total assessment against all properties assessed. He shall thereupon prepare a reassessment after deducting such apportionment rebate and shall thereupon return the same to the city council. Such reassessment need not be in any prescribed form but shall refer to the original assessment filed, giving the date of filing of said original assessment, and shall state that it was made pursuant to the order of the city council of the municipality and shall be accompanied by a diagram showing the lots to be reassessed and their relation to the work. Such diagram may be the original assessment diagram if it otherwise conforms to the provisions of this section.

Hearing

Upon receipt of the same the council shall thereupon fix a time and place when any and all persons objecting to said proposed reassessment may be heard. Such time must be at least twenty (20) days after the reassessment has been presented. The city clerk shall then advertise the time of such hearing before the legislative body by publishing a notice in the newspaper in which the notice of award of contract for the improvement for which the assessment was made was published, unless the legislative body directs publication in some other paper. If the reassessment will affect the lots fronting the improvement, this fact shall be stated in the notice. If the reassessment is to be against property in a district, then this fact shall be stated in the notice and a description of the assessment district shall be given therein and reference shall be made to the reassessment and diagram of the street superintendent for full particulars. Such notice shall be published for five (5) insertions if the paper be a daily, or for two (2) insertions if the paper be a weekly or published less frequently. At the time fixed for the said hearing or at such time or times to which the same may be continued the legislative body shall consider any objections to said reassessment and may correct inequalities or mistakes therein. When such reassessment shall have been revised or corrected or modified so as to comply with the judgment of said legislative body, then it shall pass a resolution confirming such reassessment. The street superintendent shall thereupon record the reassessment and diagram, in his office, with a certificate at the end thereof executed by the city clerk that it is the reassessment approved by the legislative body of the city. He shall also note opposite the several assessments in the original assessment that have been displaced by the reassessment the fact that the reassessment has

Publication of notice.

been made, giving its date and shall credit upon such reassessment all payments theretofore made upon the original assessment or upon the bonds issued to represent the same. Such reassessment shall be collectible and payable in the same manner as an original assessment and shall be enforceable by suit in the same manner provided in this act for enforcing an original assessment and shall have the same weight in evidence. In the event that bonds issued under or upon the security of the original assessment, no reassessment made pursuant to this section shall change the security or lien of any such bond in any manner whatsoever or the method of the enforcement thereof. The lien of such reassessment shall hold its relative rank as to other special assessment liens as of the date of filing of the original assessment. Upon confirming the said reassessment, the city shall transfer into the bond and assessment redemption fund the amounts so apportioned among the several assessments.

Payment of reassessment

Lien

Whenever prior to ordering said reassessment any payments shall have been made on any assessment, or on any bond issued to represent any such assessment, the owner of record of the property against which such assessment was levied, at the time such payment was made, shall be entitled to receive a return in an amount in the proportion that the payment or payments made bears to the difference between the original assessment and said reassessment, with respect to the lot, piece or parcel of land for which such payment or payments were made. The balance of any such appropriation, as determined by the reassessment, shall be credited pro rata to the bonds in payment thereof, applying such payment first to the interest due and then upon the principal. Thereafter the city treasurer shall pay to the holder of each bond the payment so credited from said bond and assessment redemption fund. The city treasurer is hereby authorized and directed to make all payments of refunds as authorized by this section. Whenever it shall appear to the legislative body that payments shall have been made on any such assessments or bonds prior to the said reassessment, it shall be its duty to cause to be published in the newspaper in which the notice of award of contract for the improvement for which the assessment was made a notice stating the fact of such reassessment and calling upon all property owners affected by the said improvement to make claim for refund within one year from date of a first publication of the said notice. If a reassessment was against the lots fronting the improvement, this fact should be stated in the notice. If the reassessment was against the property in a district, then this fact shall be stated in the notice and a description of the district shall be set forth and the assessment diagram referred to for all particulars. Such notice shall be published once a week for five (5) weeks. In case claim for such refund shall not be made within said period, then all claims therefor shall be barred and the said amount remaining unclaimed shall revert to the fund from

Right of property owner paying previous assessment

City treasurer.

Refunds

Notice

which said supplemental appropriation was made by the city council. No suit shall be brought to contest, modify, annul, review or in any way attack the validity of such reassessment and the proceedings had under this section unless the same shall have been commenced within thirty (30) days after the recording of the diagram and reassessment, and thereafter all persons shall be barred from any such action or any defense of invalidity of the reassessment and all bonds issued thereon

Limitation of actions

Estimate

In making any such reassessment the street superintendent shall first deduct from the amount appropriated by the city council the estimated cost of the reassessment proceedings. In case such estimate should for any reason exceed the actual cost thereof, then the excess of such fund reserved for the payment of the said costs shall revert to the fund on which the appropriation was made. In the event that the said estimate shall prove to be insufficient to meet the costs of the said reassessment, then the said city council shall appropriate such additional sums as may be necessary to meet the excess costs and expenses thereof.

CHAPTER 140.

An act to amend section 1704 of the Streets and Highways Code, relating to county highways.

[Approved by the Governor May 2, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 141.

An act to amend sections 859 and 860 of the Penal Code, relating to the examination of a case before a magistrate, and to add section 859a of the Penal Code, relating to a plea of guilty to the complaint before a magistrate.

[Approved by the Governor May 2, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1927, p 1044.

SECTION 1. Section 859 of the Penal Code is hereby amended to read as follows:

Proceedings after defendant is charged

859. When the defendant is charged with the commission of a public offense, over which the superior court has original jurisdiction, by a written complaint subscribed under oath and on file in a court within the county in which the public offense is triable, he shall, without unnecessary delay, be taken before a magistrate of the court in which such complaint is on file. The magistrate shall immediately deliver to him a copy of the complaint, inform him of his right to the aid of counsel,

Counsel

ask him if he desires the aid of counsel, and allow him a reasonable time to send for counsel; and the magistrate must, upon the request of the defendant, require a peace officer to take a message to any counsel whom the defendant may name, in the city or township in which the court is situated. The officer must, without delay and without fee, perform that duty.

New section

SEC. 2. A new section is hereby added to the Penal Code to be numbered 859a and to read as follows:

Plea of guilty

859a. If the public offense charged is a felony not punishable with death, the magistrate shall immediately upon the appearance of counsel for the defendant read the complaint to the defendant and ask him whether he pleads guilty or not guilty to the offense charged therein and to a previous conviction or convictions of crime if charged; thereupon, or at any time thereafter, while the charge remains pending before the magistrate and when his counsel is present, the defendant may, with the consent of the magistrate and the district attorney or other counsel for the people, plead guilty to the offense charged or to any other offense the commission of which is necessarily included in that with which he is charged, or to an attempt to commit the offense charged and to the previous conviction or convictions of crime if charged; and upon such plea of guilty, the magistrate shall immediately commit the defendant to the sheriff and certify the case, including a copy of all proceedings therein and such testimony as in his discretion he may require to be taken, to the superior court, and thereupon such proceedings shall be had as if such defendant had pleaded guilty in such court. The foregoing provisions of this section shall not be construed to authorize the receiving of a plea of guilty from any defendant not represented by counsel.

Commitment and certification to superior court.

Stats 1923, p 1018

SEC. 3. Section 860 of the Penal Code is hereby amended to read as follows:

Counsel in certain cases

860. If the public offense is

1. Not a felony, but within the jurisdiction of the superior court, or is

2. A felony punishable with death, or is

3. A felony to which the defendant has not pleaded guilty in accordance with section 859a of this code, then, if the defendant requires the aid of counsel, the magistrate must allow the defendant a reasonable time to send for counsel, and may postpone the examination for not less than two nor more than five days for that purpose. The magistrate must, immediately after the appearance of counsel, or if, after waiting a reasonable time therefor, none appears, proceed to examine the case; provided, however, that a defendant represented by counsel may when brought before the magistrate as provided in section 858 or at any time subsequent thereto, waive his right to an examination before such magistrate, and thereupon it shall be the duty of the magistrate to make an order holding the defendant to answer, and

Examination

it shall be the duty of the district attorney within fifteen days thereafter, to file in the superior court of the county in which the offense is triable the information; provided, further, however, that nothing contained herein shall prevent the district attorney nor the magistrate from requiring that an examination be held as provided in this chapter. Nothing contained in this section shall affect the jurisdiction or procedure of the superior court sitting as a juvenile court.

Juvenile court

CHAPTER 142.

Stats 1933, p 1505, repealed

An act to repeal an act entitled "An act to create a State Advisory Commission on Indian Affairs, to prescribe its membership and its powers and duties," approved May 26, 1933.

[Approved by the Governor May 2, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Repeal

SECTION 1. The act cited in the title hereof is hereby repealed.

CHAPTER 143.

Stats 1931, p 1483, amended

An act to amend section 10 of an act entitled "An act providing for the formation, government and operation of harbor districts, the calling and conducting of elections in such districts of harbor commissioners, defining their powers and duties, and providing for the issuance and disposal of bonds of such harbor districts, and providing for the assessment, levy and collection of taxes for the payment of such bonds and for the ordinary annual expenses of such harbor districts," approved June 10, 1931, relating to the government of such districts.

[Approved by the Governor May 2, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p 1486

SECTION 1. Section 10 of the act cited in the title hereof is hereby amended to read as follows:

Resolution of supervisors

Sec. 10. The board of supervisors shall thereupon make and cause to be entered in its minutes an order finally determining and establishing the exterior boundaries of the proposed harbor district, and shall pass a resolution calling an election within said district for the purpose of submitting to the qualified voters thereof the proposition of the formation of the harbor district. The board of supervisors shall by said resolution fix a date of the election, which shall not

Boundaries

Election

be less than thirty (30) nor more than sixty (60) days from the date of the passage of the resolution and shall divide the proposed harbor district into one or more voting precincts and generally describe or otherwise designate the boundaries of each voting precinct and shall designate a place within each voting precinct at which the polls will be opened for the purpose of the election on the day of the election and shall also appoint a board of election for each voting precinct, consisting of one inspector, one judge and one clerk. Every member of the board of election must be a registered elector of and residing within the voting precinct for which he or she is appointed. The resolution shall also prescribe the manner of voting for or against the formation of such harbor district, and in all particulars not recited in the resolution or otherwise provided for in this act, the election shall be held in accordance with the general election laws of the State of California, so far as the same are applicable; provided, that it shall not be necessary to mail or send out sample ballots or precinct polling cards.

Board of election.

Every harbor district formed under the provisions of this act shall be governed by a board of three (3) harbor commissioners, who shall hold office for the term of four (4) years from twelve o'clock noon of the first Monday after the first day of January succeeding their election, and until their successors shall be elected and qualified; provided, however, that the first board of harbor commissioners shall be elected at the same election provided for herein for the formation of said district, and the commissioner receiving the highest number of votes shall hold office until the expiration of four (4) years from twelve o'clock noon of the first Monday after the first day of January of the odd numbered year next succeeding the formation of said harbor district, and until his successor shall be elected and qualified. and the commissioners receiving the second and third highest number of votes shall hold office until the expiration of two (2) years from twelve o'clock noon of the first Monday after the first day of January of the odd numbered year next succeeding the formation of said harbor district, and until their successors shall be elected and qualified. The terms of office of commissioners in office at the time this section, as amended, goes into effect, are hereby shortened to permit the holding of office of their successors as herein provided. There shall be an election for harbor commissioners within every harbor district formed hereunder on the first Tuesday after the first Monday of November of each even numbered year. All the candidates for harbor commissioners must be residents of the proposed harbor district and qualified electors therein, and shall qualify for such election by securing a nomination paper signed by not less than twenty-five (25) nor more than fifty (50) qualified electors of said proposed harbor district, proposing such candidate for the office of harbor commissioner. Any qualified voter in such proposed harbor district may sign as many nomination

Board of harbor commissioners Terms

Election.

Nominations.

papers as there are harbor commissioners to be elected at any election. At the first election herein provided for harbor commissioners, all candidates for harbor commissioners must file their nomination papers with the county clerk of the county, at least twenty (20) days before the day of said election, and all candidates for harbor commissioners at any subsequent election must file their nomination papers with the board of harbor commissioners at least twenty (20) days before the day of election.

CHAPTER 144.

An act to add sections 76, 77, 78 and 79 to the Streets and Highways Code, delegating to the California Highway Commission power and authority during times when the Legislature of the State of California is not in session to accept on behalf of the State of California grants of rights of way for State roads through military reservations from the government of the United States made by the Secretary of War to the State of California or any political subdivision thereof, and declaring the effect of such acceptance.

[Approved by the Governor May 6, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 145.*

An act to establish an Insurance Code, thereby consolidating and revising the law relating to insurance principles, practice and business and matters incidental thereto, and to repeal certain acts and parts of acts specified herein.

[Approved by the Governor May 7, 1935. In effect September 15, 1935.]

NOTE.—This chapter contains all the amendments made thereto during the fifty-first session of the Legislature, namely, by chapters 161, 202, 245, 246, 253, 255, 282, 283, 287, 291, 292, 308, 394, 431, 493, 494, 530, 535, 559, 588, 751 and 761. Said amendatory chapters become effective September 15, 1935. For approval dates, see the respective chapters in their numerical sequence.

The people of the State of California do enact as follows:

GENERAL PROVISIONS.

Short title.

1. This act shall be known as the Insurance Code.

Code restatement of law.

2. The provisions of this code in so far as they are substantially the same as existing statutory provisions relating to the same subject matter shall be construed as restatements and continuations thereof, and not as new enactments.

*A cross-reference table showing the origin of each section appears in the appendix to this volume.

3. All persons who, at the time this code goes into effect, hold office under any of the acts repealed by this code, which offices are continued by this code, continue to hold the same according to the former tenure thereof. Existing officers

4. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as possible. Existing rights

5. Unless the context otherwise requires, the general provisions hereinafter set forth shall govern the construction of this code. Construction of code

6. Division, part, chapter, article, and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, or intent of the provisions of any division, part, chapter, article, or section hereof. Headings

7. Whenever, by the provisions of this code, a power is granted to a public officer or a duty imposed upon such an officer, the power may be exercised or the duty performed by a deputy of the officer or by a person authorized pursuant to law by the officer, unless it is expressly otherwise provided. Deputies

8. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this code, it shall be made in writing in the English language unless it is otherwise expressly provided. Use of English language

9. Whenever any reference is made to any portion of this code or of any other law of this State, such reference shall apply to all amendments and additions thereto now or hereafter made. Reference to statutes

10. "Section" means a section of this code unless some other statute is specifically mentioned and "subdivision" means a subdivision of the section in which that term occurs unless some other section is expressly mentioned. Reference to "Section." "Subdivision"

11. The present tense includes the past and future tenses; and the future, the present. Tense

12. The masculine gender includes the feminine and neuter. Gender.

13. The singular number includes the plural, and the plural the singular. Number

14. "County" includes "city and county." "County"

15. "City" includes "city and county." "City."

16. As used in this code the word "shall" is mandatory and the word "may" is permissive, unless otherwise apparent from the context. "Shall" and "may"

17. "Oath" includes affirmation. "Oath"

18. "Signature" or "subscription" includes mark when the signer or subscriber can not write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; "Signature" and "subscription"

but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

"Person" 19. "Person" means any person, association, organization, partnership, business trust, or corporation.

"Commissioner." 20. "Commissioner" means the Insurance Commissioner of this State.

"Division" 21. "Division," in reference to the government of this State, means the Division of Insurance of the Department of Investment of this State.

"Insurance" 22. Insurance is a contract whereby one undertakes to indemnify another against loss, damage, or liability arising from a contingent or unknown event.

"Insurer" and "insured" 23. The person who undertakes to indemnify another by insurance is the insurer, and the person indemnified is the insured.

"Admitted" 24. "Admitted," in relation to a person, means entitled to transact insurance business in this State, having complied with the laws imposing conditions precedent to transaction of such business.

"Nonadmitted" 25. "Nonadmitted," in relation to a person, means not entitled to transact insurance business in this State, whether by reason of failure to comply with conditions precedent thereto, or by reason of inability so to comply.

"Domestic" 26. "Domestic" means organized under the laws of this State, whether or not admitted.

"Foreign" 27. "Foreign" means not organized under the laws of this State, whether or not admitted.

"State" 28. "State" means the State of California, unless applied to the different parts of the United States. In the latter case, it includes the District of Columbia and the territories.

"Mortgage" "Mortgagor." "Mortgagee" "Lien" 29. "Mortgage" includes a trust deed, "mortgagor" includes a trustor under such trust deed, "mortgagee" includes a beneficiary under such trust deed, or a trustee exercising powers or performing duties granted to or imposed upon him thereunder, and "lien" in respect to real or personal property includes a charge or incumbrance arising out of a trust deed.

"Resident" "Nonresident." 30. "Resident" means residing in this State, "nonresident" means not residing in this State.

"Agent" 31. "Insurance agent" means a person authorized, by and on behalf of an insurer, to transact insurance.

"Life agent." 32. A life agent means an insurance agent licensed to transact life insurance.

"Broker" 33. "Insurance broker" means a person who, for compensation and on behalf of another person, transacts insurance other than life with, but not on behalf of, an insurer.

"Solicitor" 34. "Insurance solicitor" means a natural person employed to aid an insurance agent or insurance broker in transacting insurance other than life.

35. "Transact" as applied to insurance includes any of the following: "Transact"

(a) Solicitation.

(b) Negotiations preliminary to execution.

(c) Execution of a contract of insurance.

(d) Transaction of matters subsequent to execution of the contract and arising out of it.

36. "Paid-in capital" or "capital paid-in" means: "Paid-in capital" "Capital paid in"

(a) In the case of a foreign mutual insurer not issuing or having outstanding capital stock, the value of its assets in excess of the sum of its liabilities for losses reported, expenses, taxes, and all other indebtedness and reinsurance of outstanding risks as provided by law. Such foreign mutual insurer shall not be admitted, however, unless its paid-in capital is composed of available cash assets amounting to at least $200,000.00.

(b) In the case of a foreign joint stock and mutual insurer, its paid-in capital computed, according to its desire, pursuant to the provisions of subdivision (a) or subdivision (c) of this section. If computed pursuant to the provisions of subdivision (a), its admission is subject to the qualification therein expressed.

(c) In the case of all other insurers, the lower of the following amounts:

(1) The value of its assets in excess of the sum of its liabilities for losses reported, expenses, taxes, and all other indebtedness and reinsurance of outstanding risks as provided by law.

(2) The aggregate par value of its issued shares of stock, including treasury shares.

For the purpose of computing paid-in capital or capital paid-in, shares of stock are not taken as liabilities.

37. Provisions of this code relating to a particular class of insurance or a particular type of insurer prevail over provisions relating to insurance in general or insurers in general. Particular provisions control general.

38. Unless expressly otherwise provided, any notice required to be given to any person by any provision of this code may be given by mailing notice, postage prepaid, addressed to the person to be notified, at his residence or principal place of business in this State. The affidavit of the person who mails the notice, stating the facts of such mailing, is prima facie evidence that the notice was thus mailed. Notice under code.

39. If any provision of this code, or the application thereof to any person or circumstance, is held invalid, the remainder of the code, or the application of such provision to other persons or circumstances, shall not be affected thereby. Constitutionality

40. The existence of insurers formed prior to the date this code takes effect shall not be affected by the enactment of this code nor by any repeal of the laws under which they were formed, but such insurers shall thereafter operate under the provisions of this code. Existing insurers

41. All insurance in this State is governed by the provisions of this code. Scope of code.

DIVISION 1. GENERAL RULES GOVERNING INSURANCE.

PART 1. THE CONTRACT.

CHAPTER 1. CLASSES OF INSURANCE.

Classification of insurance

100. Insurance in this State is divided into the following classes:

(1) Life.
(2) Fire
(3) Marine.
(4) Title.
(5) Surety
(6) Disability.
(7) Plate glass.
(8) Liability.
(9) Workmen's compensation.
(10) Common carrier liability.
(11) Boiler and machinery.
(12) Burglary.
(13) Credit.
(14) Sprinkler.
(15) Team and vehicle.
(16) Automobile.
(17) Mortgage.
(18) Aircraft.
(19) Land value.
(20) Miscellaneous.

Life.

101. Life insurance includes insurance upon the lives of persons or appertaining thereto, and the granting, purchasing, or disposing of annuities.

Fire.

102. Fire insurance includes insurance against loss by fire, lightning, windstorm, tornado, or earthquake.

Marine.

103. Marine insurance includes insurance against any and all kinds of loss of or damage to:

(a) Vessels, craft, aircraft, cars, automobiles and vehicles of every kind (excluding aircraft and automobiles operating under their own power or while in storage not incidental to transportation), as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, money, bullion, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property, and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same, or during any delays, storage, transshipment, or reshipment incident thereto including marine builder's risks, and all personal property floater risks.

(b) Person or to property in connection with or appertaining to a marine, inland marine, transit or transportation insurance including liability for loss of or damage arising out of or in connection with the construction, repair, maintenance or use of the subject matter of such insurance (but not including life insurance or surety bonds); but except as herein specified, shall not mean insurances against loss by reason of bodily injury to the person.

(c) Precious stones, jewels, jewelry, gold, silver and other precious metals, whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise.

Title.

104. Title insurance includes insurance or guaranty of title to real or personal property or any interest or encumbrance thereon, or of information relative to real property, against loss by reason of defective titles, encumbrances, or adverse claims of title, or otherwise.

Surety

105. Surety insurance includes the guaranteeing of behavior of persons and the guaranteeing of performance of contracts other than insurance policies and other than for payments secured by liens of mortgages.

Disability

106. Disability insurance includes insurance appertaining to injury, disablement or death resulting to the insured from accidents, and appertaining to disablements resulting to the insured from sickness.

Plate glass

107. Plate glass insurance includes insurance against breakage of glass.

Liability

108. Liability insurance includes insurance against loss resulting from liability for injury, fatal or nonfatal, suffered by any natural person, or resulting from liability for damage to property, or property interests of others but does not include workmen's compensation, common carrier liability, boiler and machinery, or team and vehicle insurance.

Workmen's compensation.

109. Workmen's compensation insurance includes insurance against loss from liability imposed by law upon employers to compensate employees and their dependents for injury sustained by the employees arising out of and in the course of the employment, irrespective of negligence or of the fault of either party.

Common carrier liability

110. Common carrier liability insurance includes insurance against loss resulting from liability of a common carrier for accident or injury, fatal or nonfatal, to any person but does not include liability or workmen's compensation insurance.

Boiler and machinery

111. Boiler and machinery insurance includes insurance against loss of property and liability for damage to persons or property from explosion of, or accident to, boilers, tanks, pipes, pressure vessels, engines, wheels, electrical machinery, or apparatus connected therewith or operating thereby.

Burglary

112. Burglary insurance includes insurance against loss by burglary or theft or both.

Credit.

113. Credit insurance includes insurance of persons engaged in business against loss by reason of extending credit to those dealing with them, and insurance against loss from the failure of persons to meet existing or contemplated obligations to the insured.

Sprinkler.

114. Sprinkler insurance includes insurance against loss through damage by water to goods or premises arising from the breakage or leakage of sprinklers, pumps, or other apparatus placed for extinguishing fires, or loss arising from the breakage or leakage of water pipes, or through accidental injury to such sprinklers, pumps, or other apparatus.

Team and vehicle.

115. Team and vehicle insurance includes insurance against loss through damage or legal liability for damage, to property caused by the use of teams or vehicles other than ships, boats, or railroad rolling stock, whether by accident or collision or by explosion of engine, tank, boiler, pipe, or tire of the vehicle, and insurance against theft of the whole or part of such vehicle.

Automobile

116. Automobile insurance includes insurance of automobile owners, users, dealers, or others having insurable interests therein, against hazards incident to ownership, maintenance, operation and use of automobiles, other than loss resulting from accident or physical injury, fatal or nonfatal, to, or death of, any natural person.

Mortgage.

117. Mortgage insurance includes the guaranteeing of the payment of the principal, interest and other sums agreed to be paid under the terms of any note or bond secured by mortgage, or other sums secured under the terms of any such mortgage, in its entirety, or of any undivided or other partial interest in any such mortgage, or in a group of such mortgages, and the guaranteeing or insuring, directly or indirectly, against loss thereon.

Aircraft.

118. Aircraft insurance includes insurance of aircraft owners, users, dealers or others having insurable interests therein, against loss through hazards incident to ownership, maintenance, operation and use of aircraft, other than against loss resulting from accident or physical injury, fatal or nonfatal, to any natural person.

Land value

119. Land value insurance includes the insuring of or guaranteeing land values.

Miscellaneous

120. Miscellaneous insurance includes insurance against loss from damage done, directly or indirectly by lightning, windstorm, tornado, or earthquake; and any insurance not included in any of the foregoing classes, and which is a proper subject of insurance.

Scope of each class of insurance.

121. Except as otherwise stated, the enumeration in this chapter of the kinds of insurance in a particular class does not limit any such kind to any one of such particular classes, inasmuch as the classification of similar insurance may vary with the subject matter, risk, and connected insurances; but the fact that similar kinds of insurance occur in different classes does not extend or change the scope of any such class.

CHAPTER 2. PARTIES, EVENTS, AND INTERESTS.

Article 1. Parties to the Contract: Generally.

150. Any person capable of making a contract may be an insurer, subject to the restrictions imposed by this code. Capacity to insure.

151. Any person except a public enemy may be insured. Capacity to be insured

Article 2. Parties to Contract: Mortgagor and Mortgagee.

170. Unless the policy otherwise provides, if a mortgagor of property effects insurance in his own name providing that the loss shall be payable to the mortgagee, or assigns a policy of insurance to a mortgagee, the insurance is deemed to be upon the interest of the mortgagor and the mortgagor does not cease to be a party to the original contract. Mortgagor and mortgagee: Loss payable clause or assignment

171. In case of such a provision or assignment, any act of the mortgagor, prior to the loss and which would otherwise avoid the insurance, will have the same effect, although the property is in the hands of the mortgagee; but any act which, under the contract of insurance, is to be performed by the mortgagor, may be performed by the mortgagee therein named, with the same effect as if it had been performed by the mortgagor. Acts of parties

172. If an insurer assents to the transfer of insurance from a mortgagor to a mortgagee, and, at the time of the assent, imposes further obligations on the assignee, the acts of the mortgagor can not affect the rights of the assignee. Consent of insurer to change of insurance

Article 3. Events Subject to Insurance.

250. Except as provided in this article, any contingent or unknown event, whether past or future, which may damnify a person having an insurable interest, or create a liability against him, may be insured against, subject to the provisions of this code. Events subject to insurance

251. A lottery or its outcome shall not be insured against. Lottery

252. A policy executed by way of gaming or wagering, is void. Wager.

Article 4. Insurable Interest: Generally.

280. If the insured has no insurable interest, the contract is void. Insurable interest Necessity

281. Every interest in property, or any relation thereto, or liability in respect thereof, of such a nature that a contemplated peril might directly damnify the insured, is an insurable interest. Definition

282. An insurable interest in property may consist in:

1. An existing interest;
2. An inchoate interest founded on an existing interest; or,
3. An expectancy, coupled with an existing interest in that out of which the expectancy arises.

Contingency or expectancy.

283. A mere contingent or expectant interest in anything, not founded on an actual right to the thing, nor upon any valid contract for it, is not insurable.

Measure of interest

284. Except in the case of a property held by the insured as a carrier or depositary, the measure of an insurable interest in property is the extent to which the insured might be damnified by loss or injury thereof.

Carrier or depositary

285. A carrier or depositary of any kind has an insurable interest in a thing held by him as such, to the extent of its value.

When required

286. An interest in property insured must exist when the insurance takes effect, and when the loss occurs, but need not exist in the meantime; an interest in the life or health of a person insured must exist when the insurance takes effect, but need not exist thereafter or when the loss occurs.

(Amended by Ch. 308, Stats. 1935.)

[ORIGINAL SECTION.]

286. An interest insured must exist when the insurance takes effect, and when the loss occurs, but need not exist in the meantime.

Waiver in policy

287. Every stipulation in a policy of insurance for the payment of loss whether the person insured has or has not any interest in the property insured, or that the policy shall be received as proof of such interest, is void.

Article 5. Insurable Interest: Effect of Transfer.

Insurable interest: Effect of change

300. Except in the cases specified in the next four sections, and in the cases of life and disability insurance, a change of interest in any part of a subject insured, unaccompanied by a corresponding change of interest in the insurance, suspends the insurance to an equivalent extent until the interest in the subject and the interest in the insurance are vested in the same person.

Change after loss.

301. A change of interest in a subject insured, after the occurrence of an injury which results in a loss, does not affect the right of the insured to indemnity for the loss.

Change as to part of insured subject matter

302. A change of interest in one or more of several distinct subjects, separately insured by one policy, does not avoid the insurance as to the others.

Death of insured

303. A change of interest by will or succession, on the death of the insured, does not avoid insurance; and his interest in the insurance passes to the person taking his interest in the subject matter insured.

Transfer by partner.

304. In the case of partners, joint owners, or owners in common, who are jointly insured, a transfer of interest by one to another thereof does not avoid insurance, even though it has been agreed that the insurance shall cease upon an alienation of the subject insured.

Transfer of subject matter

305. The mere transfer of subject matter insured does not transfer the insurance, but suspends it until the same person becomes the owner of both the insurance and the subject matter insured.

CHAPTER 3. NEGOTIATIONS BEFORE EXECUTION.

Article 1. Concealment.

330. Neglect to communicate that which a party knows, and ought to communicate, is concealment. Concealment defined

331. Concealment, whether intentional or unintentional, entitles the injured party to rescind insurance. Effect

332. Each party to a contract of insurance shall communicate to the other, in good faith, all facts within his knowledge which are or which he believes to be material to the contract and as to which he makes no warranty, and which the other has not the means of ascertaining. Required disclosures

333. Neither party to a contract of insurance is bound to communicate information of the matters following, except in answer to the inquiries of the other: When inquiry necessary.

1. Those which the other knows.
2. Those which, in the exercise of ordinary care, the other ought to know, and of which the party has no reason to suppose him ignorant.
3. Those of which the other waives communication.
4. Those which prove or tend to prove the existence of a risk excluded by a warranty, and which are not otherwise material.
5. Those which relate to a risk excepted from insurance, and which are not otherwise material.

334. Materiality is to be determined not by the event, but solely by the probable and reasonable influence of the facts upon the party to whom the communication is due, in forming his estimate of the disadvantages of the proposed contract, or in making his inquiries. Materiality of fact concealed

335. Each party to a contract of insurance is bound to know: Presumed knowledge

(a) All the general causes which are open to his inquiry equally with that of the other, and which may affect either the political or material perils contemplated.

(b) All the general usages of trade.

336. The right to information of material facts may be waived, either (a) by the terms of insurance or (b) by neglect to make inquiries as to such facts, where they are distinctly implied in other facts of which information is communicated. Waiver of information

337. Information of the nature or amount of the interest of one insured need not be communicated unless in answer to an inquiry, except as prescribed by section 381, or by the provisions of the insurance contract if such provisions are prescribed by this code as part of a standard form. Interest of insured

338. An intentional and fraudulent omission, on the part of one insured, to communicate information of matters proving or tending to prove the falsity of a warranty, entitles the insurer to rescind. Fraudulent silence

339. Neither party to a contract of insurance is bound to communicate, even upon inquiry, information of his own judgment upon the matters in question. Opinion

Representations.

Article 2. Representation.

Nature

350. A representation may be oral or written.

Time

351. A representation may be made at the time of, or before, issuance of the policy.

Interpretation.

352. The language of a representation is to be interpreted by the same rules as contracts in general.

As to future

353. A representation as to the future is a promise, unless it is merely a statement of a belief or an expectation.

Effect upon policy.

354. A representation can not qualify an express provision in a contract of insurance; but it may qualify an implied warranty.

Alteration or withdrawal.

355. A representation may be altered or withdrawn before the insurance is effected, but not afterwards.

Time referred to

356. The completion of the contract of insurance is the time to which a representation must be presumed to refer.

Hearsay.

357. When an insured has no personal knowledge of a fact, he may nevertheless repeat information which he has upon the subject, and which he believes to be true, with the explanation that he does so on the information of others; or he may submit the information, in its whole extent, to the insurer. In neither case is he responsible for its truth, unless it proceeds from an agent of the insured, whose duty it is to give the information.

Falsity

358. A representation is false when the facts fail to correspond with its assertions or stipulations.

Effect of falsity.

359. If a representation is false in a material point, whether affirmative or promissory, the injured party is entitled to rescind the contract from the time the representation becomes false.

Materiality

360. The materiality of a representation is determined by the same rule as the materiality of a concealment.

Not limited to original contract

361. The provisions of this chapter apply as well to a modification of a contract of insurance as to its original formation.

Chapter 4. The Policy.

Article 1. Definition and Scope.

Policy.

380. The written instrument, in which a contract of insurance is set forth, is the policy.

Content

381. A policy shall specify:

(a) The parties between whom the contract is made.

(b) The property or life insured.

(c) The interest of the insured in property insured, if he is not the absolute owner thereof.

(d) The risks insured against.

(e) The period during which the insurance is to continue.

(f) Either:

(1) A statement of the premium, or

(2) If the insurance is of a character where the exact premium is only determinable upon the termination of the

contract, a statement of the basis and rates upon which the final premium is to be determined and paid.

Covering notes or binders

382. Covering notes may be issued to bind insurance temporarily pending the issuance of the policy. Within ninety days after issue of a covering note a policy shall be issued in lieu thereof, including within its terms the identical insurance bound under the covering note and premium therefor.

Penalties

383. It is a misdemeanor:

(a) For any insurer, or any agent of any insurer, to issue a policy in violation of the requirements of subdivision (f) of section 381.

(b) For any insurance agent or broker to assist in arranging for the insurance where the policy violates such requirements.

(c) For any insurer to violate the provisions of section 382.

Statement of assessment liability.

384. Except in the case of mutual fire insurers, whenever by the terms of a policy issued in this State the insured is liable in any event to pay an assessment in addition to the premium stated in the policy, the policy shall have conspicuously printed in plain type upon the back or the outside cover, under the name of the issuer, the words: "Notice; under the terms of this policy insured is liable for future assessments."

Penalty

385. For a violation of section 384, the Insurance Commissioner shall forthwith suspend the certificate of authority of the insurer for a period of not less than one year or revoke the certificate.

Signatures on policies

386. All policies issued by incorporated insurers shall be subscribed by the president or vice president, or, in case of the death, absence, or disability of those officers, by any two of the directors, and countersigned by the secretary of the corporation. All such policies are as binding and obligatory upon the corporation as if executed over the corporate seal.

Coverage of specified insured.

387. When the name of the person intended to be insured is specified in a policy, it can be applied only to his own interest.

Insurance by agent or trustee

388. When an insurance contract is executed with an agent or trustee as the insured, the fact that his principal or beneficiary is the real party in interest may be indicated by describing the insured as agent or trustee, or by other general words in the policy.

Insurance by partner.

389. To render an insurance effected by one partner or part-owner applicable to the interest of his copartners, or of other part-owners, it is necessary that the terms of the policy should be such as are applicable to the joint or common interest.

General description of insured.

390. When the description of the insured in a policy is so general that it may comprehend any person or any class of persons, only he who can show that it was intended to include him can claim the benefit of the policy.

Future owners

391. A policy may be so framed that it will inure to the benefit of whomsoever, during the continuance of the risk, becomes the owner of the interest insured.

Article 2. Types of Policies.

Types of policy.

410. A policy is either open or valued.

Open policy.

411. An open policy is one in which the value of the subject matter is not agreed upon, but is left to be ascertained in case of loss.

Valued policy.

412. A valued policy is one which expresses on its face an agreement that the thing insured shall be valued at a specified sum.

Running policy

413. A running policy is one which contemplates successive insurances, and which provides that the object of the policy may be from time to time defined, especially as to the subjects of insurance, by additional statements or indorsements.

Article 3. Insurer's Name on Policy.

Printing insurer's name.

430. The policies issued by every insurer shall be entitled by its own name, printed on each policy in large bold type; except in the case of an underwriter's policy issued under a name or title approved by and registered with the commissioner.

Article 4. Warranties.

Kinds of warranties.

440. A warranty is either express or implied.

Express.

441. A statement in a policy of a matter relating to the person or thing insured, or to the risk, as a fact, is an express warranty thereof.

Words of warranty

442. A particular form of words is not necessary to create a warranty.

Policy to embody express warranties

443. Every express warranty made at or before the execution of a policy shall be contained in the policy itself, or in another instrument signed by the insured and referred to in the policy, as making a part of it.

Time of warranty.

444. A warranty may relate to the past, the present, the future, or to any or all of these.

Statement of intention.

445. A statement in a policy, which imports that there is an intention to do or not to do a thing which materially affects the risk, is a warranty that such act or omission will take place.

Omission to fulfill warranty of future

446. When, before the time arrives for the performance of a warranty relating to the future, a loss insured against happens, or performance becomes unlawful at the place of the contract, or impossible, the omission to fulfill the warranty does not avoid the policy.

Violation of material provision.

447. The violation of a material warranty or other material provision of a policy, on the part of either party thereto, entitles the other to rescind.

Violation of immaterial provision

448. Unless the policy declares that a violation of specified provisions thereof shall avoid it, the breach of an immaterial provision does not avoid the policy.

Breach without fraud

449. A breach of warranty without fraud merely exonerates an insurer from the time that it occurs, or where the

warranty is broken in its inception, prevents the policy from attaching to the risk.

CHAPTER 5. THE PREMIUM.

480. An insurer is entitled to payment of the premium as soon as the subject matter insured is exposed to the peril insured against. Accrual of premium

481. Unless the insurance contract otherwise provides, a person insured is entitled to a return of premium if the policy is canceled or rescinded, as follows: Conditions of return

1. To the whole premium, if no part of his interest in the thing insured is exposed to any of the perils insured against.

2. Where the insurance is made for a definite period of time, and the insured surrenders his policy, to such proportion of the premium as corresponds with the unexpired time, after deducting from the whole premium any claim for loss or damage under the policy which has previously accrued. The provisions of section 482 apply only to the expired time.

482. Except as provided by section 481, or by the insurance contract, if a peril insured against has existed, and the insurer has been liable for any period, however short, the insured is not entitled to return of premiums, so far as that particular risk is concerned. Earned premium

483. A person insured is entitled to a return of the premium: Right of return

(a) When the contract is voidable, on account of the fraud or misrepresentation of the insurer.

(b) When the contract is voidable on account of facts, of the existence of which the insured was ignorant without his fault.

(c) When, by any default of the insured other than actual fraud, the insurer did not incur any liability under the policy.

484. An acknowledgment in a policy of the receipt of premium is conclusive evidence of its payment, so far as to make the policy binding, notwithstanding any stipulation therein that it shall not be binding until the premium is actually paid. Policy as receipt.

485. In case of an overinsurance by several insurers, the insured is entitled to a ratable return of the premium, proportioned to the amount by which the aggregate sum insured in all the policies exceeds the insurable value of the subject at risk. Overinsurance by several insurers

486. When an overinsurance is effected by simultaneous policies, the insurers contribute to the premium to be returned in proportion to the amount insured by their respective policies. Simultaneous policies

487. When an overinsurance is effected by successive policies, those only contribute to a return of the premium who are exonerated by prior insurance from the liability assumed by them, and in proportion as the sum for which the premium was paid exceeds the amount for which, on account of prior insurance, they could be made liable. Successive policies

CHAPTER 6. LOSS.

Article 1. Transfer of Interest After Loss.

Agreement to transfer interest after loss.

520. An agreement not to transfer the claim of the insured against the insurer after a loss has happened, is void if made before the loss.

Article 2. Causes of Loss.

Proximate cause

530. An insurer is liable for a loss of which a peril insured against was the proximate cause, although a peril not contemplated by the contract may have been a remote cause of the loss; but he is not liable for a loss of which the peril insured against was only a remote cause.

531. An insurer is liable:

Peril not insured against

(a) Where the thing insured is rescued from a peril insured against, and which would otherwise have caused a loss, if, in the course of such rescue, the thing is exposed to a peril not insured against, and which permanently deprives the insured of its possession, in whole or in part.

Rescue efforts.

(b) If a loss is caused by efforts to rescue the thing insured from a peril insured against.

Specially excepted peril

532. If a peril is specially excepted in a contract of insurance and there is a loss which would not have occurred but for such peril such loss is thereby excepted even though the immediate cause of the loss was a peril which was not excepted.

Wilful act, negligence

533. An insurer is not liable for a loss caused by the wilful act of the insured but he is not exonerated by the negligence of the insured, or of the insured's agents or others.

Article 3. Notice and Proofs of Loss.

Fire loss notice

550. In case of loss upon an insurance against fire, an insurer is exonerated if notice thereof is not given to him without unnecessary delay by an insured or some person entitled to the benefit of the insurance.

Casualty loss notice, "twenty-day notice" clause

551. Except in the case of life, marine, or fire insurance, notice of an accident, injury, or death may be given at any time within twenty days after the event, to the insurer under a policy against loss therefrom. In such a policy, no requirement of notice within a lesser period shall be valid.

Evidence of loss.

552. When preliminary proof of loss is required by a policy, the insured is not bound to give such proof as would be necessary in a court of justice; but it is sufficient for him to give the best evidence in his power at the time.

Waiver of defects in notice.

553. All defects in a notice of loss, or in preliminary proof thereof, which the insured might remedy, and which the insurer omits to specify to him, without unnecessary delay, as grounds of objection, are waived.

Waiver of delay.

554. Delay in the presentation to an insurer of notice or proof of loss is waived, if caused by an act of his, or if he omits to make objection promptly and specifically upon that ground.

555. If a policy requires, by way of preliminary proof of loss, the certificate or testimony of a person other than the insured, there is sufficient compliance with the requirement if the insured (a) uses reasonable diligence to procure the certificate or testimony, and (b) in case of refusal to give it to him, furnishes reasonable evidence to the insurer that the refusal was not induced by just grounds of disbelief in the facts necessary to be certified or testified. Proof by third party

556. It is unlawful to:

(a) Present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance. False or fraudulent claim.

(b) Prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any such claim.

Every person who violates any provision of this section is punishable by imprisonment in the State prison not exceeding three years, or by fine not exceeding one thousand dollars, or by both.

CHAPTER 7. DOUBLE INSURANCE.

590. A double insurance exists where the same person is insured by several insurers separately in respect to the same subject and interest. Double insurance

591. In case of double insurance, the several insurers are liable to pay losses thereon as follows:

(a) In fire insurance, each insurer shall contribute ratably, without regard to the dates of the several policies. Fire insurance

(b) In marine insurance, the liability of the several insurers for a total loss, whether actual or constructive, where the policies are not simultaneous, is in the order of the dates of the several policies. No liability attaches to a second or other subsequent policy, except as to the excess of the loss over the amount of all previous policies on the same interest. If two or more policies bear the same date, they are deemed to be simultaneous, and each insurer on simultaneous policies shall contribute ratably. The insolvency of any of the insurers does not affect the proportionate liability of the other insurers. Marine insurance

All insurers on the same marine interest shall contribute ratably for a partial or average loss.

CHAPTER 8. REINSURANCE.

620. A contract of reinsurance is one by which an insurer procures a third person to insure him against loss or liability by reason of such original insurance. Reinsurance

621. A reinsurance is presumed to be a contract of indemnity against liability, and not merely against damage. Nature of contract

622. Where an insurer obtains reinsurance, he must communicate all the representations of the original insured, and also all the knowledge and information he possesses, whether previously or subsequently acquired, which are material to the risk. Duty of ceding insurer

Status of original insured

623. The original insured has no interest in a contract of reinsurance.

CHAPTER 9. RESCISSION.

Time of rescission

650. Whenever a right to rescind a contract of insurance is given to the insurer by any provision of this part such right may be exercised at any time previous to the commencement of an action on the contract.

PART 2. THE BUSINESS OF INSURANCE.

CHAPTER 1. GENERAL REGULATIONS.

Article 1. Charter Requirements.

Authority of insurer.

680. An insurer shall not transact any class of insurance which is not authorized by its charter.

Article 2. Capital Structure.

Stock value

690. If any paid in capital of an insurer is, or is to be, represented by shares of stock, such insurer shall not be organized in this State or admitted to transact any class of insurance in this State, unless all of such shares, authorized or issued, have a specified par value.

Article 3. Certificate of Authority.

Issuance of certificate of authority.

700. A person shall not transact any class of insurance business in this State without first being admitted for such class. Such admission is secured by procuring a certificate of authority from the commissioner. Such certificate shall not be granted until the applicant conforms to the requirements of this code and of the laws of this State prerequisite to its issue. After such issue the holder shall continue to comply with the requirements as to its business set forth in this code and in the laws of this State.

Expiration date.

701. Every certificate of authority shall expire on the first day of July after its issuance, unless sooner revoked.

Insurer's default

702. A certificate of authority shall not be granted or renewed to any insurer in arrears to the State, or to any county or city in the State, for fees, licenses, taxes, assessments, fines, or penalties, accrued on business transacted in the State, nor while such insurer is otherwise in default for failure to comply with any of the laws of this State regarding the governmental control of such insurer by the State.

Unauthorized insurance

703. Except when performed by a surplus line broker, the following acts are misdemeanors when done in this State:

(a) Acting as agent for a nonadmitted insurer in the transaction of insurance business in this State.

(b) In any manner advertising a nonadmitted insurer in this State.

(c) In any other manner aiding a nonadmitted insurer to transact insurance business in this State.

In addition to any penalty provided for commission of misdemeanors, a person violating any provision of this section shall forfeit to this State the sum of five hundred dollars, together with one hundred dollars for each month or fraction thereof during which he continues such violation.

Suspension

704. The commissioner may suspend the certificate of authority of an insurer for not exceeding one year whenever he finds, after proper hearing following notice, that such insurer engages in any of the following practices:

(a) Conducting its business fraudulently.

(b) Not carrying out its contracts in good faith.

(c) Habitually and as a matter of ordinary practice and custom compelling claimants under policies to either accept less than the amount due under the terms of the policies or resort to litigation against such insurer to secure the payment of the amount due.

The order of suspension shall prescribe the period of such suspension.

Notice and hearing

Action shall not be taken by the commissioner under this section unless he first gives notice to such insurer and cites it to appear at a specified time and place and show cause why its certificate of authority should not be suspended or revoked.

Fee for certificate

705. The commissioner shall require the payment of ten dollars in lawful money of the United States, in advance, as a fee for issuing each annual certificate of authority authorizing any insurer to transact business in this State.

Statement prior to admission.

706. Prior to admission each insurer shall file with the commissioner a certified copy of its last annual statement or a verified financial statement exhibiting its condition and affairs.

Domestic insurer.

707. A domestic insurer shall, prior to admission, file with the commissioner a copy of its articles of incorporation and certificate of any increase or diminution of its capital stock, certified by the Secretary of State to be a copy of that which is filed in his office.

Foreign insurer

708. A foreign insurer shall, prior to admission, file with the commissioner the following:

(a) If organized in a jurisdiction which requires articles to be filed, a copy of its articles of incorporation, duly certified by the officer having the custody of such articles.

(b) If organized in a jurisdiction which does not require articles to be filed, a copy of the law, charter, or deed of settlement under which the insurer is organized, duly certified by the proper custodian thereof, or proved by affidavit to be a copy.

(c) A certificate under the hand and seal of the officer, if any, having supervision of insurance business in the jurisdiction of its organization, stating that the insurer is organized under the laws of such jurisdiction, and has the amount of capital stock or assets required by this code.

Insurer organized in another State

709. If the insurer is organized in any other State, it shall, prior to admission, file with the commissioner a certificate setting forth:

(a) The nature and character of its business.

(b) The location of its principal office.

(c) The names of the following parties:

(1) If the insurer is not incorporated, and there are more than ten owners of interests therein, the names of the ten persons who own the largest interests; if there are ten or less such owners, the names of all such owners.

(2) If the insurer is incorporated, the names of all officers and persons by whom the business is managed.

(d) The amount of actual capital to be employed therein.

The certificate must be verified by the affidavit of the chief officer, secretary, agent, or manager of the company.

Articles of agreement

710. If there are any written articles of agreement or association, a copy thereof shall accompany such certificates.

Insurer organized outside United States.

711. An insurer organized out of the United States shall also file such certificate and articles, but the certificate need not contain the names of any officers or managers other than those resident within the United States, nor any statement of capital not employed within the United States, and the affidavit shall be made by the chief executive officer or manager in the United States.

Fee.

712. The commissioner shall require the payment of fifty-five dollars in lawful money of the United States, in advance, as a fee for filing papers required under sections 707, 708, 709 or 711.

Changes in documents.

713. A copy of the instrument or record of the action making any change in any of the documents filed with the commissioner pursuant to this article, proved by certificates of custodian of the original, or by affidavit, shall be filed with the commissioner.

Fee.

714. The commissioner shall require the payment of ten dollars in lawful money of the United States, in advance, as a fee for filing papers required under section 713, on account of change or changes made at one time.

Limit on promotion expense.

715. The commissioner shall have no authority to issue a certificate of authority to any domestic insurer, whether organized and promoted directly or by means of a holding company, where the commissioner's examination shows that the expense of organization and promotion exceeds fifteen per cent of the total amount actually paid on its capital stock exclusive of surplus.

Article 4. Examination by Commissioner.

Examination of admitted insurer.

730. The commissioner, whenever he deems necessary or whenever he is requested by verified petition, signed by twenty-five persons interested as shareholders, policyholders, or creditors of any admitted insurer showing that the insurer is insolvent under this code, shall examine the business and

affairs of the insurer relating to its insurance business. He shall so examine every domestic insurer before issuing to it a certificate of authority other than a renewal. Domestic insurer

731. Whenever any foreign insurer applies for admission the commissioner may make, or cause to be made by the insurance authority of the State where the insurer is organized, an examination of its insurance business and affairs. Foreign insurer

732. An insurer organized or existing under the laws of any country outside of the United States shall be deemed to be organized, within the meaning of this article, in any State wherein such insurer maintains the deposits to protect policyholders as required by this code. Alien insurer

733. In making such examination the commissioner: Powers of commissioner.

(a) Shall have free access to all the books and papers of the insurer.

(b) Shall thoroughly inspect and examine all its affairs.

(c) Shall ascertain its condition and ability to fulfill its obligations.

(d) Shall ascertain if it has complied with all laws applicable to its insurance transactions.

734. Every insurer examined under the provisions of this article shall open its books and papers for the inspection of the commissioner, and otherwise facilitate such examination. The commissioner may administer oaths and examine under oath any person relative to the business of the insurer. If he finds the books to be carelessly or improperly kept or posted, he shall employ sworn experts to rewrite, post, and balance the books at the insurer's expense. Books of insurer

735. Such examination shall be conducted in the county where such insurer has its principal office, and shall be private unless the commissioner deems it necessary to publish the result of such investigation. In the latter case he may publish the results in two public newspapers, one published in the city of San Francisco and the other in the city of Los Angeles. Place of examination. Publication of results

736. All examinations shall be at the expense of the insurer payable in advance. If any insurer refuses to pay such expenses in advance, the commissioner may refuse to issue its certificate of authority and shall revoke any existing certificate of authority. Expense of examination

737. All examination expense moneys collected by the commissioner under the provisions of this article shall be paid into the State treasury in trust. The procedure for the withdrawal thereof shall be that provided by law for the withdrawal of trust funds from the State treasury. Fiscal arrangement

738. The commissioner shall have the same powers and authority to examine the State Compensation Insurance Fund as are conferred upon him by law relative to the examination of other insurers. Examination of State Compensation Insurance Fund

Article 5. Unlawful Rebates, Profits, and Commissions.

750. An insurer, insurance agent, broker, or solicitor, personally or by any other party, shall not offer or pay, directly Rebate of premium.

or indirectly, as an inducement to insurance on any subject-matter in this State, any rebate of the whole or part of the premium payable on an insurance contract, or of the agent's or broker's commission thereon, and such rebate is an unlawful rebate.

Consideration not specified in policy

751. An insurer, or an insurance agent, broker, or solicitor, personally or otherwise, shall not offer or pay, directly or indirectly, as an inducement to enter into an insurance contract, any valuable consideration which is not clearly specified, promised or provided for in the policy, or application for the insurance, and any such consideration not appearing in the policy is an unlawful rebate.

Receipt of rebate.

752. Any person named as the insured in any policy or named as the principal, or obligee, in any surety policy or the agent or representative of any such person who, directly or indirectly, knowingly accepts or receives any unlawful rebate is guilty of a misdemeanor.

Allowance of credit without interest.

753. Except in the case of covering notes, the allowing of credit by an insurer, insurance agent, broker or solicitor without interest at current rates, by means of extending the time of paying premiums beyond sixty days after the end of the month in which an insurance policy becomes effective is an unlawful rebate unless:

(a) The policy is not delivered within fifty days after the end of the month in which the policy becomes effective. In such case there may be a credit without interest for ten days after the end of the month in which delivery of such policy is made.

(b) By the terms of the policy, part or the whole of the premium is not due when the policy becomes effective. In such case a credit of sixty days without interest may be allowed after the end of the month in which the premium becomes due.

Payment to agent or broker.

754. Payment to an agent or broker authorized to receive it is sufficient to end the periods prescribed by section 753.

Splitting commissions.

755. The paying or allowing of any commission or other valuable consideration on insurance business in this State to other than an admitted insurer or a licensed insurance agent, broker or solicitor is an unlawful rebate.

Misrepresenting pay roll.

756. When the premium on a policy insuring an employer is based upon the amount or segregation of the employer's pay roll, and the employer, personally or knowingly through his employee, procures a lower premium by wilfully misrepresenting the amount or segregation, such misrepresentation is an unlawful rebate as to the employer.

In addition to any penalty provided by law for unlawful rebates, the employer in such case is liable to the State in an amount ten times the difference between the lower premium paid and the premium properly payable. The commissioner shall collect the amount so payable and may bring a civil action in his name as commissioner to enforce collection unless the misrepresentation is made to and lower premium procured from the State Compensation Insurance Fund. In the latter

case the liability to the State under this section shall be enforced in a civil action in the name of the State Compensation Insurance Fund and any amount so collected shall become a part of that fund.

757. When a statement of the amount or segregation of a pay roll is materially false, and an insurer, through a person employed by it in a managerial capacity, accepts the statement as the basis for the premium on a policy, the acceptance is an unlawful rebate if the accepting employee knows of the falsity. False pay roll statement Acceptance.

758. Every insurer shall exercise reasonable diligence in securing the observance of this article by its agents. Duty of insurer relating to rebates

759. It is unlawful for any insurer to appoint an agent for the purpose of enabling such agent, or the employer or person requesting the appointment of the agent, to obtain insurance at a cost less than that specified in the policy, or at a cost less than that specified in the application therefor. Agency appointment in furtherance of rebate.

760. When an insurance agent, broker or solicitor transacts insurance other than life with himself or his employer as the insured, if the total of the premiums thereon exceeds the total premiums on such insurance transacted by him with other parties as insureds, the receipt of commissions on any of such excess is an unlawful rebate. Insurance with agent as insured

761. Any insurer, insurance agent, broker or solicitor, and any officer or employee of an insurer, insurance agent or broker, that makes an unlawful rebate is guilty of a misdemeanor. Penalty

762. Any other person who knowingly receives an unlawful rebate is guilty of a misdemeanor and is punishable by fine equal to three times the amount of such rebate or by imprisonment in the county jail for a period of not exceeding thirty days or by both.

763. The following acts are not unlawful rebates: Permitted rebates.

(a) The return by an insurer issuing policies on a participating plan, of any portion of the premium as a dividend after the expiration of the term covered by such policy. Participating dividends

(b) The payment of commission by any insurer, or insurance agent, broker or solicitor, to another insurer, or insurance agent, broker or solicitor, upon insurance lawfully transacted in that capacity. Commissions.

(c) The allowance by any marine insurer, or marine insurance agent, broker, or solicitor to any insured, of such usual discount as is sanctioned by custom among marine insurers as being additional to the agent's or broker's commission. Marine customary additional allowance.

(d) The paying by an insurer to another insurer, or to an insurance agent, broker, or solicitor, of a commission in respect to a policy under which the payee is insured, or the receiving by such payee of such commission. Where licensee is also insured.

(e) The paying by an insurer of bonuses to policy holders on nonparticipating life insurance or otherwise abating their premiums, in whole or in part, out of surplus accumulated from nonparticipating insurance. Distribution of surplus on nonparticipating business

Life insurance participating dividends

(f) The return as a dividend by a life insurer of any portion of the premium on policies issued on a participating plan at any time.

Discounts for advance payments on industrial policies.

(g) The return, by an insurer transacting industrial insurance on the weekly payment plan, to policyholders who have made premium payments for a period of at least one year directly to the insurer at its home or district office, of a percentage of the premium which the insurer would have paid for the weekly collection of such premiums.

Compensation on preexisting policies

(h) The paying by any life insurer, or the receiving by life insurance policyholders of special compensations, or the allowing and receiving of credits already agreed upon in life insurance contracts now in force.

Incrimination

764. Any person may be compelled to testify or produce evidence at the trial or hearing on a charge of violating a provision of this article, even though such testimony or evidence may incriminate him. A prosecution shall not be brought or maintained against such person for any act concerning which he thus testifies or produces evidence, except for perjury committed in so testifying.

Penalty

765. If an insurer knowingly violates any provisions of this article, or knowingly permits any officer, managerial agent, or managerial employee so to do, the commissioner, after a hearing, may suspend the insurer's certificate of authority to do the class of insurance in which the violation of this article occurred.

Penalty

766. If an insurance agent, broker, or solicitor knowingly and wilfully violates any of the provisions of this article, the commissioner, after a hearing, may suspend or revoke the violator's license.

Venue of action to review act of commissioner

767. Unless the parties thereto otherwise stipulate, any action to review an act of the commissioner done under the provisions of this article shall be brought:

(a) In the case of a natural person, in the county in which he resides.

(b) Otherwise, in the county where the plaintiff has its principal office in this State.

Article 6. Misrepresentation of Policies.

Misrepresentation

780. An insurer or officer or agent thereof, or an insurance broker or solicitor shall not cause or permit to be issued, circulated or used, any misrepresentation of the following:

(a) The terms of a policy issued by the insurer or sought to be negotiated by the person making or permitting the misrepresentation.

(b) The benefits or privileges promised thereunder.

(c) The future dividends, payable thereunder.

"Twisting"

781. A person shall not make any misrepresentation (a) to any other person for the purpose of inducing, or tending to induce, such other person either to take out a policy of insurance, or to refuse to accept a policy issued upon an application therefor and instead take out any policy in another insurer, or

(b) to a policyholder in any insurer for the purpose of inducing or tending to induce him to lapse, forfeit or surrender his insurance therein.

782. Any person violating the provisions of section 780 or 781 is guilty of a misdemeanor and punishable by a fine not exceeding one hundred dollars or by imprisonment not exceeding six months. Penalty.

783. Whenever any insurance agent, broker, or solicitor knowingly violates any provision of sections 780 or 781, the commissioner after proper hearing may suspend the license of any such person for not exceeding three years. Penalty

784. Any person may be compelled to testify and produce books and writings at the trial or hearing of any person charged with violating any provision of sections 780 or 781 even though such testimony or evidence may incriminate him. A person shall not be prosecuted for any act concerning which he is compelled so to testify or produce evidence, except for perjury committed in so testifying. Incrimination.

Article 7. Restrictions on Underwriting.

"Resident Agent Law."

800. This article shall not apply to:

(a) Insurers made exempt therefrom by other provisions of this code. Exemptions

(b) Insurance upon the interests of common carriers engaged in interstate trade, or upon property in their custody.

(c) Insurance contracts executed without this State, but which during the term thereof temporarily cover subject matter within this State.

The requirements of section 904 do not apply to insurers or insurance exempted from the provisions of this article.

801. Except as provided by this article, an admitted insurer shall not cause to be executed or renewed any contract of insurance covering subject matter located in this State at the time of execution or renewal, except either (a) through a resident agent, or (b) after approval in writing by such an agent. Resident agent required

802. Such agent shall (a) countersign all such policies or renewals thereof, and (b) receive or be credited with the premium thereon when paid. Countersigning and commissions

Any commission paid or allowed on such premium must be received by an admitted insurer or a resident agent, broker, or solicitor.

803. Policies of reinsurance need not be countersigned by a resident agent, if the policies so reinsured have been executed otherwise in accordance with the provisions of this article. Reinsurance

804. An insurer shall not by nonresident officers, agents, or managers, execute contracts of insurance upon blanks previously countersigned by an agent in this State when the subject matter of the insurance is located in this State at the time of execution. Previously countersigned blanks

805. Any admitted insurer may, by means of temporary binders, execute contracts of insurance at offices outside this Temporary binders.

State upon subject matter located in this State if policies therefor are thereafter issued by it and countersigned by such resident agents of the insurer as are specified above. In such case, such agents shall receive or be credited with the premium thereon when paid and any commission paid on such premium shall be received by an admitted insurer or a resident agent, broker, or solicitor.

Reinsurance of nonadmitted ceding insurer.

806. An admitted insurer shall not in any manner assume or reinsure any of the liability of a nonadmitted insurer on insurance upon subject matter located in this State, except in a case where the admitted insurer assumes the entirety of such insurance of the nonadmitted insurer together with all the liabilities arising therefrom.

Record on out of state policy issue

807. When an insurer issues all policies and renewal certificates at offices outside of this State, such issue is permitted if a resident agent countersigns such policies and certificates covering subject matter in this State after issue. Such agent shall keep a record of policies and certificates so countersigned, including the premium thereon, and such insurers shall in all respects comply with the other provisions of this article.

Examination to determine violation.

808. Upon information that any insurer has violated any provision of this article, the commissioner shall examine the insurer at any office of the insurer located in the United States. If a violation is found, the commissioner shall collect the expense of the investigation from the insurer guilty of the violation. The refusal of any insurer to submit to such examination, or to exhibit its books and records for inspection, shall be prima facie evidence of such violation and shall also constitute a violation of this article.

Penalty.

809. Any insurer wilfully violating any provision of this article is guilty of a misdemeanor and is punishable by a fine not exceeding five hundred dollars for each violation thereof, or the commissioner may suspend the certificate of authority of such insurer for the remainder of the term thereof.

Article 8. Issue of Securities.

Definitions.

820. The terms used in this article shall be given the meanings herein set forth, but such meanings shall not, merely by reason of enactment in this article, govern the interpretation of any other provision of this code.

"Security"

821. "Security" means every instrument commonly known by that term, except:

(a) Commercial paper when issued, given or acquired in a bona fide way in the ordinary course of legitimate business, trade or commerce.

(b) Promissory notes, whether secured or unsecured, if not offered to the public, and if not sold to an underwriter of the sale for the purpose of resale.

(c) Mortgage participation certificates issued under and in accordance with the provisions of Chapter 2, Part 6, Division 2.

(d) Policies of insurance issued by an insurer.

822. Except as otherwise provided by this article, "sale" or "sell" means every disposition, or attempt or arrangement to dispose, of a security for value, whether done by direct or indirect means. A security is conclusively presumed to be sold for value if given with any purchase of any nature or if given as a bonus on account of a purchase. "Sale" and "sell."

823. (a) A privilege pertaining to a security giving the holder the privilege to convert such security into another security of the same insurer is not a sale of such other security. Conversion privileges and option rights

(b) A right pertaining to a security and entitling the holder of such right to subscribe to another security of the same insurer is not a sale of such other security, but the exercise of such right is a sale of such other security.

824. "Broker" means every person, other than an agent, who in this State engages either wholly or in part in the business of (a) dealing in any security issued by others, (b) underwriting any issue of such securities, (c) purchasing such securities with the purpose of reselling them, or (d) offering such securities for sale to the public. "Broker"

825. "Agent" means every person employed or appointed by an insurer or broker who, within this State and for a compensation, sells any security. "Agent."

826. "Insurer" includes every business organization organized for the purpose of transacting any insurance business. "Insurer"

827. An insurer shall not sell in this State, except upon a sale for delinquent assessment made in accordance with the provisions of the general corporation law, any security of its own issue until it secures from the commissioner a permit authorizing it so to do. Permit requirements Sales

828. Except in the case of a broker holding a broker's certificate then in effect, a person, desiring or proposing to sell a security to be issued by any insurer, shall not issue, circulate, or publish any advertisement, pamphlet, prospectus, or circular concerning any such security until the insurer secures from the commissioner a permit authorizing it to sell such security. Advertising

829. A person shall not issue, circulate, or publish any advertisement or writing concerning any security sold by him, unless either his name is subscribed thereto, and a true copy thereof is filed in the office of the commissioner at least one day prior to the issue, publication, or circulation, or the commissioner first authorizes or consents to the issuance, circulation or publication. Advertising Further requirements

830. A person shall not issue, circulate, or publish any such advertisement or writing after receipt of notice in writing from the commissioner that, in his opinion, the same contains any statement that is false or misleading or otherwise likely to deceive a reader thereof. False or misleading advertising

831. Every security issued by any insurer without a permit of the commissioner authorizing the same in effect at the time Effect of violation.

of the issue, shall be void. Every security issued by any insurer under a permit of the commissioner shall be void unless its provisions conform to the provisions, if any, required by the permit.

Penalty.

832. Every insurer that commits any of the following acts is guilty of a public offense and punishable by fine not exceeding ten thousand dollars:

(a) Selling or causing to be issued a security contrary to the provisions of this article or not in conformity with the permit of the commissioner.

(b) Applying any of the proceeds of sale of a security to any purpose other than as specified in the permit, or to a purpose specified in the permit, but in excess of the amount limited for that purpose.

Specific violations

833. Every person who commits any of the acts specified in this section is guilty of a public offense and punishable by imprisonment in the State prison not exceeding five years or in a county jail not exceeding two years, or by fine not exceeding five thousand dollars, or by both.

(a) Knowingly authorizing, directing, aiding, causing, or assisting in causing the issue, execution, or sale of, any security, in nonconformity with a permit of the commissioner then in effect and authorizing such issue, or contrary to the provisions of this article.

(b) Knowingly making any false statement or representation in any application to the commissioner, or in any proceeding before him, or in any examination, audit, or investigation made by him, or by his authority.

(c) With knowledge of the falsity, causing to be filed in the office of the commissioner any false statement or representation concerning an insurer, the property which the insurer then holds or proposes to acquire, the insurer's officers, the insurer's financial condition or other affairs, or the insurer's proposed plan of business.

(d) With knowledge of the falsity of any such statement or representation, causing any security to be issued, executed, or sold without first informing the commissioner of the falsity of such statement in writing.

(e) Directly or indirectly, knowingly causing or assisting in causing any part of the proceeds from the sale of any security to be applied to any purpose contrary to the provisions of the permit authorizing the issue of such security, or to any purpose in excess of the amount specified in such permit for such purpose.

(f) Selling a security with knowledge that it has been issued or executed in violation of any of the provisions of this article.

(g) Causing a writing concerning a security to be issued, circulated, or published while having knowledge that such matter contains any statement that is false, misleading, or otherwise likely to deceive a reader thereof.

(h) In any respect, wilfully violating or failing to comply with any of the provisions of this article.

(i) In any other respect, wilfully violating or neglecting to comply with any part of an order or permit of the commissioner under the provisions of this article.

(j) Conspiring with one or more other persons to violate any permit or order issued by the commissioner, or any of the provisions of this article.

Application for permit General requirements

834. The application for a permit to issue or sell securities shall be verified as provided in the Code of Civil Procedure for the verification of pleadings, and shall be filed in the office of the commissioner. In such application the applicant shall set forth:

(a) The names and addresses of its officers.

(b) The location of its office.

(c) An itemized account of its financial condition, including the amount and character of its assets and liabilities.

(d) A detailed statement of the plan upon which it proposes to transact business.

(e) A copy of any security it proposes to issue.

(f) A copy of any contract it proposes to make concerning the same.

(g) A copy of any prospectus or advertisement, or other description of such securities, then prepared by it for distribution or publication.

(h) Such additional information concerning the company, its condition and affairs as the commissioner requires.

Unincorporated associations

835. If the applicant is a partnership, unincorporated association, or joint stock company, it shall file with its application a copy of its articles of partnership or association, and all other papers pertaining to its organization.

Corporation

836. If the applicant is a corporation, it shall file with its application a copy of all minutes of any proceedings of its directors, stockholders, or members, relating to or affecting the issue of such securities, and also a copy of its articles of incorporation, by-laws, and any amendments to either thereof.

Foreign corporation or association

837. If the applicant is a foreign corporation or association, it shall also file with its application:

(a) A certificate of the proper officer of the jurisdiction in which it is organized, executed not more than thirty days before the filing of such application, showing that the applicant is authorized to transact business in that jurisdiction.

(b) In such form as the commissioner prescribes, its written instrument, irrevocably appointing the commissioner and his successor in office its true and lawful attorney upon whom all process in any action or proceeding against it can be served. Such service shall have the same effect as if the applicant was a domestic insurer lawfully served with process in this State.

Examination by commissioner.

838. Upon the filing of such application, the commissioner shall examine it and the other papers and documents filed therewith. He may, if he deems it advisable, cause to be

made a detailed examination, audit, and investigation of the applicant and its affairs.

Permit Grounds for issuance

839. The commissioner shall issue a permit if he finds that:

(a) The proposed plan of business of the applicant is not unfair, unjust or inequitable,

(b) The applicant intends to fairly and honestly transact its business, and

(c) The securities the applicant proposes to issue and the methods to be used by it are not such as, in his opinion, will work a fraud upon the purchaser thereof.

Otherwise, he shall deny the application and notify the applicant in writing of his decision.

Conditions.

840. The commissioner may prescribe in the permit the amounts, considerations, terms, and conditions governing the issue and disposal of the securities and the permit authorizes such issue and disposal only in accordance with its provisions.

Permit as recommendation.

841. Every permit shall recite in bold type that the issuance thereof is permissive only and does not constitute a recommendation or endorsement of the securities permitted to be issued.

Escrow requirements

842. The commissioner may impose conditions requiring the deposit in escrow of securities and the impoundment of the proceeds from the sale thereof, limiting the expense in connection with the sale thereof, and otherwise requiring such method of dealing as he deems reasonable and either necessary or advisable to insure the disposition of the proceeds of such securities in the manner and for the purposes provided in the permit.

Revocation, etc.

843. The commissioner may, from time to time and for cause, amend, alter or revoke any permit issued by him hereunder, or temporarily suspend the rights thereunder of the applicant. He also may establish such rules and regulations as are reasonable or necessary to carry out the purposes and provisions of this article.

Report on sales.

844. Every insurer authorized by the commissioner to sell securities shall thereafter, at such times and in such form as he requires, make and file in his office a report, setting forth:

(a) The securities sold by it under the authority of any permit issued by him.

(b) The proceeds derived therefrom.

(c) The disposition of such proceeds.

(d) Such other information concerning its property, officers, or affairs, and relating to or affecting the value of such securities, as the commissioner requires.

Agents' or broker's certificate.

845. No person may act as an agent or broker except under authority of a certificate. Every such certificate shall expire on the first day of July next after its issue, unless sooner suspended or revoked.

Application.

846. To secure such certificate, the applicant shall make and file in the office of the commissioner an application therefor in writing, verified by or in behalf of the applicant. Such application shall set forth:

(a) The name and address of the applicant

(b) 1. In the case of an applying corporation, association or joint stock company, the name and address of each of its managing officers and managing agents.

2. In the case of an applying partnership, the name and address of each of the partners.

(c) A succinct statement of facts showing possession of a good business reputation:

1. By the applicant.

2. In the case of an applicant corporation, association, or joint stock company, by its managing officers and managing agents.

3. In the case of an applicant partnership, by its members.

(d) If the applicant is a broker, the general plan and character of the business of the applicant.

(e) Such other information as the commissioner requires.

Bond.

847. At the time of filing an application for a broker's certificate, the applicant shall file with the commissioner a good and sufficient bond for five thousand dollars, payable to the people of the State of California, for the use and benefit of any interested person, executed by said applicant and by sufficient surety or sureties, and to be approved by the commissioner. The bond shall be conditioned upon the following conduct by the broker, his agents, and employees:

(a) Strict compliance with the provisions of this article.

(b) Honest and faithful application of all funds received.

(c) Honest and faithful performance of all obligations and undertakings in the purchase or sale of securities.

(d) Payment of all damages suffered by any person damaged or defrauded by reason of the violation of any of the provisions of this article, or by reason of any fraud connected with or growing out of any transaction contemplated by the provisions of this article.

Action on bond.

848. Any person who sustains an injury covered by such bond may, in addition to any other remedy that he has, bring an action in his own name upon the bond for the recovery of damages for the injury.

New bond

849. Upon such action being commenced the commissioner may, in his discretion, require the filing of a new bond. Immediately upon the recovery in any action on such bond, such broker shall file a new bond. Failure to file the new bond within ten days in either case constitutes sufficient grounds for the suspension or revocation of such broker's certificate.

Foreign applicant.

850. If the applicant is a foreign corporation or association, it shall file with its application:

(a) A copy of its articles of incorporation or association.

(b) A certificate of the proper officer of the jurisdiction in which it is organized, executed not more than thirty days before the filing of such application, showing that the applicant is authorized to transact business in that jurisdiction.

(c) In such form as the commissioner prescribes, its written instrument irrevocably appointing the commissioner and his successor in office its true and lawful attorney upon whom all process in any action or proceeding against it, arising out of or founded upon the fraud of such applicant in the sale of securities within this State, or in any action upon any bond provided by this article, can be served. Such service shall have the same effect as if the applicant was a domestic corporation or association lawfully served with process in this State.

Examination of applicant and issuance of certificate

851. The commissioner shall examine such application, and shall make such further investigation of the applicant and its affairs as he deems advisable. He shall issue the certificate if, from such examination, the commissioner is satisfied that:

(a) The business reputation of the applicant and, in the case of a firm or corporation, its officers or members, is good.

(b) The sale of the securities proposed to be sold by it would not be unfair, unjust or inequitable to the purchasers thereof.

(c) Neither it nor its officers or members have violated any of the provisions of this article.

(d) Neither it nor its officers or members have engaged or are about to engage in any fraudulent transaction.

Otherwise, he shall deny the application and notify the applicant of his decision.

Revocation, etc.

852. The commissioner may at any time suspend or revoke any broker's or agent's certificate issued by him if he finds that the holder thereof is of bad business repute, or has violated any provision of this article, or has engaged, or is about to engage in any fraudulent transaction.

Reports

853. Every broker shall, at such times as the commissioner requires, make and file in the office of the commissioner a true and correct statement concerning any security sold or offered for sale by the broker. The statement shall show:

(a) The name and location of the principal office of the issuer of such security.

(b) The names of the issuer's managing officers if it is a corporation, or of its members if it is a partnership.

(c) The issuer's assets, liabilities, and issued capital stock, at the close of its fiscal year then last ended, or at a later date.

(d) The issuer's gross income, expenses, and fixed charges for the year next preceding such date, or for such time as such issuer of such security has transacted business, if for less than one year.

(e) The approximate price at which the broker has sold or proposes to sell such security.

(f) Such other information, of which the broker has knowledge, as the commissioner requires.

"Stop order"

854. After receipt of notice in writing from the commissioner, stating that the sale of a security would, in the commissioner's opinion, be unfair, unjust, or inequitable to the

purchaser, no broker shall sell such security until and unless the commissioner in writing withdraws the objection.

Writings as public record.

855. All writings filed with the commissioner under this article shall be open to public inspection except where, in his judgment, the public welfare or the welfare of any insurer demands that any portion of such information be not made public. In such cases he may, in his discretion, withhold such information from public inspection for such time as in his judgment is necessary.

Publication of information.

856. The commissioner may at any time give or make public any information concerning any insurer or any securities sold within this State if, in his judgment, the giving or publishing of the information will be of public interest or will tend to prevent the fraudulent sale of such securities.

Fees.

857. For filing an original or supplemental application for a permit to issue securities, the commissioner, as a fee, shall collect ten dollars for the first $20,000, or portion thereof, of the aggregate value of the securities sought to be issued, plus an amount computed at the following rates:

(1) On the next $30,000, or portion thereof, of the aggregate value, at the rate of one-twentieth of one per cent.

(2) On the next $50,000, or portion thereof, at the rate of one-twenty-fifth of one per cent.

(3) On the next $400,000, or portion thereof, at the rate of one-fiftieth of one per cent.

(4) On all above $500,000 at the rate of one-one-hundredth of one per cent.

Determination of fees.

858. For the purpose of determining the above fees:

(a) The value of such securities is taken as their par value unless the consideration for such securities is in excess of such par value. In the latter case the value is taken as the amount of the consideration so received.

(b) Where the securities proposed to be issued have no nominal or par value:

1. Until a new value is established, each share of no par value stock to be issued is taken at a value equal to the value established by previous sales, for money or other property, of other shares of the same class.

2. Otherwise, the value of such securities is taken as the price at which the insurer proposes to sell them. To establish this price, the value of consideration other than money, to be received in exchange for the securities, shall be taken at the value alleged in the application.

3. Rights, warrants or other certificates evidencing stockholders' rights to purchase additional securities are taken at a value equal to the difference between the selling price of the securities represented by such rights, warrants or other certificates and the market value of the securities so represented at the date of filing of application.

4. Where an application is made to issue securities containing a provision entitling the holder or holders thereof to convert or exchange them for a different class of securities,

the value of the securities to be so issued is taken at twice the amount of the consideration to be received for the securities containing the conversion or exchange provision.

Fees on matters other than permit.

859. The commissioner shall also collect the following fees:

(a) For filing any application for an amendment to an existing permit to issue securities, or for a permit to negotiate for the sale of securities, ten dollars.

(b) For filing any application for a broker's certificate, twenty-five dollars.

(c) For filing any application for an agent's certificate, five dollars.

(d) For an examination, audit, or investigation, the actual amount of expenses reasonably incurred in the performance of the work, plus the following amount for each day or fraction thereof that the party doing the work is necessarily absent from his office for that purpose:

(1) If made by the commissioner, ter dollars.

(2) If made by an employee of the commissioner, the actual amount of the compensation paid to such employee for that time.

Fees for official documents

860. No fees shall be charged or collected for copies of papers, records, or official documents furnished to public officers for use in their official capacity or for the reports of the commissioner in the ordinary course of distribution.

Article 9. Registration of Insurers' Names.

Conduct of business in insurer's name.

880. Except as provided in this article, every insurer shall conduct its business in this State in its own name.

Approval of name

881. The commissioner shall require the name of every domestic insurer to be submitted to him before the commencement of business. He may reject any name so submitted when it is an interference with, or too similar to, one already appropriated, or when it is likely to mislead the public in any respect. In such case a name not liable to such objection must be chosen.

Underwriter's name.

882. An insurer proposing to issue an underwriter's policy or any policy under a name differing from that of the insurer, must first file the name or title under which the policy is to be issued with the commissioner and pay a registration fee of ten dollars. Said name or title shall not be similar to a name borne or used by any other admitted insurer.

Underwriter's policy.

883. An underwriter's policy may be issued under a name thus registered and shall clearly show:

(a) The names of the insurers guaranteeing it.

(b) The severalty of the contract.

(c) The proportion of the premium to be paid to each insurer.

(d) The proportion of liability which each assumes.

Article 10. Financial Statements of Insurers.

900. On or before the first day of March of each year every insurer doing business in this State shall make and file with the commissioner statements exhibiting its condition and affairs as of the thirty-first day of December then next preceding. Filing financial statements.

901. A synopsis of such statements, as adjusted by the commissioner upon proper examination of the same, shall be published by such insurer in the city where its principal office in this State is located. Such publication shall be made daily for the period of one week in some daily newspaper of general circulation or four consecutive times in some weekly newspaper of general circulation. Publication of synopsis

902. Insurers engaged in the business of compensation insurance shall, at such intervals as may be prescribed by the commissioner, file statements supplemental to such annual statements and covering such matters dealt with in such annual statements as the commissioner designates. Neither such supplemental report nor any synopsis thereof need be published. Supplemental statements

903. The commissioner shall require statements and reports to be verified as follows: (a) If made by a domestic corporation, by the oaths of any two of the executive officers thereof. (b) If made by an individual or firm, by the oath of such individual or a member of the firm. (c) If made by a foreign insurer, by the oath of the principal executive officer thereof, or manager, residing within the United States. Verification of statements.

904. Except in the case of reports or statements of insurers or insurance exempted from the provisions of Article 7, Chapter 1, of this part, the commissioner shall require that in the statements filed with him as provided in sections 900 to 902 the insurer shall include a declaration, verified as provided in section 903, that the provisions of Article 7 of Chapter 1 of this part have not been violated. Declaration on "resident agent law."

905. Such statement, if made by other than a life insurer, shall show the following matters relating to its condition and affairs. Statement of insurer other than life Requirements

906. First—Such statement shall show (a) In the case of an incorporated insurer having a capital stock, the amount of its capital stock, or (b) in any other case, the amount of the insurer's paid-in capital. Stock or capital

907. Second—Such statement shall also show the property or assets held by the insurer, specifying: Assets

(1) The value of real property held by it.

(2) The amount of cash on hand and deposited in banks to its credit.

(3) The amount of cash in the hands of agents, and in course of transmission.

(4) The amount of loans secured by mortgages which are a first lien on real property, on which there is less than one year's interest due or owing,

(5) The amount of loans on which interest has not been paid within one year previous to such statement.

(6) The amount due the insurer upon which judgments have been obtained.

(7) The amount of bonds of this State, of the United States, or any incorporated city of this State, and of any stocks and other bonds owned by the insurer, specifying the amount, number of shares, and par and market value of each kind of bond or stock.

(8) The amount of stocks and bonds held as collateral security for loans, with the amount loaned on each kind of stock or bond, its par value and its market value.

(9) The amount of unpaid interest due, and of unpaid interest accrued but not yet due.

(10) The amount of all other loans made by the insurer, specifying the same.

(11) The amount of premium notes on hand on which policies are issued.

(12) All other assets belonging to the insurer, specifying each.

Liabilities.

908. Third—Such statement shall also show the liabilities of the insurer, specifying:

(1) The amount of losses due and unpaid.

(2) The amount of claims for losses resisted by the insurer.

(3) The amount of losses in process of adjustment or in suspense, including all reported or supposed losses.

(4) The amount of dividends declared, due, and remaining unpaid.

(5) The amount of dividends declared, but not due.

(6) The amount of money borrowed and security given for the payment thereof.

(7) Gross premiums, without any deductions, received and receivable upon all unexpired fire risks running one year or less from date of policy, reinsurance thereon at fifty per cent.

(8) Gross premiums, without any deductions, received and receivable upon all unexpired fire risks running more than one year from the date of policy, reinsurance thereon pro rata.

(9) Gross premiums, without any deductions, received and receivable upon all unexpired marine and inland navigation risks, except time risks, reinsurance thereon at one hundred per cent.

(10) Gross premiums, without any deductions, received and receivable on marine time risks, reinsurance thereon at fifty per cent.

(11) Amount reclaimable by the insured on perpetual fire insurance policies, being ninety-five per cent of the premiums or deposit received.

(12) Reinsurance fund and all other liabilities, except capital.

(13) Unused balances of bills and notes taken in advance for premiums on open marine and inland policies, or otherwise, returnable on settlement.

(14) Principal unpaid on script or certificates of profits, which have been authorized or ordered to be redeemed.

(15) Amount of all other liabilities of the company, specifying each liability.

Income

909. Fourth—Such statement shall also show the income of the company during the preceding year, specifying:

(1) Cash premiums received.

(2) Notes received from premiums.

(3) Interest money received, specifying the source.

(4) Income received from all other sources, specifying the source.

Expenditures

910. Fifth—Such statement shall also show the expenditures of the preceding year, specifying:

(1) The amount of losses paid.

(2) The amount of dividends paid.

(3) The amount of expenses paid, including commissions and fees to agents and officers of the insurer.

(4) The amount paid for taxes.

(5) The amount of all other payments and expenditures.

Business done.

911. Sixth—Such statement shall also show the following:

(1) The amount of insurance written during the year.

(2) The amount of insurance expired during the year.

(3) The amount of insurance written during the year on subject matter in this State.

(4) The amount of premiums on insurance on subject matter in this State.

(Amended by Ch. 588, Stats. 1935.)

[ORIGINAL SECTION.]

911. Sixth—Such statement shall also show the following:

(1) The amount of insurance written during the year.

(2) The amount of insurance expired during the year.

(3) The amount of insurance written during the year on subject matter in this State

(4) The amount of premiums on insurance on subject matter in this State.

(5) The amount of insurance on subject matter in California reinsured by it with other insurers or reinsurers during the year, supported by separate schedules of admitted insurers and of nonadmitted insurers, showing the amounts reinsured and the premiums therefor.

(6) The amount of reinsurance accepted on subject matter in California during the year and premiums therefor, supported by separate schedules of admitted insurers and of nonadmitted insurers.

Statement of foreign fire or marine insurer

912. Except as otherwise requested by the commissioner, every admitted foreign fire or marine insurer, shall return only the business done in the United States and the assets of the insurer situated in the United States and held for the protection of the policyholders of the insurer who are residents of the United States.

Statement of life or life and disability insurer.

913. Such statement, if made by life or life and disability insurers shall show the following matters relating to its condition and affairs.

914. First—Such statement shall show:

Stock or capital.

(a) In the case of an incorporated insurer having a capital stock, the amount of its capital stock, or (b) in any other case, the amount of the insurer's capital.

Property or assets.

915. Second—Such statement shall also show the property or assets held by the insurer, specifying:

(1) The value of the real estate held by it.

(2) The amount of cash on hand and deposited in banks to the credit of the insurer.

(3) The amount of loans secured by mortgages which are liens on real estate, specifying the same.

(4) Amount of loans secured by pledge of bonds, stocks, or other marketable securities as collateral, specifying the same.

(5) Cash market value of all stocks and bonds owned by the insurer, specifying the same.

(6) Interest due the insurer and unpaid.

(7) Interest accrued but not due.

(8) Premium notes and loans in any form taken in payment of premiums on policies now in force.

(9) Gross amount of premiums in process of collection and transmission or policies in force.

(10) Gross amount of deferred premiums.

(11) All other assets, specifying the same.

Liabilities.

916. Third—Such statement shall also show the liabilities of the insurer, as follows:

(1) Claims for death losses and matured endowments due and unpaid.

(2) Claims for death losses and matured endowments in process of adjustment or adjusted and not due.

(3) Claims resisted by the insurer.

(4) Amounts due and unpaid on annuity claims.

(5) Trust funds on deposit or net present value of all outstanding policies, computed:

Policy valuations.

(a) According to the American Experience Table of Mortality, with interest at the rate of four and one-half per cent per annum, upon all outstanding risks written prior to January 1, 1892,

(b) According to the Combined Experience or Actuaries' Table of Mortality with interest at the rate of four per cent per annum, upon all outstanding risks written from and after December 31, 1891, up to and including December 31, 1907, and

(c) According to the American Experience Table of Mortality with interest at the rate of three and one-half per cent per annum, upon all outstanding risks written from and after December 31, 1907.

(6) Additional trust fund on deposit, or net present value of extra and special risks, including those on impaired lives.

(7) Amount of all unpaid dividends of surplus percentage, bonuses, and other description of profits to policyholders, and interest thereon.

(8) Amount of any other liability to policyholders or annuitants not included above.

Income.

917. Fourth—Such statement shall also show the income of the insurer during the preceding year, as follows:

(1) Cash received for premiums on new policies during the year.

(2) Cash received for renewal of premiums during the year.

(3) Cash received for purchase of annuities.

(4) Cash received for all other premiums.

(5) Cash received for interest on loans, specifying the same.

(6) Rents received.

(7) Cash received from all other sources, specifying the same.

(8) Gross amount of notes taken on account of new premiums.

(9) Gross amount of notes taken on account of renewal premiums.

Expenditures.

918. Fifth—Such statement shall also show the expenditures of the preceding year, as follows:

(1) Cash paid for losses.

(2) Cash paid to annuitants.

(3) Cash paid for lapsed, surrendered, and purchased policies.

(4) Cash paid for dividends to policyholders.

(5) Cash paid for dividends to stockholders.

(6) Cash paid for reinsurances.

(7) Commissions paid to agents.

(8) Salaries and other compensation of officers and employees other than agents and medical examiners.

(9) Medical examiners' fees and salaries.

(10) Cash paid for taxes.

(11) Cash paid for rents.

(12) Cash paid for commuting commissions.

(13) All other cash payments.

919. Sixth—Such statement shall contain a balance sheet of premium note accounts.

Business.

920. Seventh—Such statement shall also contain a balance sheet of all the business of the company.

Business in this State

921. Eighth—Such statement shall also show the following matters relating to the business done during the preceding year:

(1) Total amount of insurance effected during the year on new policies.

(2) Total amount of insurance effected during the year in this State.

(3) Premiums received during the year on business done in this State.

California mutual insurers.

922. Mutual insurers formed, existing, or doing business under Chapter 7 of Part 2 of Division 2 of this code, may report their approved notes as capital paid up, and such notes for all purposes shall be deemed part of the paid-up capital stock of such insurer.

Printed forms.

923. The commissioner shall cause to be prepared, and shall furnish on demand to each of the insurers, printed forms of the statements herein required. He may make such changes from time to time in the form of such statements and reports as seem to him best adapted to elicit from the insurers a true exhibit of their condition. The same forms must be so furnished on demand to all insurers engaged in the same kind of business.

Penalties

924. The commissioner shall collect the sum of one hundred dollars from any admitted insurer that wilfully fails to make and file in his office within the time prescribed by law any statements or stipulations required by this code. He shall also collect an additional penalty of $200 for each and every month or fractional part of a month thereafter that such insurer continues to transact the business of insurance until such statements and stipulations are filed.

General deposit law.

Article 11. Deposit of Securities.

Condition of deposit

940. The commissioner shall accept and hold securities in trust for the policyholders of an insurer and for their benefit, whenever (a) the law of another State or of a foreign country requires such a deposit with an officer of this State as a prerequisite to transacting insurance business in that State or country, or (b) the law of this State requires such a deposit with an officer of this State.

Valuation of deposit

941. Such deposited securities shall not be estimated above their par value nor above their market value.

Redeposit in treasury

942. The commissioner shall, upon the receipt of such securities, forthwith make a special deposit thereof in the State treasury, in packages marked with the name of the insurer from whom received. The securities shall remain there as security for policyholders of the insurer to whom they respectively belong.

Substitution of securities.

943. So long as the insurer continues solvent the commissioner shall permit it to collect the interest or dividends on the securities so deposited, and from time to time to withdraw any such securities on depositing other securities in the stead of those to be withdrawn. Such new securities shall be of the same value as those withdrawn and of the character mentioned in this article.

Withdrawal conditions

944. Securities deposited under the provisions of this article shall not be withdrawn from the State treasury except upon the written order of the insurer making the deposits, with the endorsement of the commissioner thereon, or upon the order of some court of competent jurisdiction.

Mortgage deposit.

945. If the deposit is of mortgages, it shall be accompanied either by full abstracts of title with the fees for examination of title, or by policies of title insurance or certificates of title issued by an admitted title insurer. The fees for appraisal of the property shall be paid by the insurer making the deposit.

946. If the deposit is of stocks or bonds, it shall be accompanied by the fees necessary for the appraisal thereof. Stock or bond deposit

947. If the deposit is of notes or bonds secured by instruments evidencing a lien on property which has been brought under the operation of the land title law, commonly called the Torrens title law, it shall be accompanied by a certificate of the registrar of titles as to the condition of the title to the encumbered property. Torrens title law liens

948. Whenever an insurer has deposited with the commissioner the requisite security, in conformity with the requirements of this article, the commissioner shall issue to such insurer, under his official seal, a certificate of such deposit for each State or country requiring such certificate. Such certificate shall state the items and amount of securities so deposited, and their value. Certificate of deposit

949. The commissioner shall require the payment of five dollars in lawful money of the United States, in advance, as a fee for each certificate issued pursuant to this article. Fee for deposit.

950. Whenever such a depositing insurer has paid, canceled, or reinsured all its unexpired policies outstanding in this State, and all its liabilities under such policies are extinguished, or assumed by other responsible insurers, it may apply to the commissioner for return of its deposit. Such application shall be in writing and verified. If on such application, and from an examination of the books of the insurer and of its officers under oath, the commissioner is satisfied that all of its policies are so paid, canceled, extinguished, or reinsured, he shall deliver up to the insurer the securities deposited. Return of deposit

951 Pending such examination the securities requested to be withdrawn may continue subject to withdrawal and substitution as provided by section 943. Withdrawal and substitution pending examination

952 Whenever the laws of any other State or country, by reason of which sections 940 or 1560 and 1561 are brought into force, are repealed and abrogated, then any deposit with the commissioner under and by reason of those sections shall be delivered up to the depositing insurer. Abrogation of law requiring deposit.

953. Whenever a domestic insurer deposits securities with an officer of this State, in order to enable it to do business in another State pursuant to the laws of such other State, if such insurer thereafter ceases to do business in such other State and files conclusive evidence that all policies written in such other State have expired or been paid, canceled or reinsured, the securities shall on demand be returned to the depositing insurer. Return of deposit in withdrawal from other State.

954. The commissioner shall make an annual examination of the securities received by him from each insurer. If it appears at any time that the securities deposited by any such insurer amount to less than the sum required for the purposes for which the deposit was made, he shall notify the insurer thereof. Unless the deficiency is made up within thirty days after the notice, the commissioner shall revoke the Annual examination of securities

insurer's certificate of authority, countermand all the certificates issued to the insurer under this article, and give notice thereof to the officers of the several States to whom the certificate has been transmitted.

Appraisal fees.

955. All appraisal fees collected by the commissioner under the provisions of this article shall be paid into the State treasury in trust and withdrawn as provided by law for withdrawal of trust funds from the State treasury.

Article 12. Bond for Payment of Taxes.

Tax bond.

970. Except as provided in section 973, the commissioner shall require every insurer as a condition precedent to transact insurance business in this State, to file in his office a bond in favor of the people of the State of California, approved by the commissioner.

The penal sum of such bond shall be twenty thousand dollars except in cases where the insurer has transacted insurance business in this State for two years or more and the total amount of State taxes assessed and levied against the insurer on business done during the preceding calendar year was less than ten thousand dollars. In such cases the penal sum shall be two thousand dollars plus any amount needed to make such sum equal to at least twice the total amount of such taxes.

(Amended by Ch. 255, Stats. 1935.)

[ORIGINAL SECTION.]

970. Except as provided in section 973, the commissioner shall require every insurer, as a condition precedent to transacting insurance business in this State, to file in his office a bond in favor of the people of the State of California, approved by the commissioner.

The penal sum of such bond shall be twenty thousand dollars except in cases where the insurer has transacted insurance business in this State for two years or more and the total amount of State taxes assessed and levied during the preceding calendar year was less than ten thousand dollars. In such cases the penal sum shall be two thousand dollars plus any amount needed to make such sum equal to at least twice the total amount of such taxes.

Conditions of tax bond.

971. The conditions of such bond shall be as follows:

(a) That the insurer and its agents will pay all State taxes, in the manner and at the time prescribed by law.

(b) That the insurer will conform to all the provisions of the revenue and other laws made to govern it.

(c) That the insurer will promptly pay all fees, assessments, taxes, penalties and fines that may be laid upon or against it.

Amount of tax bond.

972. If such bond is in a penal sum of twenty thousand dollars, it may be made applicable to the period covered by the current certificate of authority and to all periods covered by renewals thereof, and if such bond is in a penal sum of less than twenty thousand dollars, it may be made applicable alike to the period covered by the current certificate of authority and to periods covered by renewals thereof if both the principal and the sureties thereon, by endorsement, increase or decrease the penalty therein to make such bonds conformable to the

requirements of this article. A fee shall not be required for filing such endorsement. In all other respects the bond shall be subject to the rules governing official bonds.

(Amended by Ch. 255, Stats. 1935.)

[ORIGINAL SECTION.]

972. If such bond is in a penal sum of twenty thousand dollars, it may be made applicable to the period covered by the current certificate of authority and to all periods covered by renewals thereof. In all other respects the bond shall be subject to the rules governing official bonds.

Securities in lieu of bond.

973. Any insurer may deposit with the commissioner, in lieu of such bond, securities of the kind and character set forth in sections 1170 to 1240, in a sum not less than the required amount of the penal sum of said bond. Such securities shall be held in trust by the commissioner for the fulfillment of the same terms and conditions as in the case of a bond required by section 971.

Substitution of securities

974. Such securities may be withdrawn at any time and new securities of equal value deposited in lieu thereof, and may be withdrawn whenever a bond, covering all liability for which such deposit of securities is applicable, is filed as provided in this article.

(Amended by Ch. 255, Stats. 1935.)

[ORIGINAL SECTION.]

974. Such securities may be withdrawn at any time and new securities of equal value deposited in lieu thereof, and may be withdrawn whenever a bond is filed as provided in this article.

Collection for more than one insurer.

975. Whenever the same insurer desires to collect premiums for more than one insurer, the commissioner shall require a separate bond or deposit of securities for each other insurer so represented by such insurer.

Fee.

976. The commissioner shall require in advance, in lawful money of the United States as a fee for filing bond or receiving securities pursuant to this article, five dollars.

Article 13. Insolvency.

"Liability"

980. As used in this article, "liability" includes liability for losses reported, expenses, taxes, and all other indebtedness not included in those categories.

Nonmutual fire or marine insurer.

981. Any fire or marine insurer issuing policies on a reserve basis and on other than the mutual plan, is insolvent whenever provision for its liabilities and for reinsurance of all outstanding risks would so far impair its capital paid in as to reduce such capital below $200,000, or below seventy-five per cent of the aggregate par value of its issued capital stock. For the purpose of this computation, provision for reinsuring outstanding risks shall be estimated (a) at fifty per cent of the premiums received and receivable on all fire risks and marine time risks, and (b) at the full premiums received and receivable on all other marine risks.

Mutual fire or marine insurer

982. A fire or marine insurer on the mutual plan issuing policies on a reserve basis is insolvent unless the sum of its available cash assets is at least $200,000 in excess of the amount necessary to provide for its liabilities and for reinsurance of all outstanding risks. Such reinsurance shall be estimated as provided in section 981.

Liability insurer

983. Any liability insurer issuing policies on a reserve basis is insolvent whenever provision for its liabilities and for reinsurance of all outstanding risks, estimated as provided in Article 1, Chapter 1, Part 3, Division 2, would so far impair its capital paid in as to reduce it either below $100,000 or below seventy-five per cent of the aggregate par value of its issued capital stock.

Mortgage insurer.

984. Any mortgage insurer is insolvent whenever provision for its liabilities and for unearned income would, after exhausting its required insurance surplus, impair its capital paid in so as to reduce it below $250,000 or below seventy-five per cent of the aggregate par value of its issued capital stock.

Land value insurer.

985. Any land value insurer is insolvent whenever provision for its liabilities and for the reserves required to be maintained by it would, after exhausting its required surplus, so far impair its capital paid in as to reduce it below $500,000 or below seventy-five per cent of the aggregate par value of its issued capital stock.

Life insurer.

986. A life insurer issuing policies on a reserve basis is insolvent whenever its assets are exceeded by the amount necessary to provide for its liabilities and for reinsurance of all its outstanding risks at the following rates:

(a) In the case of contracts issued in a foreign country, upon the lives of residents thereof, by a domestic insurer authorized to and doing business in that foreign country, the rates shall be in accordance with the standard of mortality approved by the commissioner, as provided by law.

(b) In the case of group insurance, at the rates required by law for valuation thereof.

(c) In the case of all other outstanding risks written prior to January 1, 1892, at the rates based upon the American Experience Table of Mortality with interest at the rate of four and one-half per cent per annum.

(d) In the case of all its other outstanding risks written from and after December 31, 1891, up to and including December 31, 1907, at rates based upon the Combined Experience or Actuaries' Table of Mortality with interest at the rate of four per cent per annum.

(e) In the case of all its other outstanding risks written from and after December 31, 1907, at rates based upon the American Experience Table of Mortality with interest at the rate of three and one-half per cent per annum.

Title insurer.

987. A title insurer is insolvent whenever provision for its liabilities would, after exhausting its required surplus, so far impair its capital paid in as to reduce it below $100,000, or

below seventy-five per cent of the aggregate par value of its issued capital stock.

988. A surety insurer issuing policies on a reserve basis is insolvent whenever provision for its liabilities and for reinsuring all outstanding risks would so far impair its capital paid in as to reduce such capital below $250,000, or below seventy-five per cent of the aggregate par value of its issued capital stock. Surety insurer

For the purpose of determining proper provision for reinsurance of such outstanding risks, such risks shall be estimated on the basis of the unexpired term of bonds and undertakings issued and outstanding.

989. In the case of an insurer issuing policies on a reserve basis and not doing business on the mutual plan, if the standard for determining its solvency is not otherwise set forth in this article, such insurer is insolvent whenever provision for its liabilities and for reinsurance of all outstanding risks would impair its capital paid in so as to reduce such capital below $100,000, or below seventy-five per cent of the aggregate par value of its issued capital stock. Other nonmutual insurers

The commissioner shall prescribe such standards for estimating reinsurance as will provide adequate safeguards for the policyholders, creditors and the public. The commissioner shall prescribe standards not lower than those accepted by the insurance authorities of the State of New York at the effective date of this code.

990. In the case of an insurer issuing policies on a reserve basis and operating on the mutual plan, if the standard for determining its solvency is not otherwise set forth in this article, such insurer is insolvent unless the sum of its available cash assets is at least $100,000 in excess of the amount necessary to provide for its liabilities and for reinsurance of outstanding risks. Such reinsurance shall be computed as provided in section 989. Other mutual insurers

991. In the case of an insurer issuing policies on a reserve basis and not on the mutual plan, doing more than one class of insurance, such insurer is insolvent whenever provision for its liabilities and for reinsurance of all outstanding risks would impair its capital paid in so as to reduce such capital below the total amount of capital paid in required for the doing of such classes by one insurer, or below seventy-five per cent of the aggregate par value of its issued capital stock. Nonmutual "multiple line" insurer

992. In the case of an insurer issuing policies on a reserve basis and operating on the mutual plan, doing more than one class of insurance, such an insurer is insolvent whenever the amount necessary to provide for its liabilities and for reinsurance of all outstanding risks is not exceeded by its available cash assets to the extent required for the doing of such classes by one such insurer. Mutual "multiple line" insurer.

993. For the purpose of estimating reinsurance under the provisions of sections 991 and 992, the reinsurance shall be estimated for each class of insurance in accordance with the Estimating reinsurance

provisions of this article for estimating reinsurance in the case of an insurer doing only that class of insurance.

Article 14. Proceedings in Cases of Insolvency and Delinquency.

(Article 14 amended by Ch. 291, Stats. 1935.)

Scope of article.

1010. The provisions of this article shall apply to all persons subject to examination by the commissioner, or purporting to do insurance business in this State, or in the process of organization with intent to do such business therein, or from whom the commissioner's certificate of authority is required for the transaction of business, or whose certificate of authority is revoked or suspended.

Application for conservatorship.

1011. Upon the filing, by the commissioner, with the superior court in the county in which is located the principal office of such person in this State, of a verified application showing any of the following conditions to exist:

(a) That such person has refused to submit its books, papers, accounts, or affairs to the reasonable inspection of the commissioner or his deputy or examiner.

(b) That such person has neglected or refused to observe an order of the commissioner to make good within the time prescribed by law any deficiency in its capital if it is a stock corporation, or in its reserve if it is a mutual insurer.

(c) That such person, without first obtaining the consent in writing of the commissioner, has transferred, or attempted to transfer, substantially its entire property or business or, without such consent, has entered into any transaction the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person.

(d) That such person is found, after an examination, to be in such condition that its further transaction of business will be hazardous to its policy holders, or creditors, or to the public.

(e) That such person has violated its charter or any law of the State.

(f) That a certificate of authority of such person has been revoked under section 10711.

(g) That any officer of such person refuses to be examined under oath, touching its affairs.

(h) That any officer or attorney-in-fact of such person has embezzled, sequestered, or wrongfully diverted any of the assets of such person.

(i) That a domestic insurer does not comply with the requirements for the issuance to it of a certificate of authority, or that its certificate of authority has been revoked;

Order appointing conservator.

Or, upon the filing, by the commissioner, of a verified application accompanied by a certified copy of the commissioner's last report of examination of any person to whom the provisions of this article apply showing such person to be insolvent within the meaning of Article 13, Chapter 1, Part 2, Division 1 of this code, said court shall issue its order vesting title to all

of the assets of said person, wheresoever situated, in the commissioner or his successors in office, in his official capacity as such, and directing the commissioner forthwith to take possession of all of its books, records, property, real and personal, and assets, and to conduct, as conservator, the business of said person, or so much thereof as to the commissioner may seem appropriate, and enjoining said person and its officers, directors, agents, servants and employees from the transaction of its business or disposition of its property until a further order of said court.

Dissolution of conservatorship.

1012. Said order shall continue in force and effect until, on the application either of the commissioner or of such person, it shall, after a full hearing, appear to said court that the ground for said order directing the commissioner to take title and possession does not exist or has been removed and that said person can properly resume title and possession of its property and the conduct of its business.

Summary seizure: Power of commissioner.

1013. Whenever it appears to the commissioner that any of the conditions set forth in section 1011 exist or that irreparable loss and injury to the property and business of a person specified in section 1010 has occurred or may occur unless the commissioner so act immediately, the commissioner, without notice and before applying to the court for any order, forthwith shall take possession of the property, business, books, records and accounts of such person, and of the offices and premises occupied by it for the transaction of its business, and retain possession subject to the order of the court. Any person having possession of and refusing to deliver any of the books, records or assets of a person against whom a seizure order has been issued by the commissioner, shall be guilty of a misdemeanor and punishable by fine not exceeding one thousand dollars or imprisonment not exceeding one year, or both such fine and imprisonment.

Assistance of peace officers

1014. Whenever the commissioner makes any seizure as provided in section 1013, it shall, on the demand of the commissioner, be the duty of the sheriff of any county of this State, and of the police department of any municipal corporation therein, to furnish him with such deputies, patrolmen or officers as may be necessary to assist the commissioner in making and enforcing any such seizure.

Procedure following seizure.

1015. Immediately after such seizure, the commissioner shall institute a proceeding as provided for in section 1011 and thereafter shall proceed in accordance with the provisions of this article.

Order to liquidate.

1016. If at any time after the issuance of an order under section 1011 it shall appear to the commissioner that further efforts to proceed under said section would be futile, he may apply to the court for an order to liquidate and wind up the business of said person. Upon a full hearing of such application, the court may make an order directing the winding up and liquidation of the business of such person by the commissioner, as liquidator. The title to all property and assets of

such person, vested in the commissioner under section 1011, shall remain in the commissioner, as liquidator, for the purpose of carrying out the order to liquidate and wind up the business of such person.

Dissolution of insurer under liquidation

1017. In his application for an order for the liquidation of a domestic corporation, or at any time thereafter, the commissioner may apply for, and the court shall make, an order dissolving such corporation, and thereupon the commissioner, as liquidator, shall become the statutory successor thereof.

Recordation of court orders

1018. The recording in the office of a county recorder of any county in the State of an order entered pursuant to section 1011, 1016 or 1017 shall impart the same notice that would be imparted by the recordation of a deed, bill of sale or other evidence of title duly executed by such person.

Vesting of creditors' rights

1019. Upon the issuance of an order of liquidation under section 1016, the rights and liabilities of any such person and of creditors, policyholders, shareholders and members, and all other persons interested in its assets shall, unless otherwise directed by the court, be fixed as of the date of the entry of the order in the office of the clerk of the county wherein the application was made.

Injunctive power

1020. Upon the issuance of an order either under section 1011 or 1016, the court shall issue such other injunctions or orders as may be deemed necessary to prevent any or all of the following occurrences:

(a) Interference with the commissioner or the proceeding.

(b) Waste of assets of such person.

(c) The institution or prosecution of any actions or proceedings.

(d) The obtaining of preferences, judgments, attachments, or other liens against such person or its assets.

(e) The making of any levy against any such person or its assets.

Notice to creditors

1021. Upon the making of an order to liquidate the business of such person, the commissioner shall cause to be published notice to its policyholders, creditors, shareholders, and all other persons interested in its assets. Such notice shall require claimants to file their claims with the commissioner, together with proper proofs thereof, within six months after the date of first publication of such notice, in the manner specified in this article.

Publication of notice

1022. Such notice shall be published in a newspaper of general circulation, published in the county in which the proceeding is pending, not less than once a week for four successive weeks. A copy of the notice, accompanied by an affidavit of due publication, including a statement of the date of first publication, shall be filed with the clerk of the court.

Content of claim against estate.

1023. A claim must set forth, under oath, on the form prescribed by the commissioner:

(a) The particulars thereof, and the consideration therefor.

(b) Whether said claim is secured or unsecured, and, if secured, the nature and amount of such security.

(c) The payments, if any, made thereon.

(d) That the sum claimed is justly owing from such person to the claimant.

(e) That there is no offset to the claim.

(f) Such other data or supporting documents as the commissioner requires.

Failure to file

1024. Unless such claim is filed in the manner and within the time provided in section 1021, it shall not be entitled to filing or allowance, and no action may be maintained thereon.

Life insurance death claims

In the liquidation, pursuant to the provisions of this article, of any domestic insurer which has issued policies insuring the lives of persons, the commissioner shall, within thirty days after the last day set for the filing of claims, make a list of the persons who have not filed proofs of claim with him and to whom, according to the books of said insurer, there are amounts owing under such policies, and he shall set opposite the name of each person the amount so owing to such person. Each person whose name shall appear upon said list shall be deemed to have duly filed, prior to the last day set for the filing of claims, a claim for the amount set opposite his name on said list.

Unliquidated claims

1025. Claims founded upon unliquidated or undetermined demands must be filed within the time limit provided in this article for the filing of claims, but claims founded upon such demands shall not share in any distribution to creditors of a person proceeded against under section 1016 until such claims have been definitely determined, proved and allowed. Thereafter, such claims shall share ratably with other claims of the same class in all subsequent distributions.

An unliquidated or undetermined claim or demand within the meaning of this article shall be deemed to be any such claim or demand upon which a right of action has accrued at the date of the order of liquidation or accrues within the time limit provided in this article for the filing of claims, and upon which the liability has not been determined or the amount thereof liquidated; provided, however, that claims founded upon judicial surety bonds and undertakings securing unmatured obligations shall be deemed to be unliquidated and undetermined demands within the meaning of this section.

Third party liability claims

1026. Whenever any person has a cause of action against an insured and such cause is covered by a liability policy, such person, if the insurer is adjudged insolvent, may file a claim in the liquidation proceeding even if the claim is undetermined or unliquidated.

Treatment of third party liability claims

1027. A claim by a third party founded upon an insurance policy may be allowed by the liquidator without requiring such claim to be reduced to judgment, provided it can be reasonably inferred from the proof presented that the claimant would be able to obtain a judgment upon his cause of action against the insured and that such judgment would represent a liability of the person in liquidation under the policy of insurance upon which such claim is founded.

In the event several claims founded upon one policy or bond are filed, and the aggregate amount of such claims exceeds the liability limit of said policy or bond, and one or more of such claims is unliquidated and undetermined, then all of such claims shall be deemed unliquidated and undetermined; provided, however, that should one or more of said claims become determined and proved within the time provided in this article, the liquidator, upon any distribution to creditors, shall impound the distribution percentage of the face amount of said claim or claims so determined and proved, not exceeding the policy or bond limit, and upon such claim or claims becoming liquidated as to amount, the liquidator shall release to such claimant the distribution percentage of the final liquidated value of such claims out of the funds so impounded.

Default judgments.

1028. A judgment taken by default, or by collusion, against an insured shall not be considered as evidence, in the liquidation proceeding, either of the liability of such insured to such claimant upon such cause of action or of the amount of damages to which such claimant is entitled

Secured claimant

1029. A claim of a secured claimant shall not be allowed in a sum greater than the excess over the value of the security of the amount for which the claim would be allowable if unsecured, unless the claimant surrenders the security to the liquidator. Upon such surrender the claim may be allowed in the full amount for which it is valued.

Valuing security held by creditor.

1030. The value of the security to be credited upon such claim shall be determined by an appraiser appointed by the liquidator and approved by the court. Such claimant shall elect to accept the security or to release it to the liquidator.

Set-off of claims.

1031. In all cases of mutual debts or mutual credits between the person in liquidation under section 1016 and any other person, such credits and debts shall be set off and the balance only shall be allowed or paid, but no set-off shall be allowed in favor of such other person where any of the following facts exist:

(a) The obligation of the person in liquidation to such other person does not entitle such other person claiming such set-off to share as a claimant in the assets of such person in liquidation.

(b) The obligation of the person in liquidation to such other person was purchased by, or transferred to, such other person with a view to its use as a set-off.

(c) The obligation of such other person to the person in liquidation is to pay an assessment levied against such other person or to pay a balance upon a subscription for shares of the capital stock of the person in liquidation.

Notice of rejection.

1032. When a claim is rejected by the commissioner, written notice of rejection shall be given by mail, addressed to the claimant at the address set forth in his claim. Within thirty days after the mailing of the notice the claimant may apply to the court in which the liquidation proceeding is pend-

ing for an order to show cause why the claim should not be allowed.

1033. Claims allowed in a proceeding under this article shall be given preference in the following order: Priorities.

1. Expense of administration; 2. Claims having preference by the laws of the United States and by the laws of this State; 3. All other claims.

1034. After the issuance of an order of liquidation under section 1016, any of the following transactions occurring within four months prior to the application for such order shall be voidable by the commissioner if such transaction has the effect of giving to or enabling any creditor of such person to obtain a preference over any other creditor of the same class, or a greater percentage of his debt than any other creditor of the same class: Voidable transactions

(a) A transfer of property of such person.

(b) The creation of a lien on the property of such person

(c) The suffering of a judgment against such person.

1035. In any proceeding under this article, the commissioner shall have the power to appoint and employ under his hand and official seal, special deputy commissioners, as his agents, and to employ such clerks and assistants and to give to each of them such power as may by him be deemed necessary. The compensation of special deputy commissioners, clerks and assistants appointed to carry out the provisions of this article, and all expenses of taking possession of, conserving, conducting, liquidating, disposing of or otherwise dealing with the business and property of such person under this article, shall be fixed by the commissioner, subject to the approval of the court, and shall be paid out of the assets of such person. Special deputies

1036. The Attorney General shall have the power to appoint and employ such legal counsel as may by him be deemed necessary to assist the commissioner in the performance of his duties under this article. The compensation of such legal counsel shall be fixed by the Attorney General, subject to the approval of the court, and shall be paid out of the assets of the person against whom the commissioner has proceeded under this article. Special legal counsel.

1037. Upon taking possession of the property and business of any person in any proceeding under this article, the commissioner, exclusively and except as otherwise expressly provided by this article, either as conservator or liquidator: Authority of commissioner as liquidator or conservator

(a) Shall have authority to collect all moneys due such person, and to do such other acts as are necessary or expedient to collect, conserve or protect its assets, property and business, and to carry on and conduct the business and affairs of such person or so much thereof as to him may seem appropriate.

(b) Shall collect all debts due and claims belonging to said person, and shall have the authority to sell, compound, compromise or assign, for the purpose of collection upon such terms and conditions as he deems best, any bad or doubtful

Same.

debts. If a purchaser for any bad or doubtful debts can not be obtained and it appears improbable that recovery thereon can be had and that the cost of actions to enforce collection of the same would probably be lost, said court may direct either the abandonment thereof or that suits thereon need not be brought.

(c) Shall have authority to compound, compromise or in any other manner negotiate settlements of claims against such person upon such terms and conditions as he shall deem to be most advantageous to the estate of the person being administered or liquidated or otherwise dealt with under this article.

(d) Shall have authority without notice, to acquire, hypothecate, encumber, lease, improve, sell, transfer or otherwise dispose of or deal with, any real or personal property of any such person at its reasonable market value, or, in cases other than acquisition, sale or transfer on the basis of reasonable market value, upon such terms and conditions as he may deem proper; provided, however, that no transaction involving real or personal property shall be made where the market value of the property involved exceeds the sum of one thousand dollars without first obtaining permission of said court, and then only in accordance with such terms as said court may prescribe.

(e) May, for the purpose of executing and performing any of the powers and authority conferred upon him under this article, in the name of the person affected by the proceeding or in his own name, prosecute and defend any and all suits and other legal proceedings, and execute, acknowledge and deliver any and all deeds, assignments, releases and other instruments necessary and proper to effectuate any sale of any real or personal property or other transaction in connection with the administration, liquidation, or other disposition of the assets of the person affected by such proceeding; and any deed or other instrument executed pursuant to the authority hereby given shall be valid and effectual for all purposes as though the same had been executed by the person affected by any proceeding under this article or by its officers pursuant to the direction of its governing board or authority. In cases where any real property sold by the commissioner under this article is located in a county other than the county wherein the proceeding is pending, the commissioner shall cause a certified copy of the order of his appointment, or order authorizing or ratifying the sale, to be filed in the office of the county recorder of the county in which said property is located.

The enumeration, in this article, of the duties, powers and authority of the commissioner in proceedings under this article shall not be construed as a limitation upon the commissioner, nor shall it exclude in any manner his right to perform and to do such other acts not herein specifically enumerated, or otherwise provided for, which he may deem necessary or

expedient for the accomplishment or in aid of the purpose of such proceedings.

Service of applications to conserve or liquidate

1038. Any application under section 1011 or 1016 shall be served upon the person named in such application in the manner prescribed by law for personal service of summons or as provided by section 1039.

Substituted service

1039. In lieu of the service required by section 1038, service may, upon application to said court, be made in such manner as the court directs whenever it is satisfactorily shown by affidavit (a) in the case of a corporation, that the officers of the corporation upon whom service is required to be made as above provided, have departed from the State or keep themselves concealed therein with intent to avoid the service, or, (b) in the case of a Lloyd's association or interinsurance exchange, that the individual attorney in fact or the officers of the corporate attorney in fact can not be served because of such departure or concealment, or, (c) in the case of a natural person, that the natural person upon whom service is required to be made as above provided, has departed from the State or keeps himself concealed therein with intent to avoid the service.

Transfer of proceedings

1040. At any time after an order is made under section 1011 or 1016, the commissioner may remove the principal office of the person proceeded against to the City and County of San Francisco or to the city of Los Angeles. In event of such removal, the court wherein the proceeding was commenced shall, upon the application of the commissioner, direct its clerk to transmit all of the papers filed therein with such clerk to the clerk of the City and County of San Francisco or of the county of Los Angeles as the case may require. The proceeding shall thereafter be conducted in the same manner as though it had been commenced in the county to which it had been transferred.

Disposal of moneys

1041. The commissioner shall be the custodian of all moneys collected by him or coming into his possession in the course of any proceeding under this article, but he may deposit such moneys, or any part thereof, in a bank approved by said court.

Inquisitorial powers of commissioner.

1042. The commissioner and a special deputy commissioner appointed pursuant to section 1035 shall have the power to subpoena witnesses and examine them under oath upon any subject relating to the affairs and business of any person affected by proceedings under this article. The penalties provided in Chapter II, Title III, Part IV of the Code of Civil Procedure shall apply to any witness who fails or refuses to appear in accordance with such subpoena, or to testify in connection therewith.

Mutualization, reinsurance and rehabilitation

1043. In any proceeding under this article, the commissioner, as conservator or as liquidator, may, subject to the approval of said court, and subject to such liens as may be necessary mutualize or reinsure the business of such person, or enter into rehabilitation agreements Such rehabilitation or

reinsurance agreements shall provide that, subsequent to the date thereof and for such period of time as the commissioner may determine, no investment or reinvestment of the assets of the person rehabilitated or reinsured shall be made without first obtaining the written approval of the commissioner.

Control of investment.

Every party to such agreement, and every director, officer, agent and employee of such person, and every other person who knowingly in violation thereof directs or aids or assists in causing to be made an investment or reinvestment of any of said assets without first having obtained the written approval of the commissioner, or who makes such investment or reinvestment in nonconformity with the written approval of the commissioner then in effect authorizing such investment or reinvestment, is guilty of a public offense and shall be punished by imprisonment in the State prison not exceeding five years or in the county jail not exceeding two years, or by a fine not exceeding $5,000, or by both such fine and imprisonment.

Moratorium on policy loans

1044. In connection with a rehabilitation agreement under section 1043, which affects a life insurer, and in an agreement made for the reinsurance of the business of a life insurer under said section, there may be included in such rehabilitation or reinsurance agreement a provision for, and the commissioner shall have authority to impose and declare, a moratorium against the provisions of the life insurance policies therein involved calling for the making of loans on the security of such policies and for the payment of money upon the surrender of such policies, such moratorium to continue for such period and to such extent as may be directed by said court.

Mutualization of life insurer.

1045. If at any time after the issuance of an order under section 1011 affecting a life insurer issuing nonassessable policies on a reserve basis and organized with a capital stock evidenced by shares thereof it shall appear to the commissioner that the purposes of section 1011 can be best attained by the mutualization of such life insurer, the commissioner may formulate a plan for the mutualization of such insurer.

Mutualization plan: Required provisions.

1046. Said mutualization plan shall include provisions for:

(a) The acquisition by such insurer of all outstanding shares of its capital stock at a price and upon terms and conditions to be fixed as hereinafter provided.

(b) The retirement of said shares of stock when acquired by such insurer.

(c) The amendment of the charter of such insurer so as to enable it to transact its business as a mutual insurer issuing nonassessable policies on a reserve basis.

(d) The manner in which and the time within which, after mutualization is effected, matured and maturing claims against such insurer shall be paid to the lawful holders thereof.

(e) The submission of said mutualization plan to the policyholders of such insurer under such procedure as shall be set

forth in the plan or prescribed by said court, for their approval or rejection.

(f) Notice to the shareholders of such insurer, in such manner and at such time after the approval of said mutualization plan by said policyholders, as the court may direct.

1047. Said mutualization plan may include provisions: Optional provisions

(a) Imposing a moratorium against the provisions of the life insurance policies issued by such insurer and then in force calling for the making of loans on the security of such policies and for the payment of money upon the surrender of such policies, for a period and to an extent to be named in such provisions imposing such moratorium, and subject to extension change or prior termination only upon the written approval of the commissioner.

(b) Imposing liens upon policyholders of such insurer in respect of such policyholders' equities, but no lien shall be imposed in respect of such equities for the purpose, or which has the effect, of creating or making available for distribution to the shareholders of such insurer assets otherwise unavailable therefor or reflecting the intangible value of the business of such insurer commonly known as goodwill; nor shall the aggregate amount of such liens be greater than will be required, after making allowance for the effect of said mutualization plan and for costs and expenses to be incurred in connection with the execution thereof and with the conduct of such insurer's business under this article, to create a paid-in capital, as defined in section 36 (c) (1), exceeding by $50,000 the paid-in capital required to be maintained by such insurer.

(c) Regulating and adjusting the respective rights of holders of policies of different classes to participate in the profits or savings which may be made by such insurer when mutualized.

(d) Regulating the manner in which and the time at which the shareholders of such insurer shall be compensated for their proprietary interest, then existing, in the assets of such insurer other than goodwill.

(e) Regulating the manner in which the shareholders of such insurer shall be compensated for their proprietary interest in the goodwill, if then existing, of such insurer; provided, however, that no shareholder shall be compensated for his proprietary interest in such goodwill while any moratorium imposed under subdivision (a) of this section is in effect, nor while any lien imposed under subdivision (b) of this section exists, nor until all other indebtedness of such insurer existing at the time of mutualization has been fully paid and discharged or full provision made for its payment, nor otherwise than out of surplus earnings.

(f) Regulating such other matters as may, in the opinion of the commissioner, require regulation in the interest of expediency or otherwise.

1048. Upon formulation of said mutualization plan the commissioner shall submit the same to said court with his Application for order to submit plan

application for an order of said court directing the commissioner to submit said mutualization plan to the persons named in subdivision (e) of section 1046, under such procedure as shall be set forth in the plan or prescribed by said court, for their approval or rejection and the court shall issue such order.

Approval by policyholders.

1049. Each policyholder of such insurer shall be entitled to one vote, regardless of the amount for which, or the number of policies under which, he is insured. Such mutualization plan shall be deemed approved by the said policyholders if a majority of the policyholders voting for and against it shall have approved it, and shall be deemed rejected if a majority of the policyholders voting for and against it shall have rejected it. In the event that said plan of mutualization is rejected by the policyholders of such insurer, the commissioner shall certify the fact of such rejection to said court, whereupon he may proceed further as hereinbefore provided in this article.

Notice of approval of plan

1050. In the event that said plan of mutualization is approved by said policyholders, the commissioner shall certify to the said court the fact of such approval and the number of votes cast for and against such mutualization plan. Said court shall thereupon issue its order directing the commissioner to give notice, as provided in said mutualization plan or as the court may otherwise prescribe, to the shareholders of such insurer of the approval of said mutualization plan by said policyholders. Said order shall direct the commissioner to transmit to each such shareholder by mail addressed to his address as it appears upon the records of such insurer, a true copy of said order and of said mutualization plan approved by said policyholders, and shall fix a time, not less than thirty nor more than sixty days from the date of such order, within which any such shareholder may file with said court a petition for the disapproval of said mutualization plan or for its modification in such manner as shall be set forth in such petition, and within which any such shareholder and the commissioner may file with said court a petition for the appointment of one or more appraisers to appraise the value of the then outstanding shares of capital stock of such insurer.

Court hearing

1051. After the expiration of the time fixed in the order provided for in section 1050, and upon the filing of such petition, said court shall direct notice of a hearing of said petitions to be given to the commissioner and to such petitioners as are shareholders of such insurer. At such hearing, all petitions for the disapproval and all petitions for the modification of said mutualization plan shall be given precedence over all petitions for the appointment of one or more appraisers. Upon hearing of all such petitions for the disapproval and for the modification of said mutualization plan, said court shall either approve said mutualization plan or disapprove it or modify it in such manner and to such extent, not inconsistent with the provisions of this article, as to said court shall seem appropriate. In the event of the disapproval of said mutualiza-

tion plan the court shall deny all petitions for the appointment of one or more appraisers. In the event of the approval or modification of said mutualization plan, the court shall, upon hearing of the petitions for the appointment of appraisers, appoint one or more appraisers, who shall appraise the then outstanding shares of the capital stock of such insurer, without regard to any appreciation or depreciation arising out of said mutualization plan as so approved or modified. Such appraisement shall fix the reasonable value of such shares of capital stock, including the goodwill, if any, of such insurer, and shall state the value, if any, assigned to such goodwill; and if the appraisers shall have found that such insurer has no goodwill, such finding shall be stated. Such appraisement, when confirmed by said court, shall be final and conclusive.

Appointment of appraisers

1052. Thereupon the commissioner shall:

Completion of mutualization.

(a) Pay to each of such shareholders or his assignee or nominee, upon surrender of the shares held by such shareholder, the value of said shares so ascertained; subject, however, to the restrictions of subdivisions (d) and (e) of section 1047, and subject, also, to the terms and conditions of the mutualization plan as approved or modified.

(b) Appoint, with the approval of the court, the requisite number of directors in whom shall thereafter be vested the control and management of the assets and business of such insurer until their successors shall have been elected and qualified.

(c) Transfer, upon the order of said court, to the appropriate officers appointed by such directors, the property, real and personal, and the books, records, accounts and papers of such insurer; provided, however, that the commissioner may retain, as a deposit, so much of such property as he deems necessary to defray additional costs and expenses incurred or to be incurred in connection with any proceeding under this article affecting such property or business.

Status of mutualized insurer

1053. Immediately upon the appointment of the directors as provided in subdivision (b) of section 1052, the directors theretofore holding office shall cease to hold office, and all rights of the shareholders of such insurer to vote at any meeting of such insurer shall absolutely cease and such shareholders shall retain only such interest in such corporation or in the property or assets thereof as shall be provided in said mutualization plan, and such insurer shall thereupon be and become a mutual life insurer under such corporate name as may have been set forth in its charter, as amended, to be conducted not for profit, but solely for the mutual benefit, ratably, of all its policyholders, and shall, upon issuance to it by the commissioner of a certificate of authority, have power to issue nonassessable policies on a reserve basis subject to all provisions of law applicable to incorporated life insurers issuing nonassessable policies on a reserve basis, but shall be exempt from the provisions of Chapter 7, Part 2, Division 2 of this code.

Existing contracts and rights.

1054. Such insurer, after mutualization, shall be a continuation of the original insurer, and such mutualization shall not affect existing suits, rights or contracts except as provided in said mutualization plan as approved. Such insurer, after mutualization, shall exercise all the rights and powers and perform all the duties conferred or imposed by law upon insurers writing the classes of insurance written by it, and to protect rights and contracts existing prior to mutualization, subject to the effect of said mutualization plan.

Powers of commissioner.

1055. The commissioner shall exercise the powers and discharge the duties, concerning any insurer so mutualized, that are applicable to domestic insurers issuing policies of the same class. He shall issue a certificate of authority to transact the proper classes of insurance in this State to any insurer so mutualized which is solvent under Article 13, Chapter 1, Part 2, Division 1 of this code and which has fully complied with the laws of this State.

Expenses

1056. All costs and expenses connected with proceedings for the mutualization of such insurer shall be paid by the commissioner out of the funds of such insurer, whether or not mutualized, subject to the approval of said court.

Commissioner as trustee.

1057. In all proceedings under this article, the commissioner shall be deemed to be a trustee for the benefit of all creditors and other persons interested in the estate of the person against whom the proceedings are pending.

Powers of court.

1058. In any proceeding pending under the provisions of this article, the court in which such proceeding is pending shall have jurisdiction to summarily hear and determine, in such proceeding, all actions or proceedings then pending or thereafter instituted by or against the person affected by a proceeding under this article.

Status of commissioner.

1059. The commissioner, in the performance of any of his duties under this article, shall be deemed to be a public officer acting in his official capacity on behalf of the State, and the provisions of section 4295 of the Political Code shall apply to him.

Report by commissioner.

1060. The commissioner shall transmit to the Governor an annual report showing:

(a) The names of the persons proceeded against under this article.

(b) Whether such persons have resumed business or have been liquidated or have been mutualized.

(c) Such other facts as will acquaint the Governor, the policyholders, creditors, shareholders and the public with his proceedings under this article.

Audit of insolvent estates.

1061. The provisions of section 658 of the Political Code shall apply to the books and accounts of the commissioner as conservator or liquidator under this article or under Article 8, Chapter 2, Part 6 of Division 2 of this code.

In addition to the times permitted or prescribed by said section for the examination of such books and accounts, such books and accounts shall be examined at the time of the retire-

ment from office of the commissioner. The expense of examining and experting the books and accounts of the commissioner as conservator or liquidator under this article or under Article 8, Chapter 2, Part 6 of Division 2 of this code shall be paid out of the insurance fund in the State treasury and shall, upon order of the court or courts before which the proceedings under said articles are pending, be ratably reimbursed to said insurance fund out of the assets of the estates administered by the commissioner as conservator or liquidator under this article or under Article 8, Chapter 2, Part 6 of Division 2 of this code.

(Article 14 amended by Ch. 291, Stats. 1935.)

[ORIGINAL ARTICLE.]

Article 14. Proceedings Against Insolvent Insurers.

Original article.

1010. The commissioner, in any appropriate case, shall proceed either in the manner prescribed by sections 1010 to 1017 or in the manner prescribed by sections 1018 to 1053.

1011. Whenever the commissioner ascertains that any insurer is insolvent, he may revoke the insurer's certificate of authority. In such case he shall send by mail, addressed to the insurer at its principal place of business, or deliver to it, a notice of such revocation and cause a copy of such notice together with the proof of such service to be filed in his office.

1012. After the commissioner revokes the certificate of authority of any insurer which is not a corporation on the ground that such insurer is insolvent, any person may commence insolvency proceedings against such insurer. Such proceedings must be taken in all respects as provided by the then existing insolvency laws of the State.

1013. If any insurer, after revocation of its certificate of authority under section 1011 and within ninety days after the receipt of the notice of revocation, repairs its capital to such an extent that it is not insolvent within the provisions of article 13 of this chapter, then upon the fact of such repair being made to appear to the commissioner, he may issue a new certificate of authority in the same manner and to the same effect as an original certificate of authority.

1014. When the commissioner ascertains that any domestic insurer is insolvent, he may certify such fact to the Attorney General. Upon receipt of the certificate, the Attorney General shall commence an action against such insurer under the provisions of Chapter V, Title X, Part II of the Code of Civil Procedure.

1015. If on the trial of any such action, it appears to the court that such insurer is insolvent, before causing judgment to be entered, the court may order the insurer and its officers to levy an assessment on the capital stock sufficient to enable the insurer to pay its debts. In such order the court shall give full directions as to the manner of levying such assessment and the amount thereof, and such assessment shall be levied before judgment is entered.

1016. In all other respects the relief awarded against the insurer shall be the same as provided in Chapter V, Title X, Part II, of the Code of Civil Procedure. Any receiver thereafter appointed to liquidate the affairs of such insurer, may bring such actions as may be necessary for the purpose of recovering the amounts of the assessments levied.

1017. In any action commenced pursuant to the provisions of section 1014 the court may authorize the insurer, or the receiver appointed to liquidate the affairs of such insurer, to reinsure all or any part of the insurance theretofore written by such insurer.

1018. Sections 1018 to 1053 shall apply to all persons subject to examination by the commissioner, or purporting to do insurance business in this State, or in the process of organization with the intent to do such business therein.

1019. The commissioner may apply for and procure an order directing such person to show cause why the commissioner should not take possession of its property and conduct its business, and for such other relief as is required by the nature of the case and the interest of its policyholders, creditors, and the public, whenever any of the following conditions exist or acts have been committed:

Original article.

(a) Such person is insolvent.

(b) Such person has refused to submit its books, papers, accounts or affairs to the reasonable inspection of the commissioner or his deputy or examiner.

(c) Such person has neglected or refused to observe an order of the commissioner to make good within the time prescribed by law any deficiency in its capital if it is a stock corporation, or in its reserve if it is a mutual insurer.

(d) Such person, without first obtaining the consent in writing of the commissioner, has transferred or attempted to transfer substantially its entire property or business, or, without such consent, has entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of any other person.

(e) Such person is found, after an examination, to be in such condition that its further transaction of business will be hazardous to its policyholders or creditors, or to the public.

(f) Such person has wilfully violated its charter or any law of the State.

(g) Such person is organized under this code and is found, after examination, to be in such condition that it can not meet the requirements for incorporation and authorization specified by this code.

(h) Any officer of such person refuses to be examined under oath touching its affairs.

(i) An officer or attorney in fact of such person has embezzled, sequestered, or wrongfully diverted any of such person's assets to his own benefit.

1020. Such application shall be made to the superior court, or any judge thereof, in the county in which is located the principal office of such person in this State.

1021. On such application, or at any time thereafter, the court may issue an injunction restraining such person from the transaction of its business or disposition of its property until the further order of the court.

1022. On the return of such order to show cause, and after a full hearing, the court shall either deny the application or direct the commissioner forthwith to take or retain possession of the property and conduct the business of such person.

In the latter case the court shall direct the commissioner to retain such possession and conduct such business until, on the application either of the commissioner or of such person, after a like hearing, it appears to the court that the ground for such order directing the commissioner to take possession has been removed and that such person can properly resume possession of its property and the conduct of its business.

1023. Whenever it appears to the commissioner that any person has committed any of the acts set forth in section 1019 and that irreparable loss and injury to the property and business of a person specified in section 1018 and involved in such act has occurred, or may occur unless the commissioner so acts immediately, the commissioner, without notice and before applying to the court for any order, forthwith shall take possession of the property, business, books, records and accounts of such person, and of the offices and premises occupied by it for the transaction of its business, and retain possession subject to the order of the court.

1024. The commissioner may request and obtain the aid of all peace officers to enforce such seizure and possession.

1025. Immediately after such seizure the commissioner shall apply for the order authorized in section 1019 and thereafter shall proceed in such application as provided in this article.

1026 After the hearing of an order to show cause issued pursuant to section 1019, if the court orders the liquidation of the business of such person, such liquidation shall be made by and under the direction of the commissioner. He may deal with the property and business of such person in his own name as commissioner or in the name of such person, as the court directs.

1027. The commissioner shall be vested by operation of law with title to all of the property, contracts and rights of action of such person as of the date of the order directing liquidation.

1028. The recording of such order in any county recorder's office of the State shall impart the same notice that would be imparted by the recordation of a deed, bill of sale or other evidence of title duly executed by such person.

1029. The rights and liabilities of any such person and of creditors, policyholders, shareholders and members, and all other persons interested in its assets shall, unless otherwise directed by the court, be fixed as of the date of the entry of the order in the office of the clerk of the county wherein the application was made. Original article.

1030. At any time during a proceeding under this article the court may issue such other injunctions or orders as may be deemed necessary to prevent:

(a) Interference with the commissioner or the proceeding.

(b) Waste of assets of such person.

(c) The prosecution of any actions or proceedings.

(d) The obtaining of preferences, judgments, attachments, or other liens against such person or its assets.

(e) The making of any levy against such person or its assets.

1031. Upon the making of an order to liquidate the business of such person, the commissioner shall cause to be published notice to its policyholders, creditors, shareholders, and all other persons interested in its assets. Such notice shall require the filing of claims in the manner therein specified and with proper proofs thereof, against such person within six months after the date of first publication.

1032. Such notice shall be published not less than once a week for four successive weeks. A copy of the notice, accompanied by an affidavit of due publication, including a statement of date of first publication, shall be filed with the clerk of the court within thirty days after the first publication.

1033. A claim filed in accordance with such notice shall set forth under oath:

(a) The particulars and consideration upon which it is based.

(b) The security, if any, held for its payment.

(c) The payments, if any, made thereon.

(d) That the sum claimed is justly owing from such person to the claimant.

(e) That there is no offset to the claim.

(f) Such other data or supporting documents as the commissioner requires.

1034. Unless such claim is filed in the manner and within the time herein provided it shall not be entitled to filing or allowance, and no action may be maintained thereon.

1035. Except as provided by section 1037, a contingent claim shall not share in a distribution of the assets of a person that has been adjudged to be insolvent, except where such claim becomes absolute against such person on or before the last day fixed for the filing of claims against his assets, or except where there is a surplus and the liquidation is thereafter conducted upon the basis that such person is solvent.

1036. Whenever any person has a cause of action against an insured and such cause is covered by a liability policy, if the insurer is adjudged insolvent, such person may file a claim in the liquidation proceeding, even if the claim is contingent.

1037. Notwithstanding the provisions of section 1035, such a claim on a liability policy may be allowed if (a) it can be reasonably inferred from the proof presented that the claimant would be able to obtain a judgment upon his cause of action against the insurer and (b) the claimant furnishes suitable proof that no further valid claims arising out of his cause of action and other than those already presented can be made against the insurer, unless for good cause shown the court in which the liquidation proceeding is pending otherwise directs. In the allowance of such contingent claims the total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater than if the insurer was not in liquidation.

1038. A judgment taken by default, or by collusion, against such an insured shall not be considered as evidence in the liquidation proceeding, either of the liability of such insured to such claimant upon such cause of action or of the amount of damages to which such claimant is therein entitled.

1039. A claim of a secured claimant shall not be allowed in a sum exceeding the difference between the amount for which the claim is allowed and the value of the security, unless the claimant surrenders his security to the commissioner. In such event the claim shall be allowed in the full amount for which the claim is valued.

1040. The value of the security to be credited upon such claim shall be determined by an appraiser appointed by the commissioner and approved by the court. Such claimant shall elect to accept the security or to release it to the commissioner.

Original article.

1041. When a claim is rejected by the commissioner, written notice of rejection shall be given by registered mail, addressed to the claimant at the address set forth in his claim. Within thirty days after the mailing of the notice the claimant may apply to the court in which the liquidation proceeding is pending for an order to show cause why the claim should not be allowed.

1042. Claims allowed in a proceeding under this article shall be given preference in the following order: 1. Expense of administration; 2. Claims having preference by the laws of the United States and by the laws of this State; 3. All other claims.

1043. After the issuance of an order pursuant to this article to the commissioner to take possession of the property of any person, the commissioner may avoid any of the following transactions occurring within four months prior to the application for the order, if such transaction results in a creditor of such person obtaining or being enabled to obtain either a greater percentage of his debt or a preference over another creditor of the same class:

(a) A transfer of property of such person.

(b) The creation of a lien on the property of such person.

(c) The suffering of a judgment against such person.

1044. The compensation of special deputy commissioners, clerks and assistants appointed to carry out the provisions of this article, and all expenses of taking possession of and conducting the business of liquidating any such person shall be fixed by the commissioner, subject to the approval of the court, and shall, on certificate of the commissioner, be paid out of the assets of such person.

1045. The Attorney General may appoint and employ such legal counsel as he deems necessary to assist the commissioner in the performance of his duties under this article. The compensation of such legal counsel shall be fixed by the Attorney General, subject to the approval of the court, and shall be paid out of the assets of the person under liquidation.

1046. The rights and duties of the commissioner with reference to incorporated foreign insurers and assets shall be those exercised by and imposed upon ancillary receivers of foreign corporations in this State under the law in effect prior to August 21, 1933.

1047. Except as otherwise provided by law, in all cases arising under this article the powers and duties of the commissioner with relation to the assets and business of any insurer placed under his control shall be those exercised by and imposed upon receivers of corporations within this State on July 22, 1919.

1048. The order to show cause and the papers upon which the same is made in any proceeding instituted under the provisions of this article shall be served upon the person named in such order in the manner prescribed by law for personal service of summons upon a domestic corporation or as provided by section 1049.

1049. In lieu of the service required by section 1048 the order to show cause may provide for its service in such manner as the issuing court or judge directs whenever it is satisfactorily shown by affidavit (a) in the case of a corporation, that the officers of the corporation named in the said order to show cause, and upon whom service is required to be made as above provided, have departed from the State or keep themselves concealed therein with intent to avoid service, or, (b) in the case of a Lloyds' association or interinsurance exchange, that the individual attorney in fact or the officers of the corporate attorney in fact can not be served because of such departure or concealment.

1050. At any time after the commencement of proceedings under an order of liquidation made pursuant to this article, the commissioner may remove the principal office of such person in liquidation to the City and County of San Francisco. In event of such removal the court wherein the proceeding was commenced shall, upon the application of the commissioner, direct its clerk to transmit all of the papers filed therein with such clerk to the San Francisco county clerk. The proceeding shall thereafter be conducted in the same manner as though it had been commenced in the City and County of San Francisco.

1051. Unless otherwise provided by law, the moneys received by the commissioner or coming into his possession under or pursuant to the provisions of this article or from other similar sources shall not be deposited in the State treasury.

1052. The commissioner shall transmit to the Legislature, in his biennial report:

(a) The names of the persons so proceeded against.

(b) Whether such persons have resumed business or have been liquidated.

(c) Such other facts as will acquaint the policyholders, creditors, shareholders and the public with his proceedings under this article.

To that end, the special deputy commissioner in charge of any such person shall file annually with the commissioner a report of the affairs of such person.

1053. For the purposes of sections 1018 to 1052 of this article the commissioner may, subject to the approval of the court, make and prescribe such rules as he considers proper.

Article 15. Withdrawal of Insurers.

Application for withdrawal

1070. Any insurer, upon payment of the fees and costs therefor and surrender to the commissioner of its certificate of authority, may apply to withdraw from this State. Such application shall be in writing, duly executed, accompanied by evidence of due authority for such execution, and properly acknowledged.

Publication.

1071. The commissioner shall publish such application for withdrawal, daily, for one week, in each of two daily newspapers of general circulation, one published in the city of San Francisco, and the other in the city of Sacramento. The expense of such publication shall be paid in advance by the insurer.

Examination of insurer.

1072. The commissioner shall make an examination of the books of the insurer. If, upon such examination, he finds that the insurer has no outstanding liabilities to residents of this State and no uncanceled policies in favor of the residents of this State, he shall cancel the insurer's certificates of authority. The commissioner may, in his discretion, waive any or all of the above requirements for canceling the certificate of authority of such insurer if, after such examination, he finds it to be in a solvent condition. All such examinations shall be at the expense of the insurer, and such expense shall be paid in advance.

(Amended by Ch. 308, Stats. 1935.)

[ORIGINAL SECTION.]

1072. The commissioner shall make an examination of the books of the insurer. If, upon such examination, he finds that the insurer has no outstanding liabilities to residents of this State and no uncanceled policies in favor of the residents of this State, he shall cancel the insurer's certificate of authority. All such examinations shall be at the expense of the insurer, and such expense shall be paid in advance.

Publication of notice of withdrawal

1073. Whenever any insurer withdraws from business in this State, and whenever for any reason the commissioner revokes or cancels the certificate of authority admitting any insurer, the commissioner shall thereafter cause a notice of the revocation, cancellation or withdrawal to be published in one daily newspaper published in the city of San Francisco and one daily newspaper published in the city of Los Angeles. The expense of such publication shall be paid by the insurer.

Expense.

Collection of expense

1074. Upon the failure of such insurer to pay the expense of such advertising within thirty days after the presentation of the bill therefor, the commissioner shall collect such fee from the surety in the bond furnished in accordance with the provisions of Article 12 of this chapter or out of securities furnished thereunder.

Article 16. Approval of Reinsurance Plans.

Approval of reinsurance plan by commissioner.

1090. An insurer which is insolvent, retiring from business in this State, or the required paid-in capital of which is impaired, shall not reinsure its business until its plan to effect such reinsurance is first submitted to the commissioner and approved by him.

Article 17. Loans and Investments.

Investments in insurer's own name

1100. In this State, all investments and deposits of the assets of an insurer, all purchases on behalf of an insurer, and all sales made of the property and effects of an insurer shall be made in its own name, or in that of a corporation authorized to act as a trustee under the laws of this State.

Interests of officers.

1101. An insurer's officers, directors, trustees and any persons who have authority in the management of the insurer's funds, shall not, unless otherwise provided by this code:

(a) Except on behalf of the insurer, accept or be the beneficiary, directly or indirectly, of any gift, compensation or other consideration for or on account of any transaction by or on behalf of the insurer with any third party.

(b) Be pecuniarily interested, as borrower, principal, co-principal, agent, attorney or beneficiary, in such a transaction.

Purchases by officers

1102. An officer, director, agent or employee of any insurer shall not, directly or indirectly for his own personal benefit, purchase, or be interested in the purchase of, any of the assets of the insurer for a sum less than their current market value.

Penalty

1103. Every person violating any provision of section 1101 or 1102 shall, for each offense, forfeit to the people of the State twice the market value of any such assets so purchased.

Loans to officers.

1104. An officer of any insurer shall not, directly or indirectly, for himself or as a partner or agent for others, borrow any of the funds of such insurer.

Excepted transactions

1105. This article shall not prevent:

(a) The purchase by any person of any asset which the commissioner requires to be sold, at a price approved by the commissioner.

(b) The borrowing in accordance with its terms by any person upon a policy of life insurance upon his own life.

(c) The payment of a fee to any attorney for legal services rendered to any such insurer.

(d) The receipt of advances under agency contracts by agents of life insurers.

Penalty.

1106. Any officer of an insurer who violates section 1104 is guilty of a misdemeanor.

CHAPTER 2. INCORPORATED INSURERS.

Article 1. Effect of General Corporation Law.

Insurers under general law

1140. Except as otherwise provided in this code, incorporated insurers are subject to the provisions of the general corporation law in like manner with other corporations.

Article 2. Restrictions on Activities.

1150. Every admitted incorporated insurer may purchase, hold, or convey real estate only for the following purposes and in the following manner: Real estate investments

(a) The building in which it has its principal office and the land upon which that building stands.

(b) Real estate requisite for its accommodation in the convenient transaction of its business.

(c) Real estate acquired by it, or by any person for it, to secure the payment of loans previously contracted or for moneys due.

(d) Real estate purchased at sales upon deeds of trust or upon judgments or decrees obtained for such loans or debts.

(e) Real estate conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

(f) Real estate acquired by gift or devise.

(g) Upon the written approval of the Insurance Commissioner, real estate requisite or desirable for the protection or enhancement of the value of other real or personal property owned by such insurers.

(Amended by Ch. 253, Stats. 1935.)

[ORIGINAL SECTION.]

1150. A domestic incorporated insurer shall not purchase, hold or convey real property other than the following:

(a) The building in which it has its principal office and the land upon which that building stands.

(b) Real property requisite for its accommodation in the convenient transaction of its business.

(c) Real property acquired by it, or by any person for it, to secure the payment of loans previously contracted or for moneys due.

(d) Real property purchased at sales upon deeds of trust, or upon judgments obtained for such loans or debts.

(e) Real property conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

1151. All real estate specified in subdivisions (c), (d), (e), (f), and (g) hereof, so acquired, which is not requisite for the accommodation of such corporation in the convenient transaction of its business, shall be sold and disposed of within five years after the acquisition of title thereto, unless the time for any such sale or disposal shall be extended by the commissioner in writing. Disposal of real estate. Five-year limit

(Amended by Ch. 253, Stats. 1935.)

[ORIGINAL SECTION.]

1151. Except as otherwise provided by this code, real property acquired as mentioned in subdivisions (c), (d) and (e) of section 1150, and which is not requisite for the accommodation of the insurer in the transaction of its business, shall be sold and disposed of within five years after acquisition of title thereto.

1152. Dividends upon shares of stock in domestic incorporated insurers shall be paid only out of net profits. For this purpose the moneys received and notes taken for premiums on risks which are undetermined and outstanding at the time of making the dividend shall not be treated as profits, except as provided in this code. Dividend restriction

Article 3. General Investments.

Restriction on collateral values.

1170. Domestic incorporated insurers may invest their assets in the purchase of any of the securities specified in this article, or in loans upon such securities, if the purchase price or amount loaned does not exceed the market value of the securities at the date of investment.

Investments United States obligations.

1171. Such insurers may invest in obligations of the United States or obligations for which the faith and credit of the United States are pledged for payment of principal and interest.

Canadian obligations.

1172. Such insurers may invest in obligations of the Dominion of Canada or of any province of the Dominion of Canada, or obligations for which are pledged the faith and credit either of the Dominion or of any province of the Dominion, for the payment of principal and interest.

State or municipal bonds.

1173. Such insurers may invest in obligations issued under authority of law by any county, municipality, or school district in this State or in any other State or in any province of the Dominion of Canada, if neither the obligor nor the State or province in which it is located has, within two years next preceding the investment, defaulted in the payment of any part of either principal or interest upon any legally authorized obligation issued by it.

Bonds guaranteed by State

1174. Such insurers may invest in bonds of this State or those for which the faith and credit of this State are pledged for the payment of principal and interest, and bonds of any other State in the United States that has not, within five years next preceding such investment, defaulted in payment of any part of either principal or interest upon any legally authorized bond issue.

District and road division bonds.

1175. Such insurers may invest in bonds of any permanent road division in this State, and such bonds of districts as the law of this State expressly makes legal investments for savings banks or insurers.

First lien obligations

1176. Such insurers may invest in notes or bonds secured by mortgage or other first lien upon unincumbered real property, if:

(a) There exists no condition or right of reentry or of forfeiture under which such lien can be cut off, subordinated, or otherwise disturbed.

(b) The principal so loaned or the entire note or bond issue so secured does not exceed sixty per cent of the market value of such real property, or of such real property together with improvements which are taken as security at the date of investment.

(c) Where the loan is made or the notes or bonds are issued for a building loan on real property, the principal so loaned, or the entire outstanding notes or bonds so issued, at no time exceeds sixty per cent of the market value of the real property together with the actual cost of the improvements thereon taken as security.

Real property is not incumbered within the meaning of this section if subject only to one or more of the following: (a) tax liens, (b) outstanding mineral, oil or timber rights, (c) rights of way, (d) sewer rights, (e) rights in walls, (f) building restrictions or other restrictive covenants, or leases under which rents or profits are reserved to the owner. "Incumbrance" defined.

1177. Such insurers may invest in notes or bonds secured by mortgage guaranteed as to payment by a policy of mortgage insurance, and mortgage participation certificates issued by a mortgage insurer in accordance with the provisions of this code. Insured mortgages

1178. Such insurers may invest in collateral trust bonds or notes, secured by any of the following: Collateral trust bonds and notes.

(a) A deposit of bonds or notes authorized for investment by this article or Articles 4, 5 or 6 of this chapter, having a market value at least fifteen per cent in excess of the par value of the collateral trust bonds or notes issued.

(b) A deposit of bonds authorized for investment by this article or Articles 4, 5 or 6 of this chapter, together with other securities, the combined market value of the deposit being at least twenty per cent in excess of the par value of the collateral trust bonds or notes issued, with the par value of the collateral trust bonds or notes not exceeding the market value of the deposited bonds which are authorized for investment by this article or Articles 4, 5, or 6 of this chapter.

(c) A deposit of notes or bonds authorized for investment by this article, or Articles 4, 5, or 6 of this chapter, together with other securities, and conforming to the following requirements:

(1) The combined market value of the deposit is at least thirty per cent in excess of the par value of the collateral trust bonds or notes issued.

(2) The par value of such collateral trust bonds or notes issued does not exceed the market value of the deposited notes or bonds authorized for investment by this article.

(3) The deposited collateral consists of bonds authorized for investment by this article, or Articles 4, 5, or 6 of this chapter, having a market value of at least seventy-five per cent of the par value of such collateral trust bonds or notes issued.

1179. Such insurers may invest in farm loan bonds issued under the Federal Farm Loan Act, approved July 17, 1916. Farm loan bonds.

Article 4. Property Authorized for Excess Funds Investments.

1190. Any domestic incorporated insurer after investing an amount equal to its required minimum paid in capital in securities specified in Article 3 of this chapter, may invest the remainder of its assets in the purchase of, or loans upon the securities set forth in this article. Such investments are known as excess funds investments and are subject to the restrictions set forth in this article. Excess funds investments.

Corporate stock.

1191. Excess funds investments may be made in the stock of any corporation organized and carrying on business under the laws of this or any other State when such stock has a market value at date of investment which is not less than its purchase price or the amount loaned upon its security, except that excess funds investments shall not be made in mining corporation stock.

Corporate obligations

1192. Excess funds investments may be made in interest-bearing obligations issued by a corporation organized under the laws of any state.

Road division and district bonds.

1193. Excess funds investments may be made in bonds of any permanent road division, or any district of any state when such bonds are legal investments for savings banks of this State.

Local improvement bonds

1194. Excess funds investments may be made in bonds issued by any county, municipality, or school district in this State to represent assessments for local improvements authorized by law. At the date of such investment the purchase price or principal loaned shall not exceed fifty per cent of the market value of the real property or of the real property together with the improvements thereon, upon which the bond is the first lien.

Restriction as to defaults

1195. This article does not authorize investments in obligations of any corporation or district which, within five years next preceding, has defaulted in payment of any part of either principal or interest of any obligation issued by it.

1196. Excess funds investments shall not be made in any stock or obligation unless:

Minimum standards

(a) The stock or obligation is rated as a first-class security.

(b) In case of a purchase, the price paid for the security is not in excess of the current market value at the date of purchase.

(c) In case of a loan, the amount loaned does not exceed eighty-five per cent of the market value at the date of the loan, of the collateral taken as security.

Limit as to single borrower

1197. Excess funds investments shall not be made in a loan to any one borrower in an amount exceeding ten per cent of the capital stock and surplus of the lending insurer when the security for the loan consists of shares of the capital stock of one or more corporations.

Limit on amount.

1198. Excess funds investments shall not be made in purchases of or loans upon shares of the capital stock of any one corporation in an amount exceeding twenty-five per cent of the capital stock and surplus of the investing insurer.

Limit on controlling stock.

1199. Except in the case of the purchase by an admitted domestic insurer of the stock of another admitted domestic insurer, a domestic incorporated fire, life or marine insurer shall not make excess funds investments in purchases of, or loans upon more than thirty per cent of the total in par value or number of outstanding shares of the capital stock of any one corporation.

1200. An excess funds investment shall not be made unless approved by a vote of two-thirds of all the directors of the investor. Such approval shall be entered upon the records or minutes of the investor. Investor's records

1201. The entry of approval shall show: Approval.

(a) The fact of making such investment.

(b) The amount thereof.

(c) The name of each director voting to approve the investment.

(d) The amount, character and value of the security purchased or taken as collateral.

(e) If the investment is a loan, the name of the borrower, the rate of interest thereon and the due date thereof.

1202. The secretary of any such investing insurer shall report the investments set forth in this article and the data above set forth respecting excess funds investments. Such a report shall be made in writing to the commissioner during January and July of each year. The first such report shall include all investments since commencing business. Every other report shall include all investments since the last previous report. The commissioner may require the corporation to sell or dispose of any excess funds investments. Report to commissioner

Article 5. Life Insurance Policies.

1220. Domestic incorporated life insurers may also invest any funds in loans upon any of their own policies in an amount not exceeding the reserve against such policy at the time the loan is made, but policy loans shall not be deposited with the commissioner under Article 2, Chapter 5, Part 2, Division 2. Policy loans.

1221. The amount thus loaned by an insurer upon its own policies shall be credited to the insurer in determining the amount of deposit required to comply with the provisions of Article 2, Chapter 5, Part 2, Division 2. Such loans shall be deducted from the net value of the registered policies. Policy loans as deduction from registered policy reserves

Article 6. Foreign Investments.

1240. When any domestic incorporated insurer does business in a foreign country, and in so doing incurs an obligation in such foreign country in conformity to the laws thereof, the insurer may invest so much of its funds as are required to meet that obligation in the same kind of securities issued in the foreign country as are permitted for investment by this code. Such investment shall be subject to the limitations imposed by this code. Investments under foreign law.

Article 7. Valuation of Investments.

1250. When any domestic incorporated insurer has, pursuant to the laws of this State, invested any of its funds in purchases of, or loans upon, the stock or obligations of a corporation or of a nation, state, or political or municipal division Report on doubtful investments

of a state, if the commissioner has reason to believe that such stock or obligations are not amply secured or are not yielding an income, he may direct the insurer to report to him under oath the amount of the stock or obligation, the security therefor and its market value.

Market value limitation.

1251. A stock, bond or other evidence of debt if in default as to principal or interest, or if not amply secured, shall not be valued as an asset of the insurer above its market value.

Adjusted valuation

1252. All bonds or other evidences of debt held by an admitted incorporated insurer if amply secured and if not in default as to principal or interest may, in the discretion of the commissioner, be valued as follows:

(a) If purchased at par, at the par value.

(b) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield the effective rate of interest on the price at which the purchase was made.

(c) In such valuation, the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase.

Discretion of commissioner.

The commissioner shall have full discretion in determining the method of calculating values according to the foregoing rule, the values found by him in accordance with such method being final and binding.

Limit on valuation

1253. Any such insurer may report such bonds or other evidence of debt at market value or book value, but in no event at an aggregate value exceeding the aggregate of the values calculated according to the rule prescribed by section 1252.

CHAPTER 3. RECIPROCAL INSURERS.

Article 1. General Provisions.

Reciprocal in liquidation.

1280. This chapter shall not in any way affect the rights, duties, or obligations of members of or subscribers at any reciprocal or interinsurance exchange which has been adjudged insolvent and ordered to be liquidated prior to the date this code takes effect. All such rights, duties, or obligations shall be governed by the law applicable thereto prior to such date.

Not subject to general insurance law.

1281. Reciprocal or interinsurance contracts, the exchange thereof, the subscribers, attorneys-in-fact, agents, and representatives, and all matters incident to or concerned with such contracts and relationship, shall be exclusively subject to and regulated by the provisions of this chapter, and by no other law relating to insurance heretofore or hereafter enacted, except as provided in this chapter, or when such other law relating to insurance specifically uses the words "reciprocal" or "interinsurance."

The definitions contained in the "General Provisions" of this code, as the terms therein defined may be used in this code, other than in this chapter, shall not apply to or include recip-

rocal or interinsurance exchanges, their subscribers, attorneys-in-fact, agents or representatives.

1282. The provisions of the following articles and chapters shall be applicable to reciprocal or interinsurance exchanges: Code provisions governing reciprocals.

Chapter 1, Part 1, Division 1;
Article 14, Chapter 1, Part 2, Division 1;
Article 16, Chapter 1, Part 2, Division 1;
Article 1, Chapter 1, Part 3, Division 2;
Article 2, Chapter 1, Part 3, Division 2;
Article 1, Chapter 2, Part 3, Division 2;
Article 2, Chapter 2, Part 3, Division 2;
Article 1, Chapter 3, Part 3, Division 2; and
Article 2, Chapter 3, Part 3, Division 2.

Article 2. Organization of Exchange.

1300. Any persons may exchange reciprocal or interinsurance contracts with one another providing insurance other than life or surety, among themselves against any loss which may be insured against under other provisions of law. Exchange of contracts.

1301. Such persons are termed subscribers. Subscribers.

1302. Any domestic corporation, in addition to the rights, powers and franchises specified in its articles of incorporation, has full power and authority to enter into insurance contracts of the kind and character mentioned in this chapter. The right to enter into such contracts is incidental to the purposes for which such corporations are organized and as fully granted as the rights and powers expressly conferred. Corporation as subscriber

1303. The organization under which such subscribers so exchange contracts is termed a reciprocal or interinsurance exchange. Exchange

1304. Neither the name of the organization nor of the attorney-in-fact shall be so similar to the name of any insurer or attorney-in-fact as to confuse or deceive as to identity. Name of exchange and attorney-in-fact.

1305. Such contracts may be executed by an attorney-in-fact, agent or other representative duly authorized and acting for such subscribers under powers of attorney. Such authorized person is termed the attorney, and may be a corporation. Attorney-in-fact.

1306. The principal office of the attorney shall be maintained at a place designated by the subscribers in the power of attorney. Principal office

1307. The power of attorney and contracts made thereunder may: Power of attorney.

(a) Provide for the right of substitution of attorney and revocation of the contract or power.

(b) Impose such restrictions upon the exercise of the power as are agreed upon by the subscribers.

(c) Provide for and limit the maximum amount to be paid by subscribers, except that contracts of exchanges writing either liability or workmen's compensation insurance shall be subject to the provisions of Article 6 of this chapter.

(d) Provide for the exercise of any right reserved to the subscribers directly or through a board or other body.

Subscribers' board.

1308. The body exercising the subscribers' rights shall be selected under such rules as the subscribers adopt. It shall supervise the finances of the exchange and shall supervise its operations to such extent as to assure conformity with the subscriber's agreement and power of attorney.

Audit of accounts

1309. Such body shall have authority to procure the audit of the accounts and records of the exchange and of the attorney-in-fact, at the expense of the exchange.

Membership of board

1310. Such body shall be composed of subscribers or agents of subscribers. Not more than one-third of the members serving on such body shall be agents, employees or shareholders of the attorney.

Article 3. Filing of Documents.

Documents to be filed.

1320. The attorney shall verify and cause to be filed with the commissioner copies of the following forms used by the exchange:

(a) The form of the power of attorney.

(b) The form of each application for insurance and the form of each contract for exchange of indemnity.

(c) Every amendment to such forms.

Name of exchange

1321. If the name of the exchange does not contain either the words "interinsurance," "reciprocal" or "exchange," then such forms shall have printed under such name the words "an interinsurance exchange" in a prominent place on each of such forms.

Attorney's declaration.

1322. The attorney also shall file with the commissioner a declaration verified by his oath or, where such attorney is a corporation, by the oath of its duly authorized officers. Such declaration shall set forth or have annexed thereto:

(a) The name of the attorney and the name under which contracts are to be made.

(b) The location of the principal office of the exchange.

(c) The classes of insurance to be exchanged.

(d) A copy of each form of policy under or by which insurance is to be exchanged.

(e) A copy of the form of the power of attorney or agreement under and by which such insurance is to be exchanged.

(f) A statement that executed contracts or bona fide applications, to be concurrently effective, have been made for the exchange of indemnities by at least one hundred separate subscribers.

(g) In the case of employer's liability or workmen's compensation insurance, a statement that there have been executed contracts or bona fide applications, to be concurrently effective, representing annual pay roll having a total of not less than $1,000,000.

(h) A statement that there are in the possession of such attorney subject to the supervision of the advisory board, assets conforming to the requirements of Article 5 of this chapter.

(i) A financial statement under oath in the form prescribed by the commissioner for the annual statement.

(j) The instrument authorizing service of process as provided in this chapter.

(k) A certificate showing any deposits of funds or securities.

Service of process

1323. Concurrently with the filing of the declaration provided for by the terms of section 1322 the attorney shall file with the commissioner an instrument in writing executed by him, providing that after the issuance of the certificate of authority actions against the exchange may be brought either in the county in which the person or property insured is located, or in which the exchange has its principal office or place of business in the State; and also providing that service of process may be had upon the attorney-in-fact or upon the commissioner in suits against the exchange.

Attorney's bond

1324. Except as provided in sections 1330 and 1331 of this code, the attorney, concurrently with the filing of the declaration provided for in section 1322, also shall file with the commissioner a bond, approved by the commissioner, in favor of the people of the State of California.

Sureties

1325. Such bond shall be executed by the attorney with two sureties or with an admitted surety insurer as surety.

Penal sum and conditions

1326. The attorney's bond shall be in the penal sum of $50,000, conditioned that the attorney will faithfully account for all moneys and other property which come into his hands or are handled by him under the terms of the power of attorney and the rules of the exchange, and that he will neither withdraw nor cause to be withdrawn nor appropriate for his own use, from the funds of the exchange, anything of value to which he is not entitled under the terms of the power of attorney and the rules.

Suit on bond

1327. The attorney's bond may be sued upon in one and the same action either by any subscriber or any number of subscribers suffering loss through a violation of its conditions or by the receiver or trustee in liquidation of the exchange. Liability thereunder may be enforced by any one or more of such parties.

Recoveries on bond

1328. Any amount recovered on the attorney's bond shall be deposited in and become a part of the funds of the exchange.

Substitute bond

1329. Where provision is made, by the power of attorney executed by the subscribers or the rules adopted by the exchange, for the bonding of the attorney-in-fact against fraud and dishonesty with a bond conditioned as provided by this chapter and in a penal sum at least equal to the amount set forth in section 1326, the bond executed in accordance with such power of attorney or rules may be filed with the commissioner in lieu of any other bond required by this chapter and shall be actionable in similar manner and for similar purposes as such other bond.

Home State bond

1330. Where the home office of an exchange is located outside of this State and the attorney files such a bond in the

home State, there may be filed with the commissioner, in lieu of such bond, either a certified copy or duplicate thereof or an affidavit from the insurance authority of the home State to the effect that such a bond has been filed with it.

Sureties as officers of principal.

1331. The commissioner shall not accept for filing any bond having a corporate attorney as principal with sureties who are officers of the corporate principal.

Article 4. Certificate of Authority.

Issuance of certificate

Fee.

1350. The commissioner shall issue a certificate of authority to the attorney upon compliance with the requirements of this chapter, and the payment of a fee of fifty dollars. Such certificate shall authorize the making, by the attorney, of contracts of insurance under the provisions of this chapter. It shall also specify:

(a) The classes of insurance to be effected.

(b) The name of the attorney.

(c) The location of the principal office.

(d) The name under which such contracts of insurance are issued.

Renewal of certificate

Fee.

1351. Such certificate shall be renewed annually upon a showing that the required standard of solvency has been maintained and all fees and taxes required have been paid. For such renewal a fee of ten dollars shall be paid.

Article 5. Finances.

Permissible investments.

1370. Every exchange shall maintain its required assets in any one, or more, or all of the following forms:

(a) in cash or deposits in solvent banks;

(b) invested in securities of the kind designated for the investment of assets of incorporated insurers having a capital stock by the laws of the State where the principal office is located;

(c) invested in real property acquired by or for it to secure the payment of loans heretofore contracted or for moneys heretofore due, or purchased at sales upon deeds of trust or upon judgments obtained for such loans or debts, or conveyed to it in satisfaction of debts heretofore contracted in the course of its dealings. Such real property may be acquired, held and conveyed on behalf of such exchange in trust by the attorney, but shall be sold and disposed of within five years after acquisition of title thereto unless the time for any such sale or disposal is extended by the commissioner in writing.

(Amended by Ch. 535, Stats. 1935.)

[ORIGINAL SECTION.]

1370. Every exchange shall maintain its required assets in cash or invested in securities of the kind designated for the investment of assets of incorporated insurers having a capital stock by the laws of the State where the principal office is located.

1371. If an exchange does either liability or workmen's compensation insurance, it shall at all times maintain assets in a sum sufficient to discharge all liabilities and to provide a surplus over all liabilities of $100,000. Liability, workmen's compensation exchanges.

1372. Every other exchange shall maintain at all times assets in a sum sufficient to discharge all liabilities and to provide a surplus over all liabilities of $50,000. Other exchanges

1373. Any exchange having a certificate of authority on or before August 20, 1933, shall have until December 31, 1935, to make good a deficiency in such surplus requirements if, prior to the latter date, it continuously maintains assets in an amount not less than $50,000 in excess of the sum of all liabilities other than the unearned premium reserve. Existing exchanges.

1374. In estimating the financial condition of any exchange the commissioner shall observe the following rules: Financial condition.

(a) He shall charge as liabilities the same reserves as are required of incorporated insurers issuing nonassessable policies on a reserve basis.

(b) There shall be allowed as admitted assets the surplus deposits of subscribers, except that in the case of any subscriber whose premium deposit is due and unpaid for ninety days, such premium deposit shall be first charged against such surplus deposit.

(c) The surplus deposits of subscribers shall not be charged as a liability.

(d) All premium deposits due and unpaid for a period not exceeding ninety days shall be allowed as admitted assets, as in the case of incorporated insurers issuing nonassessable policies on a reserve basis.

(e) An assessment levied as provided in this chapter, and not collected shall in no event be allowed as an asset.

(f) The computation of reserves shall be based upon premium deposits without any deduction for the compensation of the attorney.

1375. Where the subscribers are grouped by industries or otherwise under any ruling or agreement which exempts the funds of one group from liability in whole or in part for the payment of losses or expenses chargeable against another group, each such independent group shall maintain the reserves and surplus required for a separate exchange and the requirements of subdivisions (f) and (g) of section 1322 relative to the number and amount of risks to be assumed must be observed as to each group. Subscriber groups.

Article 6. Assessment of Liability and Workmen's Compensation Insurers.

1390. The provisions of this article shall apply only to exchanges writing liability or workmen's compensation insurance. Special provisions relating to assessments

1391. Whenever an exchange writing liability or workmen's compensation insurance is not possessed of admitted assets sufficient to discharge all liabilities and to maintain the Assessment requirement

required surplus, the attorney shall make an assessment for the amount, subject to the limits provided by this article, needed to make up the deficiency. If the attorney fails to make the assessment within thirty days after the commissioner orders him to do so, the commissioner shall make the assessment. If liquidation of such an exchange is ordered, the assessment shall be levied for such an amount, subject to limits provided by this article, as the commissioner determines to be necessary to discharge all liabilities of the exchange, including the reasonable cost of liquidation.

Liability of subscriber

1392. Except as provided by sections 1397 and 1398, every subscriber of an exchange writing liability or workmen's compensation insurance shall be liable to pay, and shall pay, his proportionate part of any such assessment, in accordance with law and his contract covering any such deficiency assessment, if he is notified by either the attorney or the commissioner of intention to levy such assessment within one year after the expiration or cancellation of his policy.

Extent of liability.

1393. Each such subscriber's share of the deficiency for which an assessment is made pursuant to this article, shall be determined by applying to the premium earned on the member's policy or policies during the period to be covered by the assessment, the ratio of the total deficiency to the total premiums earned during such period, upon all policies subject to such assessment.

Offsets

1394. Subscribers liable to assessment under this article shall pay the same without offsetting any claim for unearned premiums or losses payable to or for the account of the subscriber.

Measure of liability

1395. Assessments under this article shall be made upon the members liable to assessment therefor, in proportion to their several liabilities.

Notice of assessment

1396. Notice of all such proposed assessments shall be filed with the commissioner and the assessments shall not take effect until approved by him after such investigation as he deems necessary.

Limitation on liability

1397. Assessments under this article, whether levied by the attorney, or the commissioner in the liquidation of such an exchange or otherwise, shall be of no greater amount than specified in the power of attorney.

Limitation by power of attorney

1398. The power of attorney of an exchange subject to this article may limit the contingent liability of the subscriber for assessment, but such contingent liability shall not be less than an amount equal to and in addition to the amount of the premium deposit provided in the policy.

Surplus deposit

1399. Each subscriber to an exchange writing liability or workmen's compensation insurance may maintain with the exchange, in addition to the premium deposit provided in the policy, a further deposit to be held as the surplus deposit of such subscriber.

Exemption from liability

1400. Each such subscriber maintaining a surplus deposit equal to, and in addition to, the amount of the total current

annual premium deposit provided in his policy, shall have no liability for assessment during the period such surplus deposit is so maintained.

Surplus certified by commissioner

1401. If an exchange subject to this article is certified by the commissioner as having a surplus of admitted assets over all liabilities in a sum equal to one and one-half times the minimum paid-in capital required of incorporated insurers issuing policies on a reserve basis and doing the same classes of insurance, then during the continued maintenance of such surplus of assets, subscribers at such exchanges shall not be liable to assessment.

Resources of exchange liable for debts

1402. All funds of such exchange and the proceeds of the contingent liability of its subscribers shall be available for the payment of any liability of the exchange.

Article 7. Dividends.

Dividends

1420. Savings or credits may be returned to the subscribers irrespective of the source from which such savings or credits accrue whenever such returns do not constitute an impairment of the assets or reserves required to be maintained. There shall be no discrimination in the making of such returns as between persons or places

Article 8. Reports and Examination.

Annual reports

1430. The attorney shall make a report, under oath, to the commissioner covering each calendar year. Such report shall be made annually during the time limited for the filing of annual statements by insurers transacting the same class of insurance. It shall show the financial condition of the exchange.

Additional information

The attorney shall at any time furnish such additional information and reports, other than names and addresses of subscribers, as the commissioner requires. The attorney shall not be required to furnish the names or addresses of any subscribers except in case of an unpaid final judgment against the exchange.

Examination

1431. The assets, business affairs and records of every exchange and of its attorney shall be subject to examination by the commissioner at any reasonable time. Such examination shall be at the expense of the exchange. The examination of the attorney shall be restricted to such of his records and accounts as are concerned with the business of the exchange.

1432. The commissioner has:

Rights of commissioner.

(a) The right of examination of and supervision over reciprocal or interinsurance exchanges, their attorneys, agents and brokers.

(b) The right to hold and conduct hearings in the manner and under the same procedure as in the case of other insurers.

Records confidential

1433. The commissioner's right of examination shall include the right to examine the records containing the names and addresses of the subscribers. Any information obtained from

such records shall be confidential and the disclosure thereof, except under order of court, constitutes a breach of official duty.

Foreign examination.

1434. Where the principal office of the attorney is located in another State, the commissioner, in lieu of examination may accept a certified copy of the report of examination made by the insurance authority of another State.

Article 9. Suits.

Suits.

1450. The exchange may sue or be sued in its own name as in the case of an individual. Any judgment rendered against the exchange shall be binding upon each subscriber only in such proportion as his interests may appear.

Actions against subscriber.

1451. No action shall lie against any subscriber, upon any obligation made or incurred in the name of the exchange, until a final judgment has been obtained against the exchange and remains unsatisfied for thirty days.

Service of process on commissioner.

1452. When process is served upon the commissioner pursuant to this chapter, three copies of such process shall be delivered to the commissioner. He shall:

(a) File one copy in his office.

(b) Forward one copy by registered mail addressed to the attorney at the principal office of the exchange, as set forth in the declaration filed with the commissioner.

(c) Return one copy with his admission of service.

Judgment based on service on commissioner.

1453. A judgment rendered in any case where service of process has been made on the commissioner shall be binding against the subscribers as their interests appear.

Article 10. Policy.

Policy provisions

1470. In any form of policy prescribed by this code, the attorney may insert provisions or conditions required by the plan of reciprocal or interinsurance if the plan is not inconsistent with, or in conflict with, any law of this State.

Conformation to code.

1471. The policy of the exchange, in lieu of conforming to the language and form prescribed by this code, shall be held to conform thereto in substance if such policy includes a provision or indorsement reciting that the policy shall be construed as if in the language and form prescribed by this code. Any such indorsement shall first be filed with the commissioner.

Article 11. Rebates.

Unlawful rebates.

1490. It is unlawful for any reciprocal or interinsurance exchange, its attorney, agent or broker, directly or indirectly, to give or offer to a subscriber, an allowance, gift, setoff or payment as an inducement to secure an exchange of indemnities, except in the case of savings or credits to be returned to a subscriber in accordance with the power of attorney or reciprocal or interinsurance contract of the subscriber.

Article 12. Agents and Brokers.

Application of qualification laws

1500. The provisions of this code regarding the appointment, licensing, qualification and regulation of insurance agents, brokers and solicitors, apply neither to the attorney in fact of a reciprocal or interinsurance exchange, nor to the salaried representatives of such exchange or attorney who receive no commissions, but do apply to any agent, broker or solicitor of any reciprocal or interinsurance exchange who receives any commission. The fee for issuing the annual license of such agents or solicitors shall be one dollar.

Article 13. Penalties.

Unlicensed practice.

1510. Any attorney-in-fact or representative of such an attorney who exchanges, or solicits or negotiates the exchange of, any contracts of insurance of the kind and character specified in this chapter, except as provided in section 1511, without compliance by the attorney with the provisions of this chapter, is guilty of a misdemeanor.

Organization permit.

1511. For the purpose of organization, and upon issuance of permit by the commissioner, powers of attorney and applications for such policies may be solicited without compliance with the provisions of this chapter, but no attorney, agent or other person shall execute any such policies until all of the provisions of this chapter are complied with.

Abrogation of certificate of authority.

1512. In addition to the foregoing penalties and where not otherwise provided, the penalty for failure or refusal to comply with any or all of the provisions of this chapter upon the part of the attorney, shall be the refusal, suspension or revocation of certificate of authority. Before such refusal, suspension or revocation, notice and hearing shall be given such attorney to show cause why such action should not be taken.

Article 14. Tax Provisions.

Taxes.

1530. In lieu of all other taxes, licenses or fees whatever, State or local, each exchange shall pay annually on account of the transaction of such business in this State, the same fees as are paid by mutual insurers transacting the same kind of business, and an annual tax upon all sums paid in the preceding calendar year by subscribers in this State by reason of the insurance exchanged, whether termed premium deposit, membership fee, or otherwise, after deducting therefrom premium deposit returns or cancellations, consideration for reinsurance and all amounts returned to subscribers and/or credited to their accounts as savings; such tax to be computed at the same rate as fixed by law for the taxation of mutual insurers transacting the same kind of business.

(Amended by Ch. 751, Stats. 1935.)

[ORIGINAL SECTION.]

1530. In lieu of all other taxes, licenses or fees whatever, State or local, such attorney shall pay annually on account of the transaction of such business in this State, the same fees as are paid by mutual insurers

transacting the same kind of business, and an annual tax upon the gross premium deposits collected from subscribers in this State during the preceding calendar year, after deducting therefrom premium deposit returns or cancellations, consideration for reinsurance and all amounts returned to subscribers and/or credited to their accounts as savings; such tax to be computed at the same rate as fixed by law for the taxation of mutual insurers transacting the same kind of business.

CHAPTER 4. FOREIGN INSURERS.

Article 1. Conditions of Doing Business.

Retaliatory law.

1560. When by the laws of any other State or country, any taxes, fines, penalties, licenses, fees, deposits of money or other securities, or other obligations or prohibitions are imposed on domestic insurers doing business in such other State or country, or upon their agents therein, in excess of such taxes, fines, penalties, licenses, fees, deposits of securities or other obligations or prohibitions, imposed upon insurers of such other State or country, so long as such laws continue in force, the same obligations and prohibitions of whatsoever kind shall be imposed upon insurers of such other State or country doing business in this State.

Deposits under retaliatory law.

1561. Whenever a foreign insurer makes any deposit in this State, if such deposit is made for the purpose of complying with section 1560, such deposit shall be made in bonds of the United States government, or those of the State of California, or in interest-bearing bonds of any of the counties or incorporated cities and towns of the State of California, not in default for interest on such bonds. Such deposit shall be subject to the provisions of Article 11, Chapter 11, Part 2, Division 1.

Article 2. Deposit of Securities.

Deposits by alien insurers

1580. Except as otherwise expressly provided for particular insurers, an insurer organized or existing under the laws of any country outside of the United States shall not transact any insurance in this State without first making the deposit required by this article. Such deposit shall be continuously maintained thereafter, so long as any obligation arising out of such insurance remains in existence for any purpose whatever and shall be in addition to any other deposits required by law.

Eligible investments

1581. Such deposit shall be of securities authorized for investment of the assets of domestic incorporated insurers.

State of deposit.

1582. Such deposits may be made with the insurance authority, or with the auditor, Controller or general fiscal officer of any State in which the insurer is authorized to transact such insurance, or otherwise held in trust for the purposes specified in section 1585 as provided by the laws of the State of deposit.

Amount of deposit.

1583. The amount of deposit shall be equal to the minimum amount of the capital paid in or available cash assets required by this code to transact the classes of insurance for

which the insurer is admitted. Such deposit shall be maintained as assets in excess of the same items of deduction, for liabilities or otherwise, as in the case of required paid-in capital, and may be treated as a part of the required assets of the depositing insurer. For the purpose of computing the amount of the deposit, the value of the securities shall not be estimated in excess of the par value or market value.

Certificate showing deposit.

1584. If such deposit is not so maintained in this State such deposit shall be deemed to be in existence as required by this article only when a certificate, issued by the proper authority of the State of deposit and showing in detail the contents of the deposit, is delivered to the commissioner at least annually whenever required by the commissioner.

Purpose of deposit.

1585. Such deposits shall be for the benefit and security of all the policyholders of the insurer in the United States.

Deposit in State treasury

1586. Securities deposited with the commissioner pursuant to this article shall be specially deposited by him in the State treasury, in packages marked with the name of the insurer from whom received.

Income on deposit.

1587. As long as the depositing insurer is solvent, it may collect the income on the deposited securities. From time to time it may withdraw such securities if it deposits other securities, of the character and value specified in this article, in the stead of those to be withdrawn.

Withdrawals

1588. Deposited securities shall not be withdrawn from the State treasury except upon the written order of the depositing insurer, indorsed by the commissioner or, if the indorsement is refused, under the authority of some court of competent jurisdiction.

Certificate of deposit

1589. Whenever such a deposit is made with the commissioner, he shall issue to the depositing insurer a certificate under his official seal stating the items and amount of securities so deposited, and their value, to the best of his knowledge. In case of withdrawal and substitution, he shall issue a supplemental certificate of similar nature.

Fee

1590. The commissioner shall require the payment of five dollars in lawful money of the United States, in advance, as a fee for issuing each certificate of deposit of securities under this article.

Article 3. Agent for Service of Process.

Designation of agent for service of process

1600. The commissioner shall require every foreign insurer, as a condition precedent to admission, to file in the commissioner's office a writing designating an agent for service of process. Such writing shall state the name of the agent and his place of business in this State.

Fee

1601. The commissioner shall require the payment of five dollars in lawful money of the United States, in advance, as a fee for filing appointment of agent or stipulation or both under this article.

Effect of service on agent.

1602. Any notice provided by law or by a policy, and any proof of loss, summons or other process may be served on such

agent in any action or other legal proceeding against the insurer, and such service gives jurisdiction over the person of such insurer.

Status of designated agent.

1603. The agent so appointed and designated shall be deemed in law a general agent, and shall be the principal agent of the insurer in this State.

Stipulation for service on commissioner.

1604. Every foreign insurer, as a further condition precedent to admission and in consideration thereof, shall file with the commissioner an agreement or stipulation, executed by the proper authorities of such insurer, in form and substance as follows:

Form.

"The (giving name of insurer) does hereby stipulate and agree, in consideration of the permission granted by the State of California to it to transact insurance business in this State, that if at any time it leaves this State, ceases to transact business in this State or is without an agent for service of process in this State, then in any case where such agent could be served, service may be made upon the Insurance Commissioner, and such service upon the commissioner shall have the same force and effect as if made upon the insurer."

When a foreign insurer, prior to the date this code takes effect, has filed with the commissioner an agreement for service upon him pursuant to the provisions of section 616 of the Political Code as then in effect, such filing is a compliance with this section while such agreement remains in effect.

Forwarding of process after service

1605. Whenever such service is made upon the commissioner, within ten days thereafter he shall transmit a copy of the paper served to the insurer. Such transmission shall be by mail, postage paid, and the package containing the papers shall be addressed to the manager, president, or secretary of the insurer at its home or principal office. The sending of such copy by the commissioner is a necessary part of the service of the papers.

Effective date of service.

1606. When any paper is served upon the commissioner pursuant to this article, the service as to the insurer is complete at the end of sixty days after the date of the delivery of the paper to the commissioner.

Mode of service.

1607. Service on a designated agent, pursuant to this article, may be made as provided in Chapter V, Title XIV, Part II, of the Code of Civil Procedure.

CHAPTER 5. PRODUCTION AGENCIES.

Article 1. Agents', Brokers', and Solicitors' Qualification.

1640. This article shall not affect:

Exemptions.

(a) Employees of title insurers or persons engaged in the business of examining, certifying, or abstracting titles when no commission is paid such employees or persons transacting insurance.

(b) Mortgage insurers or their solicitors or agents.

(c) Fraternal benefit societies or their solicitors or agents.

(d) Reciprocal or interinsurance exchanges, or their attorneys, solicitors, agents or employees, except as provided by Chapter 3 of this part.

(e) Any insurer admitted to transact life insurance, or life and disability insurance, or the agents, solicitors or employees of any such insurer, or agents licensed under the provisions of Article 2 of this chapter.

(f) Surplus line brokers.

Life insurance.

1641. The provisions of this article shall not prohibit a broker licensed thereunder from transacting life insurance and receiving a commission therefor.

License requirement.

1642. A person shall not act as an insurance agent, broker, or solicitor until a license is obtained from the commissioner, authorizing such person so to act.

Application.

1643. Such license shall be obtained only on a written application in a form prescribed by the commissioner, stating the kinds of insurance which the applicant desires to transact.

Broker's bond.

1644. Every applicant for a license to act as an insurance broker shall file with the application a satisfactory bond to the people of the State of California, duly executed by sufficient surety approved by the commissioner, in the amount of $1,000. Such bond shall be conditioned on the payment by the broker to any insurer, or to any other person entitled thereto, of premiums collected by the broker on contracts of insurance other than life.

Agency application by firm or corporation.

1645. Every application by a copartnership, association or corporation for a license to act as an insurance agent or broker shall state the names of the members, officers or employees of the applicant who intend to exercise the power and perform the duties of the agency or brokership. Such application shall also contain an agreement by all of the members of the copartnership or of an officer empowered to bind the association or corporation, that in the event the applicant is granted the license, only those persons designated in the license will transact insurance authorized under the license.

Examination for firm license.

1646. The natural persons named in an application under section 1645 shall, if the applicant is not already licensed as an insurance broker or agent, take and pass the qualifying examination provided by this code. Where one or more of the persons named fails to pass the examination, the license may be issued with the agreement of the applicant that the names of such person be omitted from the list of those empowered to transact insurance under the license.

Changes in firm.

1647. Whenever a copartnership, association or corporation, licensed as an agent or broker, desires to change, or add to, the persons who are to transact insurance under authority of its license, it shall immediately notify the commissioner. Thereupon the commissioner shall require a new application for license.

New members of firm.

1648. The commissioner shall require that the qualifying examination provided by this code be taken by any persons

named by such a business organization to transact insurance who are not named in the last previous application of the applicant and who, within two years next preceding the application, were not either licensed to act as an insurance agent, broker or solicitor, or named in a license as authorized to exercise agency or brokership powers.

Conditions of licensing.

1649. The commissioner shall investigate the qualifications of the applicants. Except as otherwise prescribed in this article he may issue the license applied for to an applicant on a showing satisfactory to him that the following facts exist:

(a) The applicant is properly qualified to perform the duties of an insurance agent, broker, or solicitor.

(b) Granting the license will not be against public interest.

(c) The applicant intends actively and in good faith to carry on the business of insurance agent, broker, or solicitor.

(d) In the case of a corporate applicant, the articles of incorporation permit it to act as an insurance agent or broker.

(e) In the case of an association or copartnership applying for such a license, its articles of association or agreement of partnership do not forbid it from so acting.

(f) The license is not being secured for the purpose of enabling the applicant or the employer of the applicant to obtain contracts of insurance other than life, at a cost less than specified in such contracts.

(g) In the case of a person who has not within two years previous to the application held a license to act as an insurance agent, broker, or solicitor, the applicant has taken and passed the qualifying examination provided in this article.

Content of license.

1650. Every license to act as an insurance agent, broker, or solicitor, as the case may be, shall state on its face:

(a) The name of the licensee.

(b) That he is licensed so to act.

(c) The location of the principal office in this State of the licensee by street address, city, or town, if any, and by county.

(d) The conditions, if any, on which the license is issued.

Display of license.

1651. Every license to act as such an agent, broker, or solicitor shall be prominently displayed in the office of the licensee.

Custody of solicitor's license

1652. The insurance solicitor's license shall be issued to, and shall remain in the possession of, the employing agent or broker until canceled, or until the licensee withdraws from the employ. Immediately upon the withdrawal the employer shall return the solicitor's license to the commissioner for cancellation. If unable to return the license, the employer shall furnish evidence of loss or destruction satisfactory to the commissioner, who shall thereupon cancel the license and shall enter the cancellation in his records. After such cancellation and upon notifying the commissioner in writing of change of office, or change of employer, the solicitor is entitled to the issuance without charge of a new license for the unexpired period.

1653. A solicitor shall not represent that he is an insurance agent for any insurer, or that he is an insurance broker. Misrepresentation of license held

1654. A license to act as an insurance solicitor shall not be issued until the applicant files with the commissioner a written statement of an insurance agent or broker, stating that the applicant, when licensed, will be employed by the broker or agent, with the duties and powers of an insurance solicitor. Statement of solicitor's employment

1655. Pending the issuance of a solicitor's license after examination of the applicant, and during periods when it is canceled by termination or change of employment, the applicant or solicitor, upon request, is entitled to a certificate from the commissioner stating that a license will be issued to its holder upon the filing of the required statement of employment. Solicitor's certificate.

1656. Before receiving a license to act as an insurance agent, an applicant shall file with the commissioner a document executed by an insurer or its authorized representative admitted to do insurance other than life, appointing the applicant, upon licensing, its agent in this State. Agent's appointment

1657. Upon termination of such agency, the licensee's principal shall notify the commissioner thereof and the licensee shall return the license to the commissioner for cancellation, or shall furnish proof of loss satisfactory to the commissioner. Upon receiving notice of the termination of the agency, from the licensee or from the licensee's principal, the commissioner shall cancel the license. Termination of agency.

1658. Pending the filing of an appointment with the commissioner, whether after termination of an agency or otherwise, a person otherwise qualified under the provisions of this article to act as an insurance agent, is entitled to have issued to him a certificate executed by the commissioner and stating that upon the filing of such an appointment a license to act as insurance agent will be issued. Agent's certificate

1659. Any insurance agent, broker or solicitor, upon paying the fee therefor and filing the proper bond, statement or employment, or appointment, as the case may be, is entitled to be licensed to act in one of the other two specified capacities. But only a natural person may act as a solicitor, and a person shall not at the same time be licensed to act as a solicitor and also as an agent or as a broker. Licensing in different capacities.

1660. An insurance agent may be a broker with relation to insurers for which he is not an agent, but in order to act as a broker he must also be licensed as such. Acting in different capacities.

1661. Each applicant for a license to act as an insurance agent, broker, or solicitor, who, at the time of the application, has not within two years previous to date of application, held a license to act in any one of those three capacities, shall take and pass a qualifying examination provided by this article. When examination required

1662. Unless previously revoked by the commissioner, the license or certificate of convenience of every insurance agent, broker, or solicitor expires on July 1 of every year. The commissioner, in his discretion, may renew any such license or Renewals.

certificate of convenience on payment of the fee therefor, without further investigation or requiring further information from the applicant.

Records.

1663. Every insurance broker or agent shall keep complete records of all business done under the authority of his license, and of the collection of all premiums and the names of all brokers from whom business is accepted and to whom commissions are promised or paid. These records shall be open to inspection or examination by the commissioner at all times.

Office in State.

1664. Except in the case of a nonresident broker, every insurance agent or broker shall maintain an office in this State for the transaction of business.

Certification of agency appointments.

1665. On July 1 of each year, every insurer admitted to do any insurance other than life shall certify to the commissioner, on a form prescribed by him, the names and addresses of the persons whom it has appointed its agents in this State and shall likewise notify the commissioner of the termination of such appointments.

List of licensees.

1666. When licenses, certificates pending issue of licenses, or certificates of convenience have been issued by the commissioner in accordance with this article, the commissioner shall compile the names and addresses of agents so certified. Such compilation shall be made in such a manner that the names of duly authorized agents and their respective insurers may be conveniently ascertained. The commissioner shall allow any person, upon request, to inspect the list thus compiled.

Abrogation of license.

1667. The license of an insurance agent, broker, or solicitor, may be suspended or revoked by the commissioner if, after proper investigation and a hearing upon reasonable notice, he determines that the holder of such license is guilty of any of the following acts or omissions:

(a) Violation of any provision of law relating to conduct of his business by any act or omission in respect to business done under the provisions of his license.

(b) Wilful making of a material misstatement in the application for the license to act as broker, agent or solicitor.

(c) Commission of a fraudulent practice.

(d) Demonstrated incompetency or untrustworthiness in the transaction of business permitted to be transacted solely under authority conferred by the license.

(e) Commission of a felony, shown by a final judgment of conviction.

Period of revocation.

1668. A person whose license is revoked by the commissioner shall not be issued any license under this article for a period of one year after the revocation. If any such license issued to a copartnership, association or corporation is revoked, a member of the copartnership or officer or director of the corporation shall not be entitled to such a license for the same period of time, unless the commissioner finds that such member, officer, or director was not in any way personally at fault in the matter on account of which the license was revoked.

1669. An action to review an act of the commissioner under this article shall be commenced and tried in the superior court of the county in which is located the principal office or residence of the party bringing it, unless the parties thereto stipulate otherwise. Review by court.

1670. A violation of any of the provisions of this article by any insurance solicitor or employee of any licensed agent or broker shall not cause a suspension or revocation of the license of the employer of such solicitor or employee unless it appears to the commissioner, upon a hearing, after reasonable notice to such employer, that the employer had knowledge of, and permitted or benefited by such violation. This provision shall not relieve the broker from civil liability or his surety from liability under the bond filed as provided in this article. Effect of employee's act upon employer's license.

1671. Clerical help necessary in performing any of the functions of insurance agents or brokers and salesmen selling merchandise in connection with insurance where premiums are included in the purchase price need not be licensed under this article. Such unlicensed clerical help shall not solicit insurance other than life, nor countersign policies unless licensed as an insurance agent, broker or solicitor. Clerical help.

1672. Upon the application of a nonresident that is duly licensed to transact insurance other than life under the laws of the State wherein such an applicant resides, if the State in which the applicant resides does not prohibit residents of this State from acting as an insurance broker therein, the commissioner may issue to such applicant a license to act as an insurance broker in this State upon the payment of the fee prescribed in this article. The issue of such license shall be subject, however, to the same qualifications, requirements and restrictions as apply to residents of this State, except that the applicant shall not be required to maintain an office in this State for the transaction of an insurance business. Nonresident broker.

1673. The commissioner may, in his discretion, accept in lieu of examination of such nonresident applicant, a certificate of the insurance authority of the state of the applicant's residence to the effect that the applicant has the following qualifications: Qualification of nonresident broker.

(a) Experience or training.

(b) Reasonable familiarity with the insurance laws of this State and with the provisions, terms and conditions of the insurance which the applicant proposes to transact.

(c) A fair and general understanding of the obligations and duties of an insurance broker.

1674. The commissioner shall conduct or arrange for a written examination, to be given at least twice a year upon questions, prepared by the commissioner, as to the qualifications of applicants or members or officers of applicants to act as insurance agent, broker or solicitor. Time of examination.

1675. The examinations shall be of sufficient scope to satisfy the commissioner that the applicants have sufficient knowledge of, and are reasonably familiar with, the insurance laws of the State and with the provisions, terms, and conditions of Scope of examination.

the insurance that they propose to transact, and have a general and fair understanding of the obligations and duties of an insurance agent, broker or solicitor.

Certificate of convenience.

1676. A license shall not be issued under this article to any person required to pass an examination, until such examination has been passed, but the commissioner may issue to an applicant a certificate of convenience, operative for a period not extending beyond six months from issuance nor beyond the first day of July next succeeding issuance, permitting such applicant to act as agent, broker, or solicitor, as the case may be, pending a fulfillment of the examination requirements.

Failure to take examination.

1677. Failure by an applicant to take the examination within thirty days after notification by the commissioner of readiness to hold the examination constitutes a failure to fulfill the examination requirements. Upon such failure by the holder, all privileges under any certificate of convenience shall terminate. In such case return of the application fee shall not be made.

Fees.

1678. The commissioner shall require in advance the following fees:

(a) For issuing each original annual license to an insurance broker, ten dollars.

(b) For issuing each renewal of annual license to an insurance broker, five dollars.

(c) For issuing each annual license to an agent or solicitor, two dollars.

(d) For giving to any person the qualifying examination for a license under this article, one dollar.

(e) For issuing a license to a nonresident broker, $100.

Penalty for failure to apply for renewal

1679. Any person holding an insurance agent's or broker's license who fails within thirty days after the first day of July in any year to submit his application for renewal of a license shall be subject to a penalty in an amount equal to twice the amount of the fee prescribed in section 1678 for the issuance of such license. Such penalty shall be in addition to the fee for issue of the license and shall be paid at the same time as the fee.

Penalty

1680. Any person who acts, offers to act, or assumes to act, as an insurance agent, broker or solicitor without a valid and subsisting license so to act, is guilty of a misdemeanor.

Article 2. Life Agents.

1700. (Repealed by Ch. 283, Stats. 1935.)

[ORIGINAL SECTION.]

1700. This article shall not apply to mutual benefit and life insurance associations organized and operating under Chapter 8, Part 2, Division 2, or to their solicitors or agents.

"Life agent."

1701. Any person licensed under this article is a life agent, within the meaning of this article.

1702. Nothing in this article gives a life agent authority to act under the provisions of Article 1 of this chapter without obtaining a license thereunder, except that an agent licensed under the provisions of this article may act as a disability agent of the insurer for which he is licensed under this article without obtaining a license under Article 1. An agent licensed under Article 1 shall not act as a life agent under the provisions of this article without obtaining a license hereunder. A licensee under this article, in order to act as authorized by his license, need not also obtain a license under Article 1. Scope of license.

1703. A person shall not act within this State as a life agent of any life insurer before obtaining a license under the provisions of this article. License requirement.

1704. An applicant for a license under this article shall file with the commissioner a statement by a duly authorized representative of the insurer which the agent seeks to represent, setting forth the following: Statement of insurer.

(a) The applicant is known to him.

(b) The applicant has had experience or instruction in life insurance, or will, within thirty days from the issuance of his license, be given the necessary instruction.

(c) The nature of any business other than insurance in which the applicant is engaged and the name under which such business is conducted.

(d) The applicant is of good reputation.

(e) The applicant is worthy of a license.

1705. The applicant shall answer under oath such interrogatories as the commissioner himself or through his deputies propounds on forms prepared by the commissioner. Interrogatories.

1706. A license shall not be issued until the commissioner has satisfied himself upon evidence presented and recorded as to the integrity of the applicant and that said applicant is qualified in the following respects to hold a license: Conditions of licensing.

(a) That the applicant is of good reputation.

(b) That the applicant has had experience or instruction in life insurance, or will be given the necessary instructions within thirty days after the issuance of the license, to the end that the interests of the insuring public and of the insurers may be reasonably served.

(c) That the applicant intends to engage in business as a life agent to do an insurance business with the general public and is not actuated principally in applying for a license by the prospect of insuring the life or health of himself or that of relatives or employers, or of a single person.

(d) That the applicant has never been refused a license or had a license revoked by any public insurance authority for reasons that should preclude the granting of the license applied for.

(e) That the applicant intends to carry on in good faith the business of life agent.

(f) That the applicant does not seek the appointment for the purpose of avoiding or preventing the operation or enforcement of the insurance laws of this State.

(g) That the granting of the license applied for will not be in violation of such laws either in letter or in spirit.

Hearing upon denial of license.

1707. A license shall not be refused by the commissioner without providing an opportunity to the applicant within thirty days to be heard and produce evidence in support of his application.

Notice of appointment.

1708. The commissioner upon notice from any admitted life insurer of the appointment of a person to act as its agent, shall, subject to the provisions of this article, issue to such person a license in such form as the commissioner prescribes.

Expiration and renewal

1709. Unless revoked by the commissioner, or unless the insurer by notice to the commissioner cancels the authority of the agent, the license shall expire on the first day of July next after its issue or renewal. The commissioner may renew a life agent's license for a succeeding year by a renewal certificate without requiring the detailed information required by this article.

Causes for and hearing on revocation.

1710. The commissioner shall give notice to a life agent, ordering the agent to appear before the commissioner and show cause why his license as a life agent should not be suspended or revoked, whenever it is brought to the attention of the commissioner, or written charges are filed with him, that any of the following facts exist:

(a) The agent has wilfully misstated any material fact in his application.

(b) The purpose of applying for such license was to avoid or prevent the operation or enforcement of any provision of this code.

(c) The agent conducts his business in a dishonest manner.

(d) The agent misrepresents the policies or contracts he sells or misrepresents the policies or contracts of other agents or other insurers.

(e) The agent is incapable or is conducting his business in such a manner as to cause injury to the public or those dealing with him.

(f) The agent obtained his license in an unfair manner or by concealment or misrepresentation.

Revocation or suspension.

1711. If, at the hearing of the order to show cause, it appears that any fact exists as specified in section 1710 and in the notice and order to show cause, then the commissioner shall revoke the license of such agent, or suspend the license for a period fixed by the commissioner. In such case the commissioner shall notify the agent and the insurer such agent represents of the revocation or suspension.

Review by court.

1712. An action to review an act of the commissioner under this article shall be commenced and tried in the superior court of the county in which such applicant or agent resides unless the parties thereto stipulate otherwise.

Fee.

1713. The fee for the issuance or renewal of a life agent's license is one dollar.

Penalty.

1714. Any person who acts, offers to act or assumes to act as a life agent when not licensed by the commissioner as

provided in this article, or after such license granted to him has been suspended or revoked, unless proceedings are pending in the courts to review the act of the commissioner, is guilty of a misdemeanor.

Article 3. Fiduciary Funds of Insurance Agents, Brokers and Solicitors.

1730. All funds received by any agent, broker or solicitor, as premium or return premium on or under any policy are received by such agent, broker or solicitor in his fiduciary capacity. Any agent, broker or solicitor who diverts or appropriates such funds to his own use is guilty of theft and punishable for theft as provided by law. Status of premiums in hands of agent, broker or solicitor.

CHAPTER 6. SURPLUS LINE BROKERS.

1760. Any citizen of this State may negotiate and effect insurance on his own property with any nonadmitted insurer. Direct insurance with nonadmitted insurance

1761. Except as provided in section 1760, a person within this State shall not transact any insurance, marine insurance and insurance on the property of steam railroads or of other common carriers engaged in interstate trade excepted, on property or risks located within this State with nonadmitted insurers, except by and through a surplus line broker upon the terms and conditions prescribed in this chapter. Surplus line broker writing.

1762. An insurance broker, not acting by and through a surplus line broker, may solicit or place marine insurance, or insurance on property of common carriers engaged in interstate trade, with nonadmitted insurers only if three-quarters of the insurers admitted for such class of insurance are first offered and refuse such insurance at equal rates and on the same conditions, as are obtainable in good faith from insurers authorized to do the same class of insurance in the State of New York. Marine and common carrier insurance.

1763. A surplus line broker may solicit and place insurance, other than as excepted in section 1761, with nonadmitted insurers only if such insurance can not be procured from a majority of the insurers admitted for the particular class of insurance. Such part of the insurance as can not be so procured may be procured from nonadmitted insurers. Conditions requisite to placing insurance with nonadmitted insurer.

1764. Before any insurance is so procured or placed with nonadmitted insurers under authority of a surplus line broker's license, such broker shall satisfy himself that the insurance thus to be placed is only such part of the insurance required as can not be procured from a majority of insurers admitted for that class of insurance. Limitation upon writing in nonadmitted insurers.

1765. The commissioner shall issue a license authorizing any applicant that is trustworthy and competent to transact an insurance brokerage business in such manner as to safeguard the interest of the insured, to act as a surplus line broker from the date of such license until the first day of July succeeding, on the following conditions: Issue of license.

(a) Payment in advance to the commissioner of a fee of $25. Fee.

Bond.

(b) Delivery to the commissioner of a bond to the State of California in the sum of $5,000 with an admitted surety insurer or individuals having the qualifications mentioned in section 1057 of the Code of Civil Procedure, conditioned that said licensee will fully and faithfully comply with the requirements of this chapter.

Substitution of bond.

1766. If in the opinion of the commissioner the solvency of any surety on a bond required in this chapter has become impaired or doubtful, he shall notify the broker, and unless within ten days after receipt of such notice the solvency of such surety is proved to the satisfaction of the commissioner, or a new bond is substituted therefor, the commissioner shall revoke the license of the broker.

Office in State.

1767. A surplus line broker shall maintain in good faith an office in this State.

Books and records

1768. Such broker shall keep in said office complete books of the business transacted by him, with nonadmitted insurers under his license as a surplus line broker, showing:

(a) The effective dates of such insurance.

(b) The names of the insurers and of the insured.

(c) The gross premium payable therefor.

(d) The terms and character of insurance and location of the subject matter.

(e) Statements in the same detail as in the case of insurance in effect, of all such insurance canceled or on which premiums have been increased or reduced, and the amounts of additional or of return premiums thereon.

List of insurers refusing writings.

1769. Whenever required so to do by the commissioner, such surplus line broker shall furnish to the commissioner a list of the majority of the admitted insurers from which the entire amount of insurance desired was not obtainable.

Examination

1770. The commissioner, whenever he deems necessary, may examine the books and accounts of any surplus line broker for the purpose of determining whether or not the broker is conducting his business in accordance with the provisions of this chapter. For the purpose of making such examination such broker shall allow the commissioner free access at all times to all the broker's books and papers, and the commissioner shall thoroughly inspect and examine all of the broker's affairs.

Examination expense.

1771. All examinations by the commissioner shall be at the expense of the surplus line broker, such expenses to be paid in advance. If any such broker refuses to pay such expenses in advance, the commissioner may refuse to issue a renewal of the license of such broker and shall revoke the license of the broker.

Report to commissioner.

1772. The surplus line broker, within one week or as soon thereafter as practicable, after receipt by him of the information as to with what nonadmitted insurers and at what rate insurance has been placed, shall file with the commissioner a report showing:

(a) The effective dates of such insurance.

(b) The names of the insurers and of the insured.

(c) The gross premium payable therefor.

(d) The terms and character of the insurance and location of the subject matter.

Further report.

1773. As soon as practicable after any such insurance is canceled, or any premium thereon is increased or reduced, the surplus line broker shall file with the commissioner a report thereof in the same detail as required in the case of the report of placing insurance.

Annual statement

1774. On or before the first day of March of each year the surplus line broker shall file with the commissioner a sworn statement of all business transacted under his license during the last preceding calendar year. Such statement shall contain accounts of:

(a) The gross amount of insurance procured from and placed with nonadmitted insurers during the calendar year.

(b) The gross premium charged therefor, including additional insurance premium.

(c) The gross amount of all insurance canceled during said year.

(d) The gross return premiums thereof.

(e) Any additional premiums charged and the gross premiums returned during that calendar year on insurance previously effected.

Report blanks.

1775. All such reports and statements shall be made on blanks furnished to the surplus line broker by the commissioner on application therefor.

Penalties.

1776. Any surplus line broker who wilfully fails or refuses to report to the commissioner any insurance on subject matter located within this State placed under his name with nonadmitted insurers, or who, by wilful omission from the records required to be maintained by him for such purpose, attempts to evade the payment of taxes on any such insurance, is, in addition to being required to pay the tax, punishable by a fine not exceeding one hundred dollars for each offense.

Termination of license

1777. The following acts shall constitute a termination of the authority of a surplus line broker, and shall constitute revocation of his license, whether or not the commissioner formally revokes the same:

(a) The removal of the broker's office from this State.

(b) The removal of the accounts of his business from this State.

(c) The closing of his office for a period of more than twenty consecutive days.

(d) Wilful failure or refusal to perform any of the other duties specified in this chapter.

Period of abrogation.

1778. When a surplus line broker's license is revoked for any reason other than the insufficiency of his sureties, a new license shall not be issued to him within one year after such revocation and until all indebtedness of the broker on former business has been paid to the commissioner.

Examination of records of insureds.

1779. Every insured for whom insurance has been effected with nonadmitted insurers shall, upon request in writing by the commissioner, produce for the commissioner's examination all policies, contracts, and other documents evidencing such insurance, and shall disclose to the commissioner the amount of the gross premiums paid or agreed to be paid for such insurance. For refusal to obey such request, such insured shall forfeit to the State of California the sum of two hundred dollars for each refusal.

DIVISION 2. CLASSES OF INSURANCE.

PART 1. FIRE AND MARINE INSURANCE.

CHAPTER 1. THE MARINE CONTRACT.

Article 1. Insurable Interests Peculiar to Marine Insurance.

Interest of owner.

1880. The owner of a ship has in all cases an insurable interest in it, even when it has been chartered by one who agrees to pay him its value in case of loss.

Ship hypothecated by bottomry.

1881. The insurable interest of the owner of a ship hypothecated by bottomry is only the excess of its value over the amount secured by bottomry.

Freightage

1882. Freightage, in marine insurance, signifies all the benefit derived by the owner, either from the chartering of the ship or its employment for the carriage of his own goods or those of others.

Owner's interest in freightage.

1883. The owner of a ship has an insurable interest in expected freightage which he would have certainly earned but for the intervention of a peril insured against.

When freightage interest exists.

1884. The interest mentioned in the last section exists, in the case of a charter party, when the ship has broken ground on the chartered voyage. If a price is to be paid for the carriage of goods it exists when they are actually on board, or there is some contract for putting them on board, and both ship and goods are ready for the specified voyage.

Interest in source of profits.

1885. In marine insurance, a person who has an interest in the thing from which profits are expected to proceed, has an insurable interest in the profits.

Interest of charterer.

1886. The charterer of a ship has an insurable interest in it, to the extent that he is liable to be damaged by its loss.

Article 2. Concealment and Representations—Rules Peculiar to Marine Insurance.

Required communications.

1900. In marine insurance each party is bound to communicate, in addition to what is required in the case of other insurance:

(a) All the information which he possesses and which is material to the risk, except such as is exempt from such communication in the case of other insurance.

(b) The exact and whole truth in relation to all matters that he represents or, upon inquiry assumes to disclose.

1901. In marine insurance, information of the belief or expectation of a third person in reference to a material fact, is material. Belief of third person.

1902. A person insured by a contract of marine insurance is presumed to have, at the time of insuring, knowledge of a prior loss, if the information might possibly have reached him in the usual mode of transmission and at the usual rate of communication. Presumption of insured's knowledge.

1903. In a marine insurance, concealment in respect to any of the following matters does not vitiate the entire contract, but merely exonerates the insurer from a loss resulting from the risk concealed: Result of certain concealments.

(a) The national character of the insured.

(b) The liability of the subject matter to capture and detention.

(c) The liability to seizure from breach of foreign laws of trade.

(d) The want of necessary documents.

(e) The use of false and simulated papers.

1904. In marine insurance, if a representation by the insured is intentionally false in any respect, whether material or immaterial, the insurer may rescind the entire contract. False representation.

1905. The failure of subsequent circumstances to conform to a representation as to expectation does not, in the absence of fraud, avoid marine insurance. False expectation.

Article 3. Implied Warranties Peculiar to Marine Insurance.

1920. In every marine insurance upon a ship or involving transportation by ship, a warranty is implied that the ship is seaworthy. Seaworthiness.

1921. A ship is seaworthy when reasonably fit to perform the services and encounter the ordinary perils of the voyage contemplated by the parties to the policy. "Seaworthy" defined.

1922. An implied warranty of seaworthiness is complied with if the ship is seaworthy at the time of the commencement of the risk, except in the following cases: Compliance with warranty.

(a) When the insurance is made for a specified length of time, the implied warranty is not complied with unless the ship is seaworthy at the commencement of every voyage it undertakes during that time.

(b) When the insurance is upon the cargo and, by the terms of the policy, description of the voyage, or established custom of the trade, the cargo is to be transshipped at an intermediate port, the implied warranty is not complied with unless each vessel upon which the cargo is shipped or transshipped is seaworthy at the commencement of its particular voyage.

1923. A warranty of seaworthiness extends not only to the condition of the structure of the ship itself, but also requires that it be properly laden and provided with: Extent of warranty.

(a) A competent master.

(b) A sufficient number of competent officers and seamen.

(c) The requisite appurtenances and equipments.

(d) Other necessary or proper stores and implements for the voyage.

Warranty as to portions of voyage.

1924. Where any portion of the voyage contemplated by a policy differs from other portions in respect to the things requisite to make the ship seaworthy therefor, a warranty of seaworthiness is complied with if, at the commencement of each portion, the ship is seaworthy with reference to that portion.

Delay in repairs.

1925. When a ship becomes unseaworthy during the voyage, an unreasonable delay in repairing the defect exonerates the insurer from liability on any loss arising from the defect.

Fitness for cargo.

1926. A ship may be seaworthy for the purpose of insurance upon itself and, at the same time, unseaworthy for the purpose of insurance upon the cargo because of unfitness to receive the cargo.

Nationality or neutrality warranty.

1927. Where the nationality or neutrality of a ship or cargo is expressly warranted, it is implied that:

(a) The ship will carry the requisite documents to show such nationality or neutrality.

(b) It will not carry any documents which cast reasonable suspicion thereon.

Article 4. Effect of Course of Voyage.

Mercantile usage as to sailing course.

1940. When the voyage contemplated by marine insurance is described by the places of beginning and ending, the voyage insured is one which conforms to the course of sailing fixed by mercantile usage between those places.

Voyage in absence of usage.

1941. If the course of sailing is not fixed by mercantile usage, the voyage insured by marine insurance is that way between the places specified which, to a master of ordinary skill and discretion, would seem the most natural, direct, and advantageous.

Deviation

1942. Deviation is:

(a) A departure from the course of the voyage insured.

(b) An unreasonable delay in pursuing the voyage.

(c) The commencement of an entirely different voyage.

Proper deviation

1943. A deviation is proper:

(a) When caused by circumstances over which neither the master nor the owner of the ship has any control.

(b) When necessary to comply with a warranty, or to avoid a peril, whether or not the peril is insured against.

(c) When made in good faith and upon reasonable grounds of belief in its necessity to avoid a peril.

(d) When made in good faith, for the purpose of saving human life or relieving another vessel in distress.

Improper deviation.

1944. Every deviation not specified in the last section is improper.

Effect.

1945. An insurer is not liable for any loss happening to the subject matter of marine insurance after an improper deviation.

Article 5. Loss in Marine Insurance.

Types of total loss.

1960. A loss is either total or partial.

1961. A total loss is either actual or constructive.

Causes of total loss

1962. An actual total loss is caused by:

(a) A total destruction of the subject matter of insurance.

(b) The loss of the subject matter by sinking, or by being broken up.

(c) Any damage to the subject matter which renders it valueless to the owner for the purposes for which he held it.

(d) Any other event which entirely deprives the owner of the possession, at the port of destination, of the subject matter.

Constructive total loss

1963. A constructive total loss is one which gives to a person insured a right to abandon, under section 1971.

Presumption of actual loss

1964. An actual loss may be presumed from the continued absence of a ship without being heard of. The length of time which is sufficient to raise this presumption depends on the circumstances of the case.

Reshipment of cargo.

1965. When a ship is prevented, at an intermediate port and by the perils insured against, from completing the voyage, the master shall make every exertion to procure, in the same or a contiguous port, another ship for the purpose of conveying the cargo to its destination. The liability of a marine insurer on the cargo continues after it is thus reshipped and such insurer is additionally liable as prescribed in section 1966.

Additional liability of insurer.

1966. In addition to the liability mentioned in section 1965, a marine insurer is liable, up to the amount insured, for damages, expenses of discharging, storage, reshipment, extra freightage, and all other expenses incurred in saving cargo reshipped pursuant to section 1965.

Payment of actual loss

1967. Upon an actual total loss, the insured is entitled to payment without notice of abandonment.

Agreement freeing from particular average

1968. Where it has been agreed that an insurance upon a particular subject matter, or class of subject matter, is to be free from particular average, a marine insurer is not liable for any particular average loss not depriving the insured of the possession, at the port of destination of the whole of such subject matter or class, even though the subject matter or class becomes entirely worthless; but such insurer is liable for his proportion of all general average loss assessed upon the subject matter insured.

Limitation to actual loss.

1969. When insurance is confined in its terms to an actual total loss, it does not cover a constructive total loss, but it does cover any loss which necessarily results in depriving the insured of the possession, at the port of destination, of the entire subject matter insured.

Abandonment.

1970. Abandonment, in marine insurance, is the act of the insured by which, after a constructive total loss, he declares the relinquishment to the insurer of the insured's interest in the subject matter.

Instances when abandonment justified.

1971. In marine insurance, after abandonment of the subject matter of insurance or of any particular portion thereof which is separately valued by the policy or otherwise sepa-

rately insured, in a case where the cause of the loss is a peril insured against the insured may recover for a total loss, as described in section 1963, if:

(a) More than half in value of the subject matter is actually lost by such peril, or would have to be expended to recover it from the peril.

(b) The subject matter is injured to such an extent as to reduce its value more than half.

(c) The subject matter is a ship, and either the contemplated voyage can not be lawfully performed without incurring either an expense to the insured of more than half the value of the ship abandoned or a risk which a prudent man would not take under the circumstances.

(d) The subject matter is cargo or freightage and the voyage can not be performed, nor another ship procured by the master to forward the cargo, within a reasonable time, with reasonable diligence and without incurring an expense to the insured of more than half the value of the subject matter or a risk which a prudent man would not take under the circumstances. But freightage can not in any case be abandoned unless the ship also is abandoned.

Partial or conditional abandonment.

1972. An abandonment can not be either partial or conditional.

Time for abandonment.

1973. An abandonment can be made only at a time limited by all of the following:

(a) Within a reasonable time after the information of the loss.

(b) After the commencement of the voyage.

(c) Before the insured has information of the completion of the voyage.

Defeating abandonment.

1974. Where the information upon which an abandonment has been made proves incorrect, or the subject matter of insurance is so far restored when the abandonment is made that there is in fact no total loss, the abandonment is not effective.

Notice.

1975. Abandonment is made by giving oral or written notice thereof to the insurer.

Requisites of notice.

1976. A notice of abandonment shall be explicit, and shall specify the particular cause of the abandonment, but need state only enough to show that there is probable cause therefor, and need not be accompanied with proof of interest or of loss.

Cause for abandonment.

1977. An abandonment can be sustained only upon the cause specified in the notice thereof.

Abandonment as transfer.

1978. An abandonment is equivalent to a transfer to the insurer of the insured's interest, with all the chances of recovery and indemnity.

Rights of insurer.

1979. Whenever a marine insurer pays for a loss as if it were an actual total loss, he is entitled to whatever remains of the subject matter insured, or its proceeds or salvage, to the same extent as in the case of a formal abandonment.

1980. Upon an abandonment, acts done subsequent to the loss and in good faith by persons who at the time were the insured's agents in respect to the subject matter insured, are at the risk of the insurer, and for his benefit. **Acts of insured's agents.**

1981. An acceptance of an abandonment is not necessary to the rights of the insured, and is not to be presumed from the mere silence of the insurer at the time of receiving notice of abandonment. **Acceptance of abandonment.**

1982. The acceptance of an abandonment, whether express or implied, is conclusive upon the parties and admits the loss and the sufficiency of the abandonment. **Effect of acceptance.**

1983. An abandonment once made and accepted is irrevocable, unless the ground upon which it was made proves to be unfounded. **Abandonment irrevocable.**

1984. On an accepted abandonment of a ship, freightage earned previous to the loss belongs to the insurer of the freightage; but freightage subsequently earned belongs to the insurer of the ship. **Rights to freightage.**

1985. If an insurer refuses to accept a valid abandonment, he is liable as upon an actual total loss, after deducting from the amount of the loss any proceeds of the insured subject matter which have come to the hands of the insured. **Refusal to accept abandonment.**

1986. If an insured omits to abandon, he may nevertheless recover his actual loss. **Failure to abandon.**

1987. (a) A valuation fraudulent in fact entitles a marine insurer to rescind the contract. **Effect of valuation.**

(b) When the subject matter has been hypothecated by bottomry or respondentia, before its insurance and without the knowledge of the person actually procuring the insurance, such person may show the real value.

(c) Otherwise a valuation in a policy of marine insurance is conclusive between the parties in the adjustment of either a partial or total loss if the insured has some interest at risk and there is no fraud on his part.

1988. In a case of partial loss, a marine insurer is liable only for such proportion of the amount insured by him as the loss bears to the value of the whole interest of the insured in the subject matter. **Partial loss.**

1989. Where profits are separately insured in marine insurance, in case of loss the insured is entitled to recover that proportion of such profits which the value of the subject matter lost bears to the value of the whole. **Separate insurance of profits.**

1990. In case of a valued policy of marine insurance on freightage or cargo, if only a part of the subject matter is exposed to risk, the valuation applies only in proportion to such part. **Where part of subject matter exposed to risk.**

1991. When profits are valued and insured by marine insurance, a loss of them is conclusively presumed from a loss of the property out of which they were expected to arise, and the valuation fixes their amount. **Valued profits.**

1992. In estimating a loss under an open policy of marine insurance, the following rules are to be observed: **Estimating loss under open policy.**

(a) The value of a ship is its value at the beginning of the risk, including all articles or charges which add to its permanent value or which are necessary to prepare it for the voyage insured.

(b) The value of cargo is either its actual cost to the insured, when laden on board, or, where that cost can not be ascertained, its market value at the time and place of lading, adding the charges incurred in purchasing and placing it on board, but without reference to:

(1) Any losses incurred in raising money for its purchase.

(2) Any drawback on its exportation.

(3) The fluctuations of the market at the port of destination.

(4) Expenses incurred on the way or on arrival.

(c) The value of freightage is the gross freightage, exclusive of primage, without reference to the cost of earning it.

(d) The cost of insurance is in each case to be added to the value thus estimated.

Damaged cargo.

1993. If cargo insured against partial loss arrives at the port of destination in a damaged condition, the loss of the insured is computed as follows:

(a) Deduct the market price, at port of destination, of the damaged subject matter from its market price there when sound.

(b) Take that proportion of the value which the remainder thus ascertained bears to such market price when sound.

Liability in addition to total loss.

1994. A marine insurer is liable for all the expense attendant upon a loss which forces the ship into port to be repaired. Where it is agreed that the insured may labor for the recovery of the property, the insurer is liable for the expense incurred thereby. In either case, the liability for such expense is in addition to the liability for a subsequent total loss.

General average losses

1995. In marine insurance, when an insured is required to make a contribution in respect to the subject matter of insurance toward a general average loss, if the average was called for on a loss by a peril insured against, the insurer is liable for the insured's loss through the contribution.

Rights of contribution.

1996. In marine insurance, where an insured has a demand against others for contribution, he may claim the whole loss from the insurer, subrogating the insurer to the insured's right to contribution. But no such claim can be made upon the insurer after the separation of the interests liable to contribution, nor after the insured, having the right and opportunity to enforce contribution from others, neglects or waives the exercise of that right.

Partial loss of ship or equipment.

1997. In the case of a partial loss of a ship or its equipments, the old materials are to be applied towards payment for the new. Whether the ship is new or old, a marine insurer is liable for only two-thirds of the remaining cost of the repairs after such deduction, except that anchors and cannon must be paid for in full, and sheathing metal at a depreciation of

only two and one-half per cent for each month that it has been fastened to the ship.

Article 6. Exemptions.

2010. The provisions of sections 800, 801, 802, 803, 804, 805, 806, 807, 808, and 809 shall not apply to marine insurance. Exemptions.

CHAPTER 2. THE FIRE INSURANCE CONTRACT.

Article 1. Change of Risk.

2030. An insurer is entitled to rescind a contract of fire insurance upon an alteration in the use or condition of the subject matter insured from that to which it is limited by the policy, when such alteration is made without the consent of the insurer by means within the control of the insured, and increases the risk. Alteration in use or condition.

2031. When a contract of fire insurance does not restrict use or condition of insured subject matter, such contract is not affected by an alteration in such use or condition if the alteration does not increase the risk. Alteration without increase of risk.

2032. After the execution of a contract of fire insurance, an act of the insured does not affect the contract unless the act violates policy provisions, even though such act increases the risk and causes a loss. Acts after execution of policy.

Article 2. Measure of Indemnity.

2050. The effect of a valuation in a fire policy is the same as in a marine policy. Effect of valuation.

2051. Under an open policy, the measure of indemnity in fire insurance is the expense to the insured of replacing the thing lost or injured in its condition at the time of the injury, such expense being computed as of the time of the commencement of the fire. Measure in absence of valuation.

2052. Whenever the insured desires to have a valuation named in his policy insuring any building or structure against fire, he may require such building or structure to be examined by the insurer and the value of the insured's interest therein shall be fixed at that time by the parties. The cost of the examination shall be paid by the insured. Option of valuation.

2053. A clause shall be inserted in such a valued policy, stating substantially that the value of the insured's interest in the insured building or structure has been thus fixed. Valuation clause

2054. In the absence of any change increasing the risk without the consent of the insurer or of fraud on the part of the insured, and except as provided in section 2056, the insurer under such a valued policy shall pay losses as follows: Measure of indemnity under valued policy.

(a) In case of a total loss, the whole amount insured upon the insured's interest in such building or structure, as stated in the policy and upon which the insurers have received a premium.

(b) In case of a partial loss the full amount of the partial loss.

(c) In case there are two or more policies covering the insured's interest, each policy shall contribute pro rata to the payment of such whole or partial loss.

Limit of liability.

2055. Except as provided by section 2056, the insurer shall not be required to pay more than the amount stated in such a valued policy.

Stipulations in valued policy.

2056. Stipulations in a valued policy concerning the repairing, rebuilding or replacing of buildings or structures wholly or partially damaged or destroyed shall prevail over the provisions of sections 2054 and 2055.

Article 3. California Standard Form Fire Insurance Policy.

Standard form required.

2070. All fire policies on subject matter in California shall be on the standard form, and, except as provided by this article, shall not contain additions thereto. No part of the standard form shall be omitted therefrom.

Form.

2071. The following is adopted as a standard form of fire insurance policy for this State:

CALIFORNIA STANDARD FORM FIRE INSURANCE POLICY.

No._____ Amount $_____

Rate_____

No other insurance permitted
except by agreement endorsed hereon or added hereto.

(Here insert name of company, and place of its main office in California, and name of State or country under which incorporated or organized.)

IN CONSIDERATION of the stipulations herein named and of _____ dollars premium does insure _____ for the term of _____ from the _____ day of _____ 19____, at noon, to the ____ day of _____ 19 ____ at noon against all loss or damage by fire, except as hereinafter provided.

To an amount not exceeding _____ dollars to the following described property while located and contained as described herein, and not elsewhere, to wit:

The company will not be liable beyond the actual cash value of the interest of the insured in the property at the time of loss or damage nor exceeding what it would then cost the insured to repair or replace the same with material of like kind and quality; said cash value to be estimated without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating repair or construction of buildings, and without compensation for loss resulting from interruption of business or manufacture.

Form.

This policy is made and accepted subject to the foregoing stipulations and conditions and those hereinafter stated, which are hereby specially referred to, and made part of this policy, together with such other provisions, agreements or conditions as may be endorsed hereon or added hereto, and no officer, agent, or other representative of this company shall have power to waive any provision or condition of this policy except by writing endorsed hereon or added hereto, and no person, unless duly authorized in writing, shall be deemed the agent of this company.

This policy shall not be valid until countersigned by the duly authorized agent of the company, at _____

IN WITNESS WHEREOF, this company has executed and attested these presents (here insert name of company)

by _____

Countersigned at _____ this _____ day of _____ 19___

_____Agent.

STIPULATIONS AND CONDITIONS SPECIALLY REFERRED TO.

Property not covered. (*a*) This company shall not be liable for loss to accounts, bills, currency, evidences of debt or ownership or other documents, money, notes or securities; nor, (*b*) unless liability is specifically assumed hereon, for loss to bullion, casts, curiosities, drawings, dies, jewels, manuscripts, medals, models, patterns, pictures, scientific apparatus, business or store or office furniture or fixtures, sculptures, frescoes, decorations, or property held on storage or for repair.

Hazards not covered. This company will not be liable for loss by (*a*) theft; or (*b*) by neglect of the insured to use all reasonable means to save and preserve the property at and after a fire, or when the property is endangered by fire; or (*c*) (unless fire ensues, and in that event for the damage by fire only) by explosion of any kind or lightning; or (*d*) by invasion, insurrection, riot, civil war, or commotion, or (except as hereinafter provided) by military or usurped power, or order of any civil authority, but the company will be liable (unless otherwise provided by endorsement hereon or added hereto) if the property is lost or damaged, by fire or otherwise, by civil authority or military or usurped power exercised to prevent the spread of fire not originating from a cause excepted hereunder and which fire otherwise probably would have caused the loss of or damage to the insured property.

Matters avoiding policy. This entire policy shall be void, (*a*) if the insured has concealed or misrepresented any material fact or circumstances concerning this insurance or the subject thereof; or, (*b*) in case of any fraud or false swearing by the insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss.

Unless otherwise provided by agreement endorsed hereon or added hereto, this entire policy shall be void, (*a*) if the insured now has or shall procure any other insurance, whether valid or not, on property covered in whole or in part by this policy, or

Form.

(*b*) if the interest of the insured be other than unconditional and sole ownership, or (*c*) if the subject of insurance be a building on ground not owned by the insured in fee simple, or (*d*) if with the knowledge of the insured foreclosure proceedings be commenced or notice given of sale of any property covered by this policy by virtue of any mortgage or trust deed, or (*e*) if this policy be assigned before a loss.

Matters suspending insurance. Unless otherwise provided by agreement endorsed hereon or added hereto this company shall not be liable for loss or damage occurring (*a*) while the hazard be materially increased by any means within the control of the insured; or (*b*) if the subject of insurance be a manufacturing establishment, while it is operated in whole or in part at night later than ten o'clock or while it ceases to be operated beyond the period of ten consecutive days; or (*c*) while mechanics or artisans are employed in building or altering or repairing the described premises for more than fifteen days at any one time; or (*d*) while illuminating gas or vapor be generated in the described building (or adjacent thereto) for use therein; or (*e*) while there be kept, used or allowed on the described premises (any usage or custom of trade or manufacture to the contrary notwithstanding) calcium carbide, phosphorus, dynamite, nitroglycerine, fireworks or other explosives; or exceeding one quart each of benzine, gasoline, naphtha or ether; or more than twenty-five pounds of gunpowder; or (*f*) while a building herein described whether intended for occupation by owner or tenant is vacant or unoccupied beyond the period of ten (10) consecutive days; (*g*) while the interest in, title to or possession of the subject of insurance is changed excepting: (1) by the death of the insured; (2) a change of occupancy of building without material increase of hazard; and (3) transfer by one or more several copartners or coowners to the others.

Such suspension shall not extend the term of this policy nor create any right for refund of the whole or any portion of premium, nor affect the respective rights of cancellation.

Chattel mortgage. Unless otherwise provided by agreement in writing endorsed hereon or added hereto this company shall not be liable for loss or damage to any property insured hereunder while encumbered by a chattel mortgage, but the liability of the company upon other property hereby insured shall not be affected by such chattel mortgage.

Fallen building clause. Unless otherwise provided by agreement endorsed hereon or added hereto, if a building or any material part thereof fall, except as the result of fire, all insurance by this policy on such building or its contents shall immediately cease.

Removal when endangered by fire. Should any of said property be necessarily removed because of danger from fire, and there is no other insurance thereon, that part of this policy in excess of the value of the insured property remaining in the original location, or, if there is other insurance thereon, that part of this policy in excess of its proportion of the value of

the insured property remaining in the original location, shall, for the ensuing five days only, cover said removed property in its new location or locations. Form.

Cancellation. This policy shall be canceled at any time at the request of the insured, in which case the company shall, upon surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time, without tender of unearned portion of premium, by the company by giving five (5) days' written notice of cancellation to the insured and to any mortgagee or other party to whom, with the written consent of the company, this policy is made payable, in which case the company shall, upon surrender of the policy or relinquishment of liability thereunder, refund the excess of paid premium above the pro rata premium for the expired time.

Duty of insured in case of loss. When a loss occurs the insured must give to this company written notice thereof without unnecessary delay; and shall protect the property from further damage; forthwith separate the damaged and undamaged personal property and put it in the best possible order; and without unnecessary delay make a complete inventory stating as far as possible the quantity and cost of each article, and the amount claimed thereon.

Within sixty days after the commencement of the fire the insured shall render to the company at its main office in California named herein preliminary proof of loss consisting of a written statement signed and sworn to by him setting forth:—(*a*) his knowledge and belief as to the origin of the fire; (*b*) the interest of the insured and of all others in the property; (*c*) the cash value of the different articles or properties and the amount of loss thereon; (*d*) all incumbrances thereon; (*e*) all other insurance, whether valid or not, covering any of said articles or properties; (*f*) a copy of the descriptions and schedules in all other policies unless similar to this policy, and in that event, a statement as to the amounts for which the different articles or properties are insured in each of the other policies; (*g*) any changes of title, use, occupation, location or possession of said property since the issuance of this policy; (*h*) by whom and for what purpose any building herein described, and the several parts thereof, were occupied at the time of the fire.

If the company claims that the preliminary proof of loss is defective and within five days after the receipt thereof (without admitting the amount of loss or any part thereof) notifies in writing the insured, or the party making such proof of loss, of the alleged defects (specifically stating them) and requests that they be remedied by verified amendments the insured or such party within ten days after the receipt of such notification and request must comply therewith or, if unable so to do, present to the company an affidavit to that effect.

The insured shall also furnish, if required, as far as it is practicable to obtain the same, verified plans and specifica-

Form.

tions of any buildings, fixtures or machinery destroyed or damaged; and the insured shall exhibit to any person designated in writing by this company all that remains of any property herein described and shall submit to examination under oath, as often as required, by any such person, and subscribe to the testimony so given and shall produce to such person for examination all books of account, bills, invoices and other vouchers, and permit extracts and copies thereof to be made, and in case the originals are lost certified copies, if obtainable, shall be produced.

Ascertainment of amount of loss. This company shall be deemed to have assented to the amount of the loss claimed by the insured in his preliminary proof of loss, unless within twenty days after the receipt thereof, or, if verified amendments have been requested, within twenty days after their receipt, or within twenty days after the receipt of an affidavit that the insured is unable to furnish such amendments, the company shall notify the insured in writing of its partial or total disagreement with the amount of loss claimed by him and shall also notify him in writing of the amount of loss, if any, the company admits on each of the different articles or properties set forth in the preliminary proof or amendments thereto.

If the insured and this company fail to agree, in whole or in part, as to the amount of loss within ten days after such notification, this company shall forthwith demand in writing an appraisement of the loss or part of loss as to which there is a disagreement and shall name a competent and disinterested appraiser, and the insured within five days after receipt of such demand and name, shall appoint a competent and disinterested appraiser and notify the company thereof in writing, and the two so chosen shall before commencing the appraisement, select a competent and disinterested umpire.

The appraisers together shall estimate and appraise the loss or part of loss as to which there is a disagreement, stating separately the sound value and damage, and if they fail to agree they shall submit their differences to the umpire, and the award in writing duly verified of any two shall determine the amount or amounts of such loss.

The parties to the appraisement shall pay the appraisers respectively appointed by them and shall bear equally the expense of the appraisement and the charges of the umpire.

If for any reason not attributable to the insured, or to the appraiser appointed by him, an appraisement is not had and completed within ninety days after said preliminary proof of loss is received by this company, the insured is not to be prejudiced by the failure to make an appraisement, and may prove the amount of his loss in an action brought without such appraisement.

Options of company in case of loss. This company may, at its option, take all or any part of the property for which insurance hereunder is claimed at its ascertained or appraised value, and may also, at its option, in satisfaction of its liabilities here-

under, repair, rebuild or replace any building or structure or machine or machinery used therein, with other of like kind and quality, within a reasonable time, upon giving notice within twenty days of its intention so to do after the receipt by it of the preliminary proof of loss, or, if verified amendments have been requested, within twenty days after their receipt, or, within twenty days after the receipt of an affidavit that the insured is unable to furnish such amendments. Form.

There can be no abandonment to this company of any property.

Apportionment of loss. This company shall not be liable under this policy for a greater proportion of any loss on the described property, or for loss by, and expenses of, removal from the premises endangered by fire, than the amount hereby insured bears to the entire insurance covering such property whether valid or not, or by solvent or insolvent insurers.

Loss when payable. A loss hereunder shall be payable in thirty days after the amount thereof has been ascertained either by agreement or by appraisement; but if such ascertainment is not had or made within sixty days after the receipt by the company of the preliminary proof of loss, then the loss shall be payable in ninety days after such receipt.

Nonwaiver by appraisal or examination. This company shall not be held to have waived any provision or condition of this policy or any forfeiture thereof, by assenting to the amount of the loss or damage or by any requirement, act, or proceeding on its part relating to the appraisal or to any examination herein provided for.

Subrogation. If this company shall claim that the fire was caused by the act or neglect of any person or corporation, this company shall, on payment of the loss be subrogated to the extent of such payment to all right of recovery by the insured for the loss resulting therefrom, and such right shall be assigned to this company by the insured on receiving such payment.

Time for commencement of action. No suit or action on this policy for the recovery of any claim shall be sustained, until after full compliance by the insured with all of the foregoing requirements, nor unless begun within fifteen months next after the commencement of the fire.

Definitions. Wherever in this policy the word "insured" occurs, it shall be held to include the legal representatives of the insured in case of his death, and wherever the word "loss" occurs, it shall be deemed the equivalent of "loss or damage," and wherever the words "the time of loss or damage" are used they shall be deemed the equivalent of "the time of the commencement of the fire."

2072. There shall be printed on the outside fold of the policy, in type not smaller than small pica, the following words in this form: Form for cover.

READ THIS POLICY.

Ins. Co. is liable only for actual cash value.

POLICY IS VOID in case of any fraud, false swearing, misrepresentation or concealment about material facts.

POLICY IS VOID, unless otherwise agreed in writing, if

1st. It is assigned before loss;

2nd. Insured has or shall procure other insurance;

3rd. Any change occurs in location of property;

4th. Insured building is on ground not owned in fee simple by insured;

5th. Insured is not sole and unconditional owner.

POLICY IS SUSPENDED, unless otherwise agreed in writing, if

6th. Described building becomes vacant or unoccupied for ten days;

7th. Mechanics are employed more than 15 days in repairing same;

8th. Property is or becomes encumbered by chattel mortgage;

9th. Illuminating gas or vapor is generated in or adjacent to described building;

10th. Explosives or prohibited quantities of gasoline, etc., are kept on premises.

INSURANCE CEASES if described building or any material part falls except as result of fire.

Policy does not cover certain enumerated personal property.

NOTE particularly duty of insured in case of loss;

ALSO provisions avoiding or suspending policy, including changes of ownership or possession.

Printing standard.

2073. The policy shall be plainly printed. The type shall not be smaller than small pica and subheads shall be in type larger than pica. The lines of the policy shall be numbered consecutively.

Blanks.

2074. The blanks in the standard form shall be appropriately filled.

Waiver of appraisement.

2075. By special agreement indorsed on the policy or added thereto, the provisions regarding appraisement or apportionment of loss may be waived and the valuations of all or any of the insured subject matter in case of total loss may be agreed upon in advance of loss.

Additional information.

2076. The insurer may add to the standard form any matter relating to its financial condition, directors, officers, shareholders and history, and the address of its home office and principal office in the United States.

Limitation of liability.

2077. The insurer may add to the standard form, in red ink, any provisions required or permitted in its policies by the State or country of its organization, respecting limitation of liability of the insurer, its shareholders or members.

Rights of third parties.

2078. There may be added to the standard form, clauses providing for and defining the rights, duties and obligations of mortgagees, assignees and other parties having or acquiring

an interest in, right to, or lien upon the insured subject matter.

2079. Clauses may be added to the standard form: Modification in favor of insured.

(a) Covering subject matter and risks not otherwise covered.

(b) Assuming greater liability than is otherwise imposed on the insurer.

(c) Granting insured permits and privileges not otherwise provided.

(d) Waiving any of the matters which may be waived and which avoid the policy or suspend the insurance.

(e) Waiving any of the requirements imposed on the insured after loss.

(f) As provided in section 3047.

2080. Except as otherwise provided by this article, clauses imposing specified duties and obligations upon the insured and limiting the liability of the insurer may be attached to the standard form. Such clauses shall be in separate riders in type larger than pica. Limiting clauses.

2081. Whenever a clause is inserted, or rider attached, affecting the standard form liability of the insurer for loss or damage by fire occasioned either directly or indirectly by earthquake, hurricane, volcanic action or other disturbance of nature, such clause or rider shall be printed in red ink in type larger than small pica and at the head of the policy there shall be printed in red ink and in large bold-faced type the words, "This policy contains limitations of liability not permitted in the California standard form." Red ink clauses.

2082. Any insurers, other than corporations, issuing policies on subject matter in California, shall use the standard form, changing only such words as refer to the corporation or company, to officers or agents of the corporation or company, or to its organization. Such other insurers may substitute, in place of the words having peculiar reference to corporations, appropriate words having similar reference to themselves. Unincorporated insurers.

2083. It is a misdemeanor for any insurer or any agent to countersign or issue a fire policy covering in whole or in part property in California and varying from the California standard form of policy otherwise than as provided by this article. Any policy so issued shall, notwithstanding, be binding upon the issuing insurer. Penalty.

CHAPTER 3. INCORPORATED FIRE AND MARINE INSURERS.

Article 1. Capital and Dividends.

3010. An incorporated fire insurer issuing policies on a reserve basis shall not transact fire insurance in this State unless it has a paid-in capital of at least $200,000. Capital.

3011. Except as restricted by its charter, such an incorporated fire insurer may transact, in addition to fire insurance, any of the following classes of insurance if its total paid-in Additional capital and classes of insurance: Fire insurer

capital is at least $200,000 in excess of the sum of the amounts set forth opposite the classes of insurance transacted:

Number and name of class transacted.	Amount of capital to be added.
3. Marine	$200,000
11. Boiler and machinery	50,000
14. Sprinkler	50,000
16. Automobile	50,000
18. Aircraft	50,000
20. Miscellaneous	50,000
If qualified to do (3) marine:	
15. Team and vehicle	50,000

Incorporated marine insurer's capital.

3012. An incorporated marine insurer issuing policies on a reserve basis shall not transact marine insurance in this State unless it has a paid-in capital of at least $200,000.

Additional capital and classes of insurance: Stock marine insurer.

3013. Except as restricted by its charter, such an incorporated marine insurer may transact, in addition to marine insurance, any of the following classes of insurance if its total paid-in capital is at least $200,000 in excess of the sum of the amounts set forth opposite the classes of insurance transacted:

Number and name of class transacted.	Amount of capital to be added.
2. Fire	$200,000
15. Team and vehicle	50,000
16. Automobile	50,000
18. Aircraft	50,000
20. Miscellaneous	50,000
If qualified to do fire:	
11. Boiler and machinery	50,000
14. Sprinkler	50,000

Time for capitalization.

3014. Unless the required capital of such incorporated fire or marine insurer is paid up in cash within twelve months from the filing of the articles of incorporation the insurer is subject to involuntary winding up by shareholders or forfeiture of corporate existence upon action by the attorney general, both proceedings being under the provisions of the general corporation law. Policies shall not be issued, nor risks taken, until such capital is paid up.

Certificate.

3015. In the case of a stock corporation, the president and a majority of the directors shall, within thirty days after the payment of twenty-five per cent of the capital stock, and also within thirty days after the payment of the last installment or assessment of the fixed capital stock, prepare, subscribe, and swear to a certificate setting forth the amount of the fixed capital and that the proportion named or full amount is paid up. They shall file the certificate in the office of the county clerk of the county where the principal place of business of the insurer is located, and shall file a duplicate thereof, similarly executed, with the commissioner.

3016. Domestic incorporated stock, fire or marine insurers shall be governed in the making of dividends exclusively by the provisions of this section. They may make dividends from funds remaining on hand only after retaining unimpaired the aggregate of the following: Basis of dividends.

(a) The aggregate par value of the entire issued or subscribed shares.

(b) All the premiums received and receivable upon all unexpired marine risks, other than time risks.

(c) A fund equal to one-half of the amount of all premiums received and receivable upon:

(1) All unexpired fire risks running one year or less from the date of the policy.

(2) All marine time risks.

(d) A pro rata amount of all premiums received and receivable upon all unexpired fire risks running more than one year from the date of the policy.

(e) A sum sufficient to pay all losses reported or in course of settlement and all liabilities for expenses and taxes.

3017. An incorporated fire or marine insurer, having a subscribed capital stock of less than $200,000 shall not declare any dividends, except from profits remaining on hand after reserving the aggregate of: Dividends when subscribed capital insufficient.

(a) A sum necessary to form, with the subscribed capital stock, the aggregate sum of $200,000.

(b) A sum equal to the total of all the premiums received or receivable on outstanding marine or inland risks, except marine time risks.

(c) A sum equal to one-half the total of all premiums on fire risks and marine time risks not terminated at the time of making such dividend.

(d) A sum sufficient to pay all losses reported or in course of settlement, and all liabilities for expenses and taxes.

Article 2. Guaranty Surplus and Special Reserve Funds.

3030. Sections 3030 to 3068 may be cited and known by the title, "An act to provide for the establishment and maintenance by fire insurance corporations of guaranty surplus funds and special reserve funds and thereby limiting liability of such corporations." Reference title.

3031. Every domestic incorporated stock fire insurer may create a guaranty surplus fund and a special reserve fund. Special funds.

3032. To create such funds, a resolution by its board of directors declaring its desire and intention to create such funds and to do business under sections 3030 to 3068, shall be adopted at a regular meeting of the board and a copy thereof filed with the commissioner. Resolution.

3033. The commissioner shall thereupon examine the insurer and make a certificate of the result. The certificate shall particularly set forth the amount of surplus funds held Commissioner's certificate.

a guaranty surplus fund and a special reserve fund, to the extent necessary to constitute the two funds. This certificate shall be filed in the office of the commissioner.

Policies stating special funds.

3034. Thereafter all policies of fire insurance and renewals of such policies issued by such insurer shall contain a provision that they are issued under and in pursuance of sections 3030 to 3068, referring either to the title set forth in section 3030, or to the section numbers. All such policies and renewals shall be subject to the provisions of those sections, and a policyholder, by accepting the policy, becomes bound thereby.

Dividend limitation.

3035. After the passage and filing of such resolution, the insurer shall not declare or pay in any form any dividend exceeding seven per cent per annum upon its capital stock and surplus funds until after its guaranty surplus fund and its special reserve fund together amount to twice the minimum amount of its required paid-in capital.

Full accumulation of fund.

3036. Each such fund is fully accumulated when it is equal in amount to the minimum paid-in capital required of admitted incorporated fire insurers issuing nonassessable policies on a reserve basis.

Accumulation of undivided profits.

3037. Until both such funds are fully accumulated, the entire profits of the insurer above such annual dividend of seven per cent shall be equally divided between and set apart to constitute such guaranty surplus and special reserve funds. These funds shall be held and used only as provided in this article.

Penalty.

3038. Any such insurer which declares or pays any dividend contrary to the provisions of this article, shall forfeit its charter upon so doing.

Estimation of profits

3039. Until both the guaranty surplus fund and special reserve fund are fully accumulated, profits of any such insurer shall be estimated, for the purpose of transferring assets to those funds, by deducting the sum of the following items from the gross assets of the insurer, including those funds:

(a) The amount of all outstanding claims.

(b) An amount sufficient to meet the liability of the insurer for the unearned premiums upon all of its unexpired policies of every class. This amount shall be at least equal to the unearned premiums on policies having one year or less to run, and a pro rata proportion of the premiums received on the policies having more than one year to run, and shall be known as the reinsurance liability.

(c) The amount of its guaranty surplus fund and its special reserve fund.

(d) The amount of its capital stock.

(e) Interest at the rate of seven per cent per annum upon the amount of its capital stock and of those funds, for whatever time has elapsed since the last preceding cash dividend.

Net surplus.

3040. The balance, after the deduction set forth in section 3039, constitutes the net surplus of the insurer subject to

3041. When the insurer notifies the commissioner that it has fulfilled the requirements of sections 3031 to 3040, and that both its guaranty surplus fund and its special reserve fund are fully accumulated, he shall examine the insurer and make a certificate of the result thereof. Commissioner's examination.

3042. Thereafter such insurer may add any or all subsequent profits of its business to such funds, but, except as provided in section 3059, when any addition is made to the special reserve fund an equal sum shall be carried to the guaranty surplus fund. Subsequent transfer to funds.

3043. The guaranty surplus fund shall be held or may be invested by such insurer in the same manner as investments of the insurer other than excess funds investments. This fund shall be liable and applicable in the same manner as the capital of the insurer to the payment generally of its losses. Guaranty surplus fund

3044. Until the special reserve fund is fully accumulated, it shall be invested in the same manner as investments of the insurer other than excess funds investments. Special reserve fund.

3045. After full accumulation any additional sum added to the special reserve fund shall be invested by the insurer in any securities authorized for investment of the insurer's assets. Investment after full accumulation.

3046. The assets constituting the special reserve fund shall be deposited with the commissioner from time to time, as the fund accumulates and is invested. It is a fund to protect such insurer and its policyholders other than claimants for losses existing at the time of or arising out of an extraordinary conflagration. It shall be regarded as part of the assets of the insurer and liable for any claim for loss by fire or otherwise only as provided in this article. Status of special reserve fund

3047. While such insurer maintains a guaranty surplus fund and a special reserve fund, each fully accumulated, it may, as permitted by section 2079, insert in any policy of fire insurance thereafter issued by it a provision, in such form as to it seems desirable and in type not smaller than small pica with subheads in type larger than pica, to the effect that the insured, by accepting the policy agrees, in case of any claim thereunder to look solely to the assets and property of the insurer as and to the extent provided in this article. Policy clauses

3048. When any extensive conflagration occurs, whereby the claims upon the insurer exceed the amount of its capital stock and surplus, including the guaranty surplus fund but excluding the special reserve fund, the insurer shall notify the commissioner of the conflagration and claims. Notice of catastrophe

3049. The commissioner shall then examine the insurer and issue in duplicate his certificate of the result. The certificate shall show the amounts of capital, guaranty surplus fund, special reserve fund, reinsurance reserve, and all other reserves, liabilities and assets. One of such duplicates shall be given the insurer, and the other shall be filed in the office of the commissioner. Certificate of commissioner.

3050. The special reserve fund shall be immediately held to protect all policyholders of the insurer other than then Segregation of special reserve fund.

existing claimants, and other than claimants in consequence of the conflagration.

Purpose of segregation.

3051. The amount of such special reserve fund if fully accumulated, together with an amount equal to the unearned premiums of the insurer, shall constitute the capital and assets of such insurer for the protection of policyholders other than such claimants, and for the further conduct of its business. Such certificate of the commissioner shall be binding and conclusive upon all parties interested in the insurer.

Discharge of insurer.

3052. In the case of claims existing at the time of or caused by such general conflagration, there shall be paid to the claimants, to each in proportion to his claim, the full sum of the capital, guaranty surplus fund, and assets of the insurer, except only the assets constituting the special reserve fund together with an amount of its assets equal to the reserve of the insurer for unearned premiums, as certified by the commissioner. Upon such payment, such insurer is forever discharged from any and all further liability to such claimants on any insurance issued after the full accumulation of the special reserve fund.

Payment of fund by commissioner.

3053. Upon demand by the insurer after the issue of a certificate under the provisions of section 3049, the commissioner shall transfer to it all of its securities which have been deposited with him as such special reserve fund except as provided by section 3056.

Requisition to make up capital.

3054. If, at the time of the demand by the insurer, the special reserve fund is not fully accumulated, the commissioner shall issue a requisition upon the stockholders to contribute thereto sufficient assets to create a fully accumulated special reserve fund.

Effect of failure to make up capital.

3055. If the insurer, after such requisition, fails to make up its special reserve fund to at least such amount as directed, the special reserve fund shall be held as security and liable for all losses occurring upon policies of such insurer after such conflagration but shall not constitute the capital of the insurer for the purpose of doing further business.

Excess portion of special reserve fund.

3056. If more than the amount of a full accumulation of the special reserve fund has been deposited with the commissioner as such fund, he shall retain of such securities a sum equal to one-half of the amount in excess of such a full accumulation for the purpose specified in section 3058, and shall transfer the balance thereof to the insurer as provided by section 3053.

Capital, upon transfer of fund.

3057. The amount so transferred to the insurer, if equal or if supplemented by shareholders' contribution until equal, to the minimum required paid-in capital of an admitted incorporated fire insurer, shall, from the time of such transfer, constitute the capital paid in of the insurer for the further conduct of its business.

Accumulation of new fund.

3058. The sum retained by the commissioner, pursuant to section 3056, shall thenceforth constitute the special reserve fund of the insurer and shall be accumulated and held in the

same manner, for the same purposes and under the same conditions as provided by this article for the original special reserve fund of the insurer. The insurer, in subsequent annual statements to the commissioner, shall set forth the amount of such special reserve fund and of its guaranty surplus fund.

When guaranty surplus fund deficient.

3059. If from any cause the guaranty surplus fund is reduced below the amount of the special reserve fund, the directors of the insurer may, at the time of making any division of the net profits, carry a larger sum to the guaranty surplus fund than to the special reserve fund and the provisions of section 3042 shall not apply to such transfer. This privilege shall cease when the two funds are made equal in amount.

Return of surplus of special reserve fund.

3060. Whenever an insurer, acting under the provisions of this article, has deposited with the commissioner a sum in excess of the required minimum amount of the special reserve fund, upon request of such insurer evidenced by delivery to him of a certified copy of a resolution of the board of directors he shall return to such insurer the excess, or the portion thereof, requested to be so returned.

Books of insurer.

3061. The policy registers, insurance maps, books of record and other books in actual use by the insurer in its business, are not to be considered as assets, in the computations relating to the guaranty surplus or special reserve funds, but shall be held by it for its use in the protection of its policyholders who are not claimants for losses at the time of such general conflagration or on account thereof.

Impaired capital.

3062. If, after the accumulation of such special reserve fund, it appears, upon examination by the commissioner, that the required paid-in capital of the insurer has, in the absence of any such extensive conflagration, become impaired, he shall order a call upon the shareholders to make up the impairment. The board of directors may either comply with such order and require the necessary payments of the shareholders, or it may apply for that purpose so much of the special reserve fund as will make the impairment good.

Limit on risks.

3063. An insurer doing business under sections 3031 to 3063 shall not insure any larger amount upon any single risk than is permitted by law to an insurer possessing the same amount of paid-in capital irrespective of the guaranty surplus and special reserve funds.

Resolution to discontinue funds.

3064. Any domestic incorporated fire insurer, after establishing guaranty surplus and special reserve funds may, at a regular meeting of its board of directors, adopt a resolution declaring its intention to discontinue such funds and to cease to do business in pursuance of sections 3031 to 3063. In order to do so it shall file a certified copy of such resolution with the commissioner.

Effect of filing resolution.

3065. Upon the filing of such resolution, all rights of such insurer to withhold such special reserve fund from its general creditors shall be terminated, it shall discontinue printing in its policies or renewals the notice provided for in section 3034,

and thereafter the provisions of sections 3031 to 3063 shall cease to apply to such insurer.

Continuation of funds.

3066. After the passage of such a resolution of discontinuance, the special reserve fund and guaranty surplus fund of such insurer shall continue to be held and invested under the provisions of this article, but only for the purpose of assuring to the holders of policies, at the time such resolution is filed with the commissioner, such rights and privileges as may inure to them under this article.

Reduction of special reserve fund.

3067. Upon the expiration of five years after the adoption and filing of such resolution of discontinuance by the insurer, the special reserve fund shall be reduced to an amount equal to the unearned premium upon, together with all losses incurred and unpaid under, any remaining policies which were outstanding at the time of filing of such resolution and the excess of the assets in the special reserve fund above that amount shall be returned by the commissioner to the insurer.

Final discontinuance of fund

3068. When all policies which were outstanding at the time of the filing of such resolution, and all liabilities under such policies, are finally terminated, the entire balance of such special reserve fund shall be returned to the insurer.

Article 3. Restrictions.

Limitation of risk.

3080. Incorporated fire and marine insurers shall never insure any one risk, whether it is a marine insurance or an insurance against fire, in a sum exceeding one-tenth part of their capital actually paid in and intact at the time of taking such risk, without at once reinsuring the excess above one-tenth.

Chapter 4. Mutual Fire Insurers.

Article 1. Application of Chapter.

Scope of chapter.

4010. This chapter shall not apply to unincorporated interindemnity compacts.

Article 2. Formation, Powers and Dividends.

Purposes.

4020. Corporations or associations may be formed under the general corporation law for the purpose of making contracts for fire insurance, automobile insurance, or both, covering the property of their members.

By-laws.

4021. The trustees or directors of any such insurer shall adopt such by-laws, not in conflict with the laws of this State, as they deem proper for the government of its affairs and the conduct of its business. Such by-laws shall provide for the liability of its members in accordance with the provisions of this chapter.

Dividends and net cash surplus.

4022. An insurer formed under this chapter shall not make any dividend except from profits on hand after retaining unimpaired a net cash surplus of $50,000 over and above the aggregate of all liabilities together with reinsurance

reserve. It shall also retain not less than five per cent per annum of all profits thus available for dividends until $200,000 is accumulated in such a net cash surplus.

Investment of net cash surplus

4023. The net cash surplus thus accumulated shall be invested in the manner provided for in Articles 3, 4, 5 and 6 of Chapter 2, of Part 2, Division 1.

Article 3. Membership.

What constitutes membership

4040. Every person accepting a policy in any such mutual insurer thereby becomes a member of the insurer, and liable for losses and expenses as provided by this article.

Liability of member

4041. Every member is liable for payment of his proportionate share of any assessment levied by the insurer and, in accordance with this chapter and his contract, on account of losses and expenses incurred while he is a member.

Withdrawal

4042. Any member may withdraw at any time by surrendering his policy to the insurer, serving written notice of his intention to withdraw on a date not less than thirty days after date of service and paying his share:

(a) Of all losses which have accrued or occur at any time prior to the end of the time specified in the notice.

(b) Of all assessments levied prior to the date specified in the notice of intention to withdraw. The insurer may retain the customary short rate for the expired portion of the policy period.

Cancellation by insurer

4043. The insurer may cancel any policy by giving the insured five days' written notice to that effect, and returning to the insured that proportion of the premium which the unexpired portion of the term of the policy bears to the stated term of the policy.

Premium in cash.

4044. Such insurer shall charge and collect upon its policies the full premium in cash.

Mode of fixing liability.

4045. It may, in its by-laws, fix the liability of its members for the payment of the losses and expenses not provided for by its cash funds as follows:

(a) If the insurer has, in the regular course of business, accumulated cash assets of at least $200,000, of which $50,000 is net cash surplus, it may limit such liability to any amount specified in its policies issued during the time of maintenance of such financial condition.

(b) Otherwise, it shall not limit such liability below the amount of one annual premium equal and in addition to the annual cash premium of the insured.

Article 4. Policies.

Term of policy.

4060. Such insurer may issue policies for a term not exceeding five years and not exceeding the term of the insurer's existence.

Provisions in policy.

4061. Every such insurer must print upon its policies such by-laws or mutual conditions as will define the liability of a policyholder but is exempt from the provisions of section 384.

Limit on risk.

4062. A policy shall not be for an amount in excess of $2,500 on any one risk, except:

(a) When protected by reinsurance in insurers having sufficient assets and surplus to entitle such insurers to be admitted.

(b) After there is a total of $1,000,000 of insurance outstanding on the books of the insurer, for each additional such total of $1,000,000 an additional $1,000 a risk may be assumed.

"One risk" defined.

4063. For the purpose of section 4062, two or more buildings situated in the same city block, or separated by less than one hundred feet, constitute one risk.

Requisites for beginning business.

4064. A policy shall not be issued by any such insurer until the following facts exist:

(a) At least $500,000 of insurance, in at least five hundred separate risks, have been subscribed for and are entered upon its books.

(b) It has on hand, collected from insurance premiums, at least $10,000 in cash over and above the total of all liabilities other than reinsurance reserve.

(c) It has contingent funds, consisting of the liability of its members liable to assessment, in addition to cash premiums collected, amounting to at least $50,000, as shown by the signed applications of its members.

Article 5. Expenses and Assessments.

Limit on expenses.

4080. For any calendar year the expenses of such insurer, including commissions and fees to agents and officers, shall not exceed thirty per cent of the remainder of the gross premiums actually received during that year, after deducting therefrom the return and reinsurance premiums paid out or contracted for during the year.

Penalty.

4081. A violation of section 4080 renders the officers and directors jointly and severally liable to the insurer for any of the excess amount used for expenses.

Action by commissioner.

4082. If the insurer fails or refuses to recover excess expense moneys so paid, the commissioner, for the benefit of the policyholders, may recover the moneys from any one or all of the persons made liable by this article.

Officer passing on risks.

4083. An officer or other person who passes upon the risks and upon whose decision the application for insurance is accepted or rejected by the insurer, shall not receive, as any part of his compensation, a commission upon the premiums. His compensation shall be a fixed salary and such share of the net profits as is determined by the directors.

Assessments.

4084. Such insurer shall maintain its cash funds at an amount equal to, or in excess of, the aggregate of its accrued losses, other liabilities, and reinsurance reserve. Whenever such funds fall below such amount, the insurer shall assess its members, each in proportion to his liability, a sum sufficient to make up the deficit.

Assessment book.

4085. The insurer shall record, in a book kept for that purpose, the order of such assessment together with a state-

ment setting forth the condition of the insurer at the date of the order. Such statement shall include the amount of its cash assets and contingent funds liable to assessment and the amount of the assessment called for.

Record of assessment.

4086. The record of assessment shall be made and signed by the directors who vote for the order, before any part of the assessment is collected. Any person liable to assessment may inspect and take a copy of the record.

Article 6. Foreign Insurers.

Application for admission.

5000. A foreign mutual fire insurer which desires admission shall file its financial statement with the commissioner. Such statement shall show its condition on the December thirty-first next preceding the date of its application for admission and shall be signed by its president and secretary under oath.

Condition where not authorized to assume automobile risks.

5001. If the applicant is not authorized to assume risks upon automobiles, the statement shall show that it is possessed of cash assets of not less than $200 000, of which not less than $50 000 is net cash surplus over and above the sum of all liabilities together with its reinsurance reserve.

Condition of insurer authorized to do automobile insurance.

5002. If the applicant is authorized by its charter to assume hazards upon automobiles, then the statement shall show that it is possessed of cash assets of not less than $250,000, of which not less than $100,000 is net cash surplus over and above all liabilities together with its reinsurance reserve.

Certificate from home State.

5003. The applicant shall also file a certificate from the insurance authority of the State under the laws of which it is organized, certifying that in the judgment of that authority, the statement is correct and that the insurer is possessed of the required cash assets and surplus.

Issuance of certificate of authority.

5004. The commissioner, after receipt and examination of such statement and certificate, upon satisfying himself of the correctness thereof and of the insurer's compliance with the provisions of this chapter, shall issue to such insurer a certificate of authority granting it full power to transact business under this chapter.

Article 6. Finances and Statements.

Annual financial statement.

5020. On or before the first day of March of each year, every insurer operating under this chapter shall file with the commissioner its financial statement. Such statement shall exhibit its condition on the thirty-first day of December next preceding, and shall be made as prescribed in blanks furnished by the commissioner.

Reinsurance reserve.

5021. The reinsurance reserve of an insurer operating under this chapter shall be computed as the sum of the following amounts:

(a) Fifty per cent of premiums upon all unexpired fire and automobile risks running one year or less from date of policy.

(b) That proportion of the premiums upon all unexpired fire and automobile risks running more than one year from

date of policy which the unexpired periods of the policies bear to the terms of the policies.

Article 7. Insolvency.

Insolvency.

5022. Any insurer operating under this chapter is insolvent whenever:

(a) Its admitted cash assets are less than the aggregate of its liabilities for losses reported, expenses and taxes together with its reinsurance reserve.

(b) The available resources of any such insurer are less than the requirements under section 4064.

CHAPTER 5. COUNTY MUTUAL FIRE INSURERS.

Article 1. Formation and Organization.

Organizers.

5050. Twenty-five or more persons residing in one county of this State, owning insurable property aggregating not less than $50,000 in value, and desiring to insure such property, may incorporate for the purpose of mutual fire insurance.

Filing of declaration.

5051. Such persons shall file with the commissioner a declaration of their intention to incorporate for the purposes expressed in section 5050. The declaration shall be signed by all of such persons, and shall contain a copy of the articles of incorporation proposed to be adopted.

Certificate.

5052. The commissioner shall examine the proposed articles of incorporation. If they conform to this chapter he shall deliver to such persons a certificate permitting them to incorporate such insurer. The certificate shall be directed to the clerk of the county in which such insurer is proposed to be organized and shall contain a copy of the proposed articles of incorporation.

Filing articles.

5053. The duly executed articles of incorporation and a copy, certified by the county clerk, of the certificate of the commissioner shall be filed with the Secretary of State in conformity with section 293 of the Civil Code. Upon organizing under such articles of incorporation, such county mutual fire insurer may carry on a fire insurance business as provided by this chapter.

Legislative control.

5054. The articles of incorporation and certificate obtained by any county mutual fire insurer operating under the provisions of this chapter are subject to control and modification by the Legislature of this State.

By-laws.

5055. The by-laws and all amendments thereto shall be filed with the commissioner within sixty days after their adoption.

Directors.

5056. Such insurer shall have not less than seven, nor more than eleven directors, a majority of whom shall constitute a quorum to do business. These directors shall be elected by ballot from the members of the insurer. They shall hold office for one year, and until their successors are elected and qualified.

5057. The annual meeting of the members of the insurer shall be on the third Monday in January of each year. Annual meeting

5058. In the election of the first board of directors each member shall be entitled to one vote. At every subsequent election each member shall be entitled to as many votes as there are directors to be elected, together with an equal additional number for every policy he holds in the insurer. Votes of members.

5059. A member may cast his votes in person or by proxy, distributing them among the directors to be elected, or among a less number of the directors, or cumulating them upon one candidate, as he sees fit. Casting votes.

5060. The directors shall elect, from their own number, a president and a vice president. They shall also elect a treasurer and a secretary, who need not be members of the insurer nor natural persons. All of such officers hold their office for one year from the date of their election, and until their successors are elected and qualified. Officers.

5061. The treasurer and secretary shall give bonds to the insurer for the faithful performance of their duties, in such amounts as are prescribed by the board of directors. Bonds of officers.

Article 2. Powers.

5080. Such insurer and its directors possess the usual powers, and are subject to the usual duties of corporations and directors. Powers.

Article 3. Membership.

5090. Any person having an insurable interest in property in the county in which any such insurer is formed or any person having such an interest in property in any adjoining county may become a member by insuring therein. Every member shall be entitled to all the rights and privileges appertaining to membership, except that a person not residing in the county in which the insurer is formed shall not become one of its directors. Entry into membership

5091. Any member of such insurer may commence to withdraw therefrom by surrendering his policy for cancellation, and by giving notice in writing to the secretary at any time during the life of the policy and while the insurer continues the business for which it was organized. Withdrawal

5092. The withdrawal may be completed by paying the member's share, if any, under the terms of his policy, of all claims that exist against the insurer on the day of such completion. Completion of withdrawal.

5093. The insurer may cancel any policy by giving the insured five days' written notice and returning to him by check or otherwise any excess premium, paid during the term of the policy, over the cost of his insurance in accordance with the customary cancellation tables in use in this State. Such notice may be served in person or by registered mail, addressed either to the member's last post-office address or, Cancellation by insurer.

if this is not known, to the address given upon the application which is part of the policy.

Notice to third parties.

5094. In case of cancellation by the insurer it shall also notify in the same manner any holder of a mortgage whose name appears, either on the signed application which is a part of the policy, or otherwise upon the policy and any party to whom loss, if any, is payable.

Article 4. The Policy.

Standard form.

6010. The following is adopted as a standard form of county mutual fire insurer's policy for this State:

California Standard Form of County Fire Insurance Policy.

No. _____ Amount _____ Rate _____. No other insurance permitted except by agreement indorsed hereon or added hereto. (Here insert the name of company, and place of its main office in California, and name of county in which incorporated or organized.) By this policy of insurance the _____ of _____ County, in consideration of _____ dollars, and the obligation as described herein and in application, does accept as a member and insures _____ against loss or damage by fire during a term of _____ years, commencing at noon on the _____ day of _____, 19___, and terminating at noon of the _____ day of _____, 19___, to an amount not exceeding _____ dollars on the following described property located and contained as described herein and not while located or contained elsewhere to wit: (Blank space for the attachment of forms.) For a more particular description, and as forming a part of this policy, reference is had to application No. _____ on file in the office of this company.

This company will not be liable beyond the actual cash value of the interest of the insured in the property at the time of the loss or damage nor exceeding what it would then cost to repair or replace the same with material of like kind or quality; provided, said value be estimated without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating repairs or reconstruction of buildings, and without compensation for loss resulting from interruption of business or manufacture.

This policy is made and accepted subject to the foregoing stipulations and conditions and those hereinafter stated, which are hereby specifically referred to and made a part of this policy, together with such other provisions, agreements or conditions as may be indorsed hereon or added hereto, and no officer, agent, or other representative of this company shall have power to waive any provision or condition of this policy except by writing indorsed hereon or added hereto, and no person unless duly authorized in writing shall be deemed the agent of this company.

The charter and by-laws of this company are to be resorted to and used to explain the rights and obligations of the parties

hereto in all cases not herein otherwise especially provided for, and are hereby made a part of this policy. This policy is made and accepted upon the above expressed condition. Form.

This policy shall not be valid until countersigned by the duly authorized secretary of the company at _____, California.

In witness whereof, this company has executed and attested these presents (here insert the name of the company) by _____, president. Countersigned at _____, California, this _____ day of _____, 19____. _____ secretary.

Stipulations and Conditions Specially Referred To.

Stipulations and conditions—Property not covered. (a) This company shall not be liable for loss to accounts, bills, currency, evidence of debt, or ownership or other documents, money, notes, or securities; nor (b) unless liability is specifically assumed hereon, for the loss to bullion, casts, curiosities, drawings, dies, jewels, manuscripts, medals, models, patterns, pictures, scientific apparatus, business or store or office furniture or fixtures, sculptures, frescoes and decorations, or property held on storage or for repair.

Hazards not covered—This company shall not be liable for loss by (a) theft, or (b) by neglect of the insured to use all reasonable means to save and preserve the property at and after a fire, or when the property is endangered by fire; or (c) unless fire ensues, and in that event for the damage by fire only, by explosion of any kind, or lightning; or (d) by invasion, insurrection, riot, civil war, or commotion, or (except as hereinafter provided) by military or usurped power, or order of any civil authority, but the company will be liable, unless otherwise provided by indorsement hereon or added hereto, if the property is lost or damaged, by fire or otherwise, by civil authority or military or usurped power exercised to prevent the spread of fire not originating from a cause excepted hereunder and which fire otherwise probably would have caused the loss of or damage to the insured property.

Matters avoiding policy—This entire policy shall be void (a) if the insured has concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof; or (b) in case of any fraud or false swearing by the insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss.

Unless otherwise provided by agreement indorsed hereon or added hereto this entire policy shall be void (a) if the insured now has or shall procure any other insurance whether valid or not, on property covered in whole or in part by this policy, or (b) if the interest of the insured be other than unconditional and sole ownership, or (c) if the subject of insurance be a building on ground not owned by the insured in fee simple, or (d) if with the knowledge of the insured foreclosure proceedings be commenced or notice given of sale of any property covered by this policy by virtue of any mort-

Form.

gage or trust deed, or (e) if this policy be assigned before a loss.

Matters suspending insurance—Unless otherwise provided by agreement indorsed hereon or added hereto this company shall not be liable for loss or damage occurring (a) while the hazard shall be materially increased by any means within the control of the insured, or (b) if the subject of insurance be a manufacturing establishment, while it is operated in whole or in part at night later than ten o'clock or while it ceases to be operated beyond a period of ten consecutive days; or (c) while mechanics or artisans are employed in building or altering or repairing the described premises for more than fifteen days at any one time; or (d) while illuminating gas or vapor be generated in the described building (or adjacent thereto) for use therein; or (e) while there be kept, used or allowed on the described premises (any usage or custom of trade or manufacture to the contrary notwithstanding), calcium carbide, phosphorus, dynamite, nitroglycerine, fireworks or other explosive; or exceeding one quart each of benzine, gasoline, naphtha or ether, or more than twenty-five pounds of gunpowder; or (f) while a building herein described whether intended for occupation by owner or tenant is vacant or unoccupied beyond the period of ten (10) consecutive days; (g) while the interest in, title to or possession of the subject of insurance is changed excepting: (1) by death of the insured; (2) a change of occupancy of building without material increase of hazard; and (3) transfer by one or more several copartners or coowners to the others.

Such suspension shall not extend the term of this policy nor create any right for refund of the whole or any portion of premium, nor affect the respective rights of cancellation.

Chattel mortgage—Unless otherwise provided by agreement in writing indorsed hereon or added hereto this company shall not be liable for loss or damage to any property insured hereunder while encumbered by a chattel mortgage, but the liability of the company upon other property hereby insured shall not be affected by such chattel mortgage.

Fallen building clause—Unless otherwise provided by agreement indorsed hereon or added hereto, if the building or any material part thereof fall, except as a result of fire, all insurance by this policy on such building or its contents shall immediately cease.

Removal when endangered by fire—Should any of said property be necessarily removed because of danger from fire, and there is no other insurance thereon, that part of this policy in excess of the value of the insured property remaining in the original location, or, if there is other insurance thereon, that part of this policy in excess of its proportion of the value of the insured property remaining in the original location, shall, for the ensuing five days only, cover the said removed property in its new location or locations.

Form.

Cancellation—This policy may be canceled and the insured as a member of this company may withdraw therefrom by the insured surrendering his policy for cancellation at any time during the life of the policy and while the company continues the business for which it was organized, by giving notice in writing to the company and by paying such obligations as may have accrued against him on the day of cancellation; provided, that this company shall have the power to cancel or terminate any policy by giving the insured five days written notice to that effect either in person or by registered mail to his last post-office address or if this is not known then to the address given upon the application blank which is a part of this policy and by returning to him in the same manner by check or otherwise any excess premium he may have paid during the term of this policy, over the cost of his insurance as measured, on the pro rata basis, by the customary rate of fire insurance companies doing business in this State.

Also, in case of cancellation by this company it must also notify in the same manner any holder of a mortgage or deed of trust whose name appears either on the signed application which is part of this policy or upon a paster or otherwise upon this policy or the party names "to whom loss if any is payable to _____;" provided, however, that if the insured shall fail to pay the premium on this policy within thirty days from date thereof, then this policy shall be suspended and of no further force and effect until reinstated by the payment of all delinquent charges or fees; and provided further, that this policy shall not be suspended as far as the interest of said mortgagee or other party to whom, with the written consent of the company this policy is made payable until and after ten days written notice of such failure.

Assignment—This company may give its consent in writing allowing the assignment of this policy upon the bona fide sale of the property insured herein; provided, within thirty days from the transfer of the title to the within property and upon the assignment thereof such purchaser or his agent signs an agreement becoming a member and accepting the conditions of the within policy; otherwise this policy to be null and void, except as to holders of a mortgage or deed of trust.

Duty of insured in case of loss—When a loss occurs the insured must give to this company written notice thereof without unnecessary delay; and shall protect the property from further damage; forthwith separate the damaged and undamaged personal property and put it in the best possible order; and without unnecessary delay make a complete inventory stating as far as possible the quantity and cost of each article, and the amount claimed thereon.

Within sixty days after the commencement of the fire the insured shall render to the company at its main office in California named herein preliminary proof of loss consisting of a written statement signed and sworn to by him setting forth: (a) his knowledge and belief as to the origin of the fire; (b)

Form.

the interest of the insured and of all others in the property; (c) the cash value of the different articles or properties and the amount of loss thereon; (d) all incumbrances thereon; (e) all other insurance, whether valid or not, covering any of said articles or properties; (f) a copy of the descriptions and schedules in all other policies unless similar to this policy, and in that event, a statement as to the amounts for which the different articles or properties are insured in each of the other policies; (g) any change of title, use, occupation, location or possession of said property since the issuance of this policy; (h) by whom and for what purpose any building herein described, and the several parts thereof, were occupied at the time of the fire.

If the company claims that the preliminary proof of loss is defective and within five days after the receipt thereof (without admitting the amount of loss or any part thereof) notifies in writing the insured, or the party making such proof of loss, of the alleged defects (specifically stating them) and requests that they be remedied by verified amendments the insured or such party within ten days after the receipt of such notification and request must comply therewith or, if unable so to do, present to the company an affidavit to that effect.

The insured shall also furnish, if required, as far as it is practicable to obtain the same, verified plans and specifications of any building, fixtures or machinery destroyed or damaged; and the insured shall exhibit to any person designated in writing by this company all that remains of any property herein described and shall submit to examination under oath, as often as required, by any such person, and subscribe to the testimony so given and shall produce to such person for examination all books of account, bills, invoices and other vouchers, and permit extracts and copies thereof to be made, and in case the originals are lost certified copies, if obtainable, shall be produced.

Ascertainment of amount of loss—This company shall be deemed to have assented to the amount of the loss claimed by the insured in his preliminary proof of loss, unless within twenty days after the receipt thereof, or, if verified amendments have been requested, within twenty days after their receipt, or within twenty days after the receipt of an affidavit that the insured is unable to furnish such amendments, the company shall notify the insured in writing of its partial or total disagreement with the amount of loss claimed by him and shall also notify him in writing of the amount of loss, if any, the company admits on each of the different articles or properties set forth in the preliminary proof or amendments thereto.

If the insured and this company fail to agree, in whole or in part, as to the amount of loss within ten days after such notification, this company shall forthwith demand in writing, an appraisement of the loss or part of loss as to which there is a disagreement and shall name a competent and disinterested appraiser, and the insured within five days after receipt of

such demand and name, shall appoint a competent and disinterested appraiser and notify the company thereof in writing, and the two so chosen shall before commencing the appraisement, select a competent and disinterested umpire. Form.

The appraisers together shall estimate and appraise the loss or part of loss as to which there is a disagreement, stating separately the sound value and damage, and if they fail to agree they shall submit their differences to the umpire, and the award in writing duly verified of any two shall determine the amount or amounts of such loss.

The parties to the appraisement shall pay the appraisers respectively appointed by them and shall bear equally the expense of the appraisement and the charges of the umpire.

If for any reason not attributable to the insured, or to the appraiser appointed by him, an appraisement is not had and completed within ninety days after said preliminary proof of loss is received by this company, the insured is not to be prejudiced by the failure to make an appraisement, and may prove the amount of his loss in an action brought without such appraisement.

Option of company in case of loss—This company may, at its option, take all or any part of the property for which insurance hereunder is claimed at its ascertained or appraised value, and may also, at its option, in satisfaction of its liability hereunder, repair, rebuild, or replace any building or structure or machine or machinery used therein, with other of like kind and quality, within a reasonable time, upon giving notice within twenty days of its intention so to do after the receipt by it of the preliminary proof of loss, or if verified amendments have been requested, within twenty days after their receipt, or, within twenty days after the receipt of an affidavit that the insured is unable to furnish such amendments. There can be no abandonment to this company of any property.

Apportionment of loss—This company shall not be liable under this policy for a greater proportion of any loss on the described property, or for loss by, and expense of, removal from the premises endangered by fire, than the amount hereby insured bears to the entire insurance covering such property whether valid or not, or by solvent or insolvent insurers.

Assessment for deficiency—When the amount of any loss shall have been ascertained, which exceeds in amount the cash funds of the company, the president shall convene the directors of this company, who shall proceed in the manner as provided in section 12 of this act.

Notice of assessment—It shall be the duty of the secretary, whenever assessment shall have been made, to immediately notify every person holding a risk in this company, personally, by an agent, or by letter directed to his usual post-office address, of the amount of such loss, and the sum due from him, as his share thereof, and of the time and to whom such payment is made; but such time shall not be less than thirty days, nor more than ninety days from date of such notice. No

Form.

assessment or assessments can be levied under this policy in excess of five times the premium named herein.

Action for neglect or refusal to pay assessments—An action may be brought against the member whose property is insured herein and this policy is automatically suspended if the insured shall not have paid, before it is delinquent, his portion of any assessment levied or other liability due this company for a period in excess of ninety days. The directors of this company who shall wilfully refuse or neglect to perform the duties imposed upon them by law or the by-laws of the company, shall be liable in their individual capacity to the person sustaining such loss. An action may also be brought and maintained against this company by members thereof for losses sustained if payment is withheld after the amount of such losses have been determined and is due by the terms of the policy.

Nonwaiver by appraisal or examination—This company shall not be held to have waived any provision or condition of this policy or any forfeiture thereof, by assenting to the amount of the loss or damage or by any requirement, act or proceeding on its part relating to the appraisal or to any examination herein provided for.

Subrogation—If this company shall claim that the fire was caused by the act or neglect of any person or corporation, this company shall, upon payment of the loss be subrogated to the extent of such payment to all right of recovery by the insured for the loss resulting therefrom, and such right shall be assigned to this company by the insured on receiving such payment.

Time for commencement of action—No suit or action on this policy for the recovery of any claim shall be sustained, until after full compliance by the insured with all of the foregoing requirements, nor unless begun within fifteen months next after the commencement of the fire.

Definitions—Wherever in this policy the word "insured" occurs, it shall be held to include the legal representatives of the insured in case of death, and wherever the word "loss" occurs, it shall be deemed the equivalent of "loss or damage," and wherever the words "the time of loss or damage" are used they shall be deemed the equivalent of "the time of the commencement of the fire."

Outside fold of policy.

There shall be printed on the outside fold of said policy in type not smaller than eleven point the following words in this form:

Read This Policy.

Insurance company is liable only for the actual cash value.

Policy is void in case of any fraud, false swearing, misrepresentation or concealment about material facts.

Policy is void, unless otherwise agreed in writing, if

1. It is assigned before loss;
2. Insured has or shall procure other insurance;
3. Any change occurs in location of property;

4. Insured building is on ground not owned in fee simple by the insured;

5. Insured is not sole and unconditional owner;

Policy is suspended unless otherwise agreed in writing, if

6. Described building becomes vacant or unoccupied for ten days;

7. Mechanics are employed more than fifteen days in repairing same;

8. Property is or becomes encumbered by chattel mortgage;

9. Illuminating gas or vapor is generated in or adjacent to described building;

10. Explosives or prohibited quantities of gasoline, etc., (except the gasoline contained in automobiles and gas engine tanks), as are kept on the premises; and provided, also, that the insurance on live stock and automobiles shall cover wherever located at the time of the fire.

Insurance ceases if described building or any material part falls except as result of fire.

Policy does not cover certain enumerated personal property.

Note particularly duty of insured in case of loss; also provisions avoiding or suspending policy, including changes of ownership or possession.

Blanks

6011. The blanks in said standard form shall be appropriately filled.

Appraisement, etc., provisions.

6012. By special agreement indorsed on the policy or added thereto, the provisions regarding appraisement or apportionment of loss may be waived and the valuations of all or any of the insured property in case of total loss may be agreed upon in advance of loss.

Printing and type

6013. The standard form of policy shall be plainly printed. No portion thereof shall be in type smaller than eleven point, subheads shall be in type larger than twelve point, and the lines of the policy shall be numbered consecutively.

Standard form requirement

6014. All county mutual fire insurance policies on subject matter in this State shall be on the county mutual standard form and, except as provided by this article, shall not contain additions thereto. No part of the standard form shall be omitted from the policy.

Additions to policy.

6015. The insurer may add to the policy any matter relating to its financial condition, directors, officers, members and history, and the address of its home office and principal office in the State.

Third party interests

6016. Clauses may be added to the policy providing for and defining the rights, duties and obligations of mortgagees, assignees, and other parties having an interest in, right to or lien upon the insured subject matter.

Changes to express assessment liability.

6017. Insurers authorized to limit their assessment liability in accordance with the terms of this chapter may make such changes in the standard form as will properly accomplish that purpose.

"Disturbance of nature" provisions

6018. No clause shall be inserted nor rider attached affecting the standard form liability of the insurer for loss or

damage by fire occasioned either directly or indirectly by earthquake, hurricane, volcanic action or other disturbance of nature, unless such rider or clause is printed in red ink in twelve point type, and unless there is printed at the head of the policy in red ink and in large bold-faced type the words: "This policy contains limitations of liability not permitted in the California standard form."

Additional clauses.

6019. Clauses may be added to the policy:

(a) Covering property and risks not otherwise covered.

(b) Assuming greater liability than is otherwise imposed on the insurer.

(c) Granting the insured permits and privileges not otherwise provided.

(d) Waivers of any of the matters voiding the policy or suspending the insurance.

(e) Waivers of any of the requirements imposed on the insured after loss.

Other additional clauses.

6020. Except as otherwise provided by this article, clauses may be attached, by separate riders in type larger than twelve point, to the policy, imposing specified duties and obligations upon the insured and limiting the liability of the insurer.

Penalty.

6021. It is a misdemeanor for any insurer or its agent to countersign or issue a county mutual fire insurance policy covering in whole or part subject-matter in this State in violation of this article. Any policy so issued shall notwithstanding be binding upon the issuing insurer.

Article 5. Risks.

Subject matter.

6040. Such insurer may issue policies on dwellings, schoolhouses, churches, community, creamery, or farm buildings and property contained in or on such insured premises or owned by the insured and stored in public or private warehouses.

Insurance preserved during movement.

6041. Insurance permitted by this chapter upon personal property owned by the insured, including automobiles and livestock, shall continue in full force and effect during the use or transportation of the property in the ordinary course of the insured's affairs if the property is located at the time of loss within this State. Otherwise such insurance is governed by section 6048.

Time limit.

6042. Policies may be executed for any time not exceeding five years and not extending beyond the time limited for the existence of the insurer.

Obligations of insured.

6043. All members of such an insurer shall agree in writing to pay their pro rata share to the insurer of the necessary expense and loss by fire sustained by any member thereof during the time for which their respective policies are in force. They shall also, at the time of effecting the insurance, pay the insurer such percentage of the estimated cost and such other charges as are required by law or the insurer's rules and by-laws.

Classification of subject matter.

6044. All such insurers shall classify the subject matter insured by them at the time of issuing policies thereon. Such classification shall be under rates corresponding as nearly as

practicable to the greater or less risk from fire loss attached to the several kinds of subject matter insured.

Definitions.

6045. For the purpose of this chapter:

(a) "A city or town block" is an area of not more than one hundred sixty thousand square feet having at least one frontage in a closely built up district fronting on a used public highway, surrounded on all sides by a clear space at least equal in width to the clear space of such public highway.

(b) "Closely built up district" means territory abutting a public highway where for not less than a quarter of a mile the buildings average less than one hundred feet apart.

(c) "One risk" means one hazard under one or more policies, subject to one fire and relates to the amount named in the policy or policies.

(d) "Clear space" means space free from combustible material likely to communicate fire.

Limits on insurance subject to single hazard.

6046. Such insurer that has been organized less than three months shall not write insurance in excess of $2,000 subject to one risk without immediately reinsuring all such excess. An insurer organized more than three months shall not write insurance subject to one risk in excess of one per cent of the amount of insurance in force as shown by the insurer's books at the time of writing, without immediately reinsuring all such excess.

Risk on single hazard.

6047. Except as provided in this section, such insurer shall not issue policies to an amount in excess of $6,000 on any one risk, whether under one or more policies, without immediately reinsuring the excess amount in some other insurer. Any such insurer having in force insurance on property worth more than $10,000,000 as shown by its books may, for each $1,000,000 in excess of $10,000,000, write $500 additional insurance in excess of $6,000 on each such risk.

Territorial limit.

6048. Except as provided in section 6041 such insurer shall insure only property within the limits of the county wherein it is organized, or in a county next adjoining the county of organization.

Duty to reinsure policies on urban property.

6049. Such an insurer shall not assume any risks on property situated within any one block of a closely built up district or of territory within the limit of any incorporated city, unless it immediately reinsures all of the amount at risk which is in excess of the limit provided in this article.

Duty to reinsure policies on rural property.

6050. Where the amount of insurance in policies already written equals the amount limited by the provisions of this article, no additional insurance shall be written by such insurer on country property within a radius of one hundred feet of an existing risk. Such radius shall continue at not less than seventy-five feet during the life of the policy, unless insurance within the radius is covered by reinsurance.

Value restrictions

6051. Except in the case of class A or class B buildings having no exposures which constitute a special hazard, or in the case of country property under fire protection within a fire

protection district, such insurer shall not write insurance on farm or country property in excess of seventy-five per cent of its actual cash value and additional insurance shall not be allowed.

Article 6. Reinsurance.

Reinsurance between county mutual insurers.

6070. Any such insurer may reinsure or accept reinsurance in any insurer operating under the provisions of this chapter or under any agreement for mutual reinsurance between two or more county mutual fire insurers. In any such case the reinsurance taken by any one insurer shall not exceed the amount of the risk retained by the insurer originating the business.

Reinsurers with county mutual reinsurers

6071. Such insurer may also reinsure in any authorized insurer organized for the purpose of providing reinsurance for county mutual insurers. In such case the amount retained by the originating insurer shall be not less than ten per cent nor less than $500.

Limitations

6072. The restrictions imposed by this chapter upon any insurer as to original insurance shall apply to reinsurance written by it.

Article 7. Loss.

Notice of loss.

6090. Every member of such insurer who sustains loss by any hazard covered by his policy shall immediately notify the insurer in accordance with the terms of his policy.

Action if payment withheld

6091. An action may be brought and maintained against any such insurer by its members to recover for losses insured against by the insurer, if payment is withheld after the amount of such losses is determined, and is due by the terms of the policy.

Article 8. Assessments.

Loss required for assessment.

7010. When any loss exceeds in amount the cash funds of the insurer and also exceeds one-eighth of one per cent of the total amount of the insurer's insurance in force, its president shall convene its directors to make an assessment.

Assessment ratio.

7011. Upon being convened for the purpose, the directors shall make an assessment upon all of the property insured in the insurer. Such assessment shall be in proportion to the amount for which each piece of property is insured, taken in connection with the rate of premium under which it is classified.

Borrowing money by directors.

7012. When the amount of such loss does not exceed one-eighth of one per cent of the total amount of insurance in force in the insurer, its directors may, by resolution in writing signed by two-thirds of all the directors while present at a meeting, borrow money in the name of the insurer and give its evidence of indebtedness therefor, in a total amount not exceeding one-eighth of one per cent of the total amount of insurance thus in force.

7013. The term of any such loan shall not be greater than twelve months nor shall the date of maturity be in excess of thirty days beyond the date of the next annual meeting of the insurer. Term and maturity of loan.

7014. The board of directors may at its annual meeting levy an assessment not to exceed twenty-five cents on the $100 of the first class of insurance and a pro rata amount on lower classes. The sum so raised shall constitute a reserve fund to be used in emergency cases only. Another assessment for this fund shall not be made while this reserve fund remains intact. Assessment for reserve fund.

7015. No assessment or assessments can be levied upon any policy in excess of five times the amount of the premium named therein. Limit on assessments.

7016. The secretary, whenever such an assessment is made, shall immediately notify every policyholder in such insurer either personally, by agent, or by letter directed to the policyholder's usual post-office address, stating: Notice.

(a) The amount of the loss.

(b) The sum due from the policyholder as his share.

(c) To whom such payment is to be made.

(d) The time when the payment is to be made. Such time shall not be less than thirty days nor more than ninety days from the date of mailing notice.

7017. The insurer may bring an action against any member who neglects or refuses to pay an assessment made upon him under the provisions of this chapter, or to pay other liabilities due the insurer. Action against defaulting member

7018. A director of any such insurer who wilfully refuses or neglects to perform the duties imposed upon him by law or by the insurer's by-laws shall be liable in his individual capacity to the person sustaining a loss. Liability of directors

Article 9. Reports and Statements.

7030. The secretary shall prepare an annual statement, showing the condition of such insurer on December thirty-first preceding the annual meeting. He shall present the statement at the annual meeting. Annual statement

7031. The president and secretary shall, within thirty days after January first of each year, prepare, under oath, and transmit to the commissioner a statement of the condition of the insurer on the last day of the month next preceding the annual meeting. Statement to commissioner.

7032. If, upon examination of the statement rendered to him, the commissioner finds that the insurer is doing business in compliance with the provisions of this chapter, he shall thereupon furnish the insurer a certificate of authority to continue business during the ensuing year. Certificate of authority.

7033. For such examination and certificate the insurer shall pay one dollar. Fee.

7034. Each insurer shall pay, at the time of organization, five dollars to the commissioner for all services which he renders in the matter of organization. Organization fee.

Article 10. Dissolution.

Method of dissolution.

7050. Any such insurer may be proceeded against and dissolved in the same manner and upon the same conditions as in the case of other domestic incorporated insurers.

Article 11. Exemptions.

Provisions not applicable.

7060. The provisions of subdivision (f) of section 381 and the provisions of sections 382, 383, 384, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 761, 762, 763, 764, 765, 766, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 970, 971, 972, 973, 974, 975, 976, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, and 993 shall not apply to county mutual fire insurers.

CHAPTER 6. COUNTY MUTUAL FIRE REINSURERS.

Article 1. Formation and Organization.

Incorporation.

7080. Five or more insurers, operating under Chapter 5 of this part and having insurance liabilities exceeding a total of $150,000 which they wish to reinsure, may incorporate for the purpose of mutual reinsurance against loss or damage by fire.

Declaration of intention

7081. Such insurers shall first file with the commissioner a declaration of their intention to incorporate such a reinsurer.

Contents.

7082. The declaration shall be signed by the president and secretary of each of the incorporators. It shall be accompanied by a certified copy of a resolution passed by the board of directors of each incorporator stating that it is the desire of the particular insurer to become one of the incorporators. Such declaration shall also contain a copy of the articles of incorporation proposed to be adopted.

Form of articles.

7083. The articles shall be executed by each incorporator through its president or secretary, each signature being acknowledged as required by the general corporation law.

Certificate of commissioner.

7084. The commissioner shall examine the proposed articles of incorporation, and if they conform to this chapter, he shall deliver to such incorporators a certificate permitting them to incorporate as such reinsurer. The certificate shall contain the proposed articles of incorporation.

Filing of articles and certificate.

7085. Upon the filing with the Secretary of State of the articles of incorporation and the certificate provided for in section 7084, the incorporation of the reinsurer shall be complete.

Election of member's delegates

7086. Three delegates shall be elected by each member at its regular annual meeting to represent it at all meetings of the reinsurer.

Term of delegates.

7087. The delegates shall be elected by ballot and shall hold office for one year, or until their successors have been elected and qualified.

Annual meeting.

7088. The annual meeting of the members of the reinsurer shall be held on the second Monday in February of each year.

7089. At such meeting one director shall be elected from the delegates of each member so that the number of directors is equal to the number of members of the reinsurer. The by-laws shall fix the manner of, and time for, increasing or diminishing the number of member insurers and, correspondingly, of directors. A majority of the directors shall constitute a quorum for the transaction of business. Directors.

7090. In the election of the first board of directors each member insurer shall be entitled to one vote. At every subsequent election, each delegate from each member shall have as many votes as there are directors to be elected, and he may cast the votes in person or by proxy, distributing them among the directors to be elected or among a less number of directors, or cumulating them upon one candidate as he sees fit. Elections.

7091. The directors of the reinsurer shall elect from their own number a president, a vice president, and an executive committee of three. They shall also elect a treasurer and a secretary, who need not be members of any member insurer nor natural persons. Officers.

7092. The directors and all of such officers shall hold office for one year from the date of their election, and until their successors are elected and qualified. Terms of office.

7093. The treasurer and secretary shall give bonds to the reinsurer in such amounts as are prescribed by the board of directors, conditioned upon the faithful performance of their duties. Bonds of officers.

Article 2. Powers and Duties.

8010. Upon organizing under its articles of incorporation, such reinsurer may carry on a fire reinsurance business as provided by this chapter. Reinsurance powers.

8011. Such reinsurer and its directors shall possess such of the usual powers, and be subject to such of the usual duties of corporations and directors thereof as are necessary for the management of its affairs in accordance with the provisions of this chapter, including the power to prescribe the duties of its officers and fix their compensation. General powers and duties.

Article 3. Additional Memberships.

8030. Any county mutual fire insurer in this State may become a member of such a reinsurer and entitled to all the rights and privileges appertaining thereto. Membership of county mutual fire insurers.

8031. County mutual fire insurers, upon becoming members of such reinsurer, shall give it their written obligation binding themselves and their successors to pay their pro rata share of the necessary expenses and loss by fire sustained by any member of the reinsurer during the time for which their respective policies are written. They shall also at the time of effecting the reinsurance pay such percentages and such other charges as are required by law or by the rules and by-laws of the reinsurer. Obligations of membership.

Article 4. Risks.

Restrictions.

8050. Restrictions on risks as to "distances," "city or town block," "closely built up district," "one risk," and "clear space," in chapter 5 of this part are binding upon such reinsurers and shall govern the writing of all reinsurance.

Classification.

8051. All such reinsurers shall classify the reinsured subject matter at the time of issuing policies thereon, under rates corresponding as nearly as practicable to the several kinds of subject matter.

Reinsurable property.

8052. Such reinsurer may write reinsurance on property which is located in this State and which is insured in any member insurer.

Restriction on single risk.

8053. Such reinsurer shall not at any time write reinsurance, subject to one risk, in excess of five per cent of the total amount of reinsurance on its books at the time of accepting the risk.

Article 5. Loss.

Notice of loss.

8070. A member of such reinsurer, upon sustaining loss covered by reinsurance, shall immediately notify the president or secretary, stating the amount of loss.

Claims under $1,500.

8071. If the claim is for $1,500 or less, the president and secretary shall proceed to ascertain the amount of such loss and make adjustment.

Claims greater than $1,500

8072. If the claim is for more than $1,500, the secretary shall forthwith convene the executive committee. Upon convening, the executive committee, acting with the president and secretary, shall ascertain the amount of such loss and make adjustment.

Arbitration.

8073. If in any case there is a failure of the parties to agree upon the amount of such loss they may submit the question of the amount to arbitration. In that event the president of the reinsurer shall appoint one disinterested person to act as an arbitrator, and the member shall appoint another.

Third arbitrator.

8074. If the two arbitrators thus appointed fail to agree upon the amount of such loss, they shall select a third disinterested person to act with them.

Powers of arbitrators.

8075. Such arbitrators so appointed may examine witnesses and do all other things necessary to the proper determination of the amount of loss sustained by the claimant.

Award.

8076. The arbitrators shall make their award in writing to the president of the reinsurer and to the member. Such award shall be final as to the amount of the loss sustained.

Pay of arbitrators.

8077. The pay of each arbitrator shall be five dollars per day for each day's services rendered, and five cents for each mile necessarily traveled in the discharge of his duties. Such compensation shall be paid by the claimant unless the award of the arbitrators exceeds the sum offered by the reinsurer in liquidation of the loss. In the latter case such expense shall be paid by the reinsurer.

8078. The president and secretary of the reinsurer may secure the services of an adjuster to represent it on any loss, subject to confirmation by its executive committee. Adjuster.

Article 6. Assessments and Coverage of Loss.

8090. When the amount of any ascertained loss exceeds the cash funds of the reinsurer and also exceeds one-eighth of one per cent of the total amount of the insurance in force in the reinsurer, the president shall convene its directors. On so convening, the directors shall assess each member in proportion to the member's reinsurance, taken in connection with the rate of premium under which such reinsurance is classified. Making of assessment.

8091. When the amount of such loss does not exceed one-eighth of one per cent of the total amount of insurance in force in the reinsurer, the directors may, by resolution in writing signed by two-thirds of all the directors while present at a meeting, borrow in the name of the reinsurer and give its evidence of indebtedness therefor, in an amount not exceeding one-eighth of one per cent of the total amount of such insurance in force. Borrowing to cover loss

8092. The term of such loan shall not be longer than twelve months, and the date of maturity shall not be more than thirty days beyond the date of the next annual meeting of the reinsurer. Term of loan.

8093. The board of directors may at their annual meeting levy an assessment not exceeding twenty-five cents on the $100 of reinsurance. The sum so raised shall constitute a reserve fund to be used in emergency cases only. Another assessment for this purpose shall not be made while this reserve fund remains intact. Assessment for reserve fund.

8094. Whenever an assessment is made, the secretary shall immediately notify every member by registered letter addressed to the secretary of the member at its usual post-office address, stating: Notice of assessment.

(a) The amount of such loss.

(b) The sum due from the member as its share.

(c) To whom payment is to be made.

(d) The time, not less than thirty nor more than ninety days from the date of mailing notice, when payment is to be made.

8095. An action may be brought against any member of such reinsurer that neglects or refuses to pay the liabilities due such reinsurer. Actions against members

8096. The directors of any such reinsurer who wilfully refuse or neglect to perform the duties imposed upon them by law or by the by-laws of the reinsurer are liable in their individual capacity to the reinsurer sustaining loss. Liability of directors

8097. An action may also be brought and maintained against any such reinsurer by members thereof to recover sums owing them for losses sustained when payment is withheld after the amount of such losses is determined and is due by the terms of the policy. Actions by members

Article 7. Cancellation of Membership.

Cancellation by member.

9010. Any member of such reinsurer may cancel any policy of reinsurance at any time while the reinsurer continues its reinsurance business.

Method.

9011. The cancellation may be accomplished only by complying with all of the following requirements:

(a) Surrender of policy for cancellation.

(b) Giving ten days' notice in writing to the secretary of the reinsurer.

(c) Payment of the member's share of all claims that exist against the reinsurer.

Cancellation by reinsurer

9012. The reinsurer may cancel or terminate any policy by giving the member ten days' written notice and returning to it any excess of premium paid during the term of the policy over the cost of its reinsurance as measured by the rules or methods of admitted fire insurers issuing nonassessable policies on a reserve basis.

Article 8. Reports and Statements.

Annual statements.

9030. The secretary shall prepare an annual statement, showing the condition of such reinsurer on December thirty-first and a supplemental report of the business of the reinsurer to January thirty-first and present both reports at the ensuing annual meeting.

Statement to commissioner.

9031. The president and secretary shall, within thirty days after January first in each year, prepare under oath, and transmit to the commissioner, a statement of the condition of the insurer on the last day of December of the preceding year.

Certificate of authority.

9032. If, upon examination, the commissioner finds that such reinsurer is complying with the provisions of this chapter, he shall furnish the reinsurer a certificate of authority to continue business during the ensuing year.

Fee.

9033. For such examination and certificate the reinsurer shall pay ten dollars.

Organization fee.

9034. Each reinsurer shall pay, at the time of organization, fifty dollars to the commissioner for all services rendered in the matter of organization of the reinsurer.

Article 9. Dissolution.

Method of dissolution.

9050. Any such reinsurer may be proceeded against and dissolved in the same manner and upon the same conditions as in the case of other domestic insurers.

Article 10. Exemptions.

Provisions not applicable.

9060. The provisions of sections 384, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992 and 993 shall not apply to county mutual fire reinsurers.

CHAPTER 7. FRATERNAL FIRE INSURERS.

9080. Except as provided by this chapter an association organized and operating under this chapter is not governed by the provisions of this code or other insurance laws of this State. Provisions applicable.

9081. Secret fraternal societies, having lodges, councils or granges in this State, conducting their business and securing their membership on the lodge, council or grange system exclusively, and having ritualistic work and ceremonies in their lodges, councils or granges, may form an insurer by association of the members of their order or society, binding themselves to contribute to each other's loss by fire. Who may form association.

9082. Such association shall be formed by filing a certificate in the office of the Secretary of State and a like certificate in the office of the clerk of each county in which a member has property insured in said association. Each such certificate shall state: Method of formation.

(a) Generally, the objects of the association.

(b) Its principal place of business.

(c) The names of its officers.

Such certificates shall be signed by the officers of the association and verified by at least three of them.

9083. The officers of the association shall be members of the association, having property insured therein. Officers.

9084. Such an association may insure the property of its members against loss or damage by fire for an amount not exceeding $4,500 on any one risk subject to the following conditions as to amount: Limitation of amounts of risks.

(a) A risk in excess of $3,500 shall not be binding as to such excess until risks to the amount of $200,000 have been written and all premiums paid thereon.

(b) A risk of more than $1,500 shall not be binding as to such excess until risks to the amount of $100,000 have been written and all premiums paid thereon.

(c) A risk, regardless of amount, shall not be binding until risks to the amount of $75,000 have been written and all premiums paid thereon.

(d) A risk shall not be insured for an amount in excess of seventy-five per cent of the cash value of the property insured. Concurrent or additional insurance shall not be allowed.

9085. A risk shall not be written by such association except for members in good standing on the books of the society forming the association. A suspension or withdrawal from membership in such society shall suspend the insurance until the member is restored to good standing in the society and association. A restoration to membership after suspension therefrom shall not extend the term of the insurance. Risks limited to members.

9086. All such associations shall classify the property insured by them at the time of issuing policies on such property. The classification shall be under different rates, corresponding as nearly as practicable to the greater or less risk from fire loss attached to the insured property. Classification.

Territorial limitations.

9087. Such association shall not issue policies of insurance on any property within the limits of cities of the first, first and a half, second, third, fourth, fifth and sixth classes. A dwelling within the corporate limits of any city or town shall not be insured if there is any other building within one hundred feet or any risk other than a dwelling or private barn within two hundred feet of the insured dwelling.

Ascertainment and payment of loss.

9088. Such association shall provide in its by-laws for the ascertainment of loss or damage by fire, and for the payment thereof.

General powers of association.

9089. Such association by and in its own name may:

(a) Sue and be sued.

(b) Loan such funds as it has on hand in such manner as its articles of association and its by-laws provide.

(c) Own sufficient real property for its business purposes, and such other real property as it becomes necessary to purchase on foreclosure of its mortgages. Real estate obtained by such foreclosure shall be sold and conveyed within five years from the time title vests in the association.

(d) Make such by-laws, not inconsistent with the laws of this State, as are necessary for its government and for the transaction of its business.

Participation by members.

9090. Such association creates a mutual agreement of its members to participate in each other's loss by fire.

Agreement by insured.

9091. Every insured shall give to the association a written instrument binding him to pay his share, proportioned to his insurance in the association, of the expense of operation and of the fire loss sustained by it during the term of his policy. Such loss consists of amounts paid or owing to insureds by reason of losses under the terms of fire policies issued by the association, together with the necessary expenses of the association in respect to such losses.

Payments by insureds

9092. Persons insuring property with the association shall, at the time of effecting the insurance, pay such a percentage in cash, and such other charges, as are required by the rules or by-laws of the association.

Cancellation of policies

9093. Policies of the association may be canceled by either party thereto. In such case settlement or adjustment shall be made in accordance with the terms of the by-laws of the association.

CHAPTER 8. UNDERWRITERS FIRE PATROLS.

Article 1. Scope of Chapter and Definitions.

Definition

10020. As used in this chapter, an underwriters' corps means a corps of men with proper officers and equipment, maintained to discover and prevent fires and save life and property from fire.

Limits on action of patrol.

10021. This chapter shall not impair or interfere with the powers or duties of the regular fire department of any municipality.

10022. Any act of an underwriters' corps shall not justify any owner of any property in abandoning such property. Abandoning of property.

Article 2. Formation and Organization.

10040. Any domestic corporation of insurance underwriters, organized to discover and prevent fires and save life and property from fire and doing business within any municipal corporation of this State, may at its own expense maintain an underwriter's corps. Power to organize.

Article 3. Powers.

10050. For the effective discharge of such duties, an underwriter's corps may enter any burning building or any building in which property is burning, or any building such corps or any officer thereof deems to be immediately exposed to an existing fire or in danger of taking fire from a burning building, and may remove or otherwise protect any property from fire or damage by water during and immediately after such fire. General powers.

10051. Such corporation, with its officers and corps, when going to a fire with its equipment, has the same right of way as the regular fire department of the municipality in which such corporation is operating, except as to such fire department. Right of way of apparatus.

10052. All ordinances passed by the municipal authorities of any city or town wherein such a corporation carries on business, and all laws of this State applicable to such municipality which provide for the punishment of any person or persons wilfully or carelessly obstructing the progress of the apparatus of the fire department of such municipality while going to a fire, or of any person or persons wilfully or carelessly injuring any animal or property of said fire department, shall likewise apply to such corporation to the same extent as to such fire department. Such laws and ordinances and their penalties, may be enforced in the same courts and in the same manner, and with equal force and effect in the case of such corporation as in the case of the fire department. Protection of law.

Article 4. Meetings and Assessments.

10070. In July of every year, there shall be held a meeting of every corporation created for the purpose specified in this chapter. Annual meeting.

10071. Ten days' notice of the meeting shall be inserted in at least one daily newspaper published in the municipality in which the corporation is established. Notice.

10072. At such meeting each insurer or insurance agent, doing a fire insurance business in the municipality, whether a member of the corporation or not, has a right to be represented and is entitled to one vote. Vote.

10073. A majority of the whole number so represented may decide the question of sustaining the fire patrol organized by Question as to existence and expense.

the corporation and may fix the maximum amount of expenses to be incurred therefor during the ensuing fiscal year.

Assessment of expense.

10074. The amount of expense so fixed shall not exceed two per cent of the aggregate premiums returned as received, as provided in section 10076. The whole of such amount, or so much thereof as is necessary, may be assessed upon all insurers or insurance agents who assume risks or accept premiums for fire insurance in said municipality. Such assessment shall be made in proportion to the several amounts of premiums returned as received by each in the statement required by section 10076.

Collection of assessment.

10075. Such assessment is collectible by and in the name of the corporation, in any court of competent jurisdiction, in such manner and at such time or times as the corporation determines.

Statement of members.

10076. In order to pay persons employed by the corporation, and to maintain apparatus for saving life and property and suitable quarters the corporation may require a statement to be furnished, semiannually, by all persons mentioned in section 10074, setting forth the aggregate amount of premiums received for insuring property in the municipality during the six months next preceding July first and January first, respectively, of each year.

Verification and delivery of statements.

10077. Each statement shall be under oath and shall be handed to the secretary of the corporation within ten days after each first day of July and each first day of January. A statement covering the receipts of a natural person shall be sworn to by the person whose receipts it covers. Otherwise the statement shall be sworn to by the president, secretary or agent of the person whose receipts it covers.

Secretary's duty.

10078. The secretary of such corporation shall, within the prescribed ten days, by written demand signed by him, require the statement from every person assessable under this chapter.

Penalty.

10079. The demand may be delivered personally at the office of every person required to furnish the statement. Every such person, or officer thereof, who, for fifteen days after said demand, neglects to render the statement forfeits fifty dollars for the use of the corporation, and also forfeits for its use twenty-five dollars in addition for every day such neglect is continued after the expiration of the fifteen days. Such additional penalty may be computed and collected up to the time of the trial of any action brought for its recovery.

Action for penalty.

10080. The corporation may bring action to recover such penalty, with costs, in any court of competent jurisdiction.

PART 2. LIFE AND DISABILITY INSURANCE.

CHAPTER 1. THE CONTRACT.

Article 1. General Provisions.

Insurable interest.

10110. Every person has an insurable interest in the life and health of:

(a) Himself.

(b) Any person on whom he depends wholly or in part for education or support.

(c) Any person under a legal obligation to him for the payment of money or respecting property or services, of which death or illness might delay or prevent the performance.

(d) Any person upon whose life any estate or interest vested in him depends.

Measure of indemnity.

10111. In life or disability insurance, the only measure of liability and damage is the sum or sums payable in the manner and at the times as provided in the policy to the person entitled thereto.

(Amended by Ch. 246, Stats. 1935.)

[ORIGINAL SECTION.]

10111. In life or disability insurance, unless the interest of an insured is susceptible of exact pecuniary measurement, the measure of indemnity is the sum fixed in the policy.

Minors.

10112. In respect of life or disability insurance, or annuity contracts, heretofore or hereafter issued to or upon the life of any person not of the full age of twenty-one years for the benefit of such minor or for the benefit of the father, mother, husband, wife, child, brother, or sister, of such minor, the insured or annuitant shall not, by reason only of such minority, be deemed incompetent to contract for such insurance or annuity, or for the surrender thereof, or to exercise all contractual rights thereunder, or to give a valid discharge for any benefit accruing or for any money payable thereunder: Provided, that all such contracts made by a minor under the age of sixteen years, as determined by the nearest birthday, shall have the written consent of a parent or guardian, and that the exercise of all contractual rights under such contracts, or the surrender thereof, or the giving of a valid discharge for any benefit accruing or money payable thereunder, in the case of a minor under the age of sixteen years, as determined by the nearest birthday, shall have the written consent of a parent or guardian.

(Added by Ch. 431, Stats. 1935.)

Policy to contain entire contract.

10113. Every policy of life, disability, or life and disability insurance issued or delivered within this State on or after the first day of January, 1936, by any insurer doing such business within this State shall contain and be deemed to constitute the entire contract between the parties and nothing shall be incorporated therein by reference to any constitution, by-laws, rules, application or other writings, of either of the parties thereto or of any other person, unless the same are indorsed upon or attached to the policy; and all statements purporting to be made by the insured shall, in the absence of fraud, be representations and not warranties. Any waiver of the provisions of this section shall be void.

(Added by Ch. 245, Stats. 1935.)

Article 2. Transfer.

Mode and effect of transfer.

10130. A life or disability policy may pass by transfer, will or succession to any person, whether or not the transferee has an insurable interest. Such transferee may recover upon it whatever the insured might have recovered.

Notice.

10131. Notice to an insurer of a transfer of a life or disability policy is not necessary to preserve the validity of the policy unless expressly required by the policy.

Disposal or incumbrance of policy proceeds.

10132. The beneficiary under a life policy which provides for the payment of its proceeds in periodical installments, may be restrained by its provisions from disposing of or incumbering his interest in any such installment prior to the date when it becomes due and payable by the insurer.

Article 3. Policy Provisions Required.

Scope of article.

10150. The provisions of this article shall not apply to annuities, industrial policies or to term contracts issued for periods of twenty years or less.

Life insurance contracts.

10151. Every contract or policy of life insurance hereinafter made by any person or corporation, with and upon the life of a resident of this State, and delivered within this State, shall provide, in event of default of any premium payment after three full annual premiums shall have been paid on such policy, that without any action on the part of the insured, the net value of such policy based upon the reserve basis used in computing the premiums and values thereunder (the policy to specify the mortality table and rate of interest so adopted) which net value shall be at least equal to its entire net reserve at the date of default, including that of dividend additions, if any, based upon a standard not lower than the American experience tables of mortality with interest at three and one-half per cent yearly, less a surrender charge of not more than two and one-half per cent of the face amount of the policy and of any existing dividend additions thereto and less any indebtedness to the company on or secured by the policy, shall be applied as a single premium to the purchase of one of the following stipulated forms of insurance:

First—Paid-up nonparticipating term insurance in the amount of the face of the policy, plus dividend additions, if any, for such a period as the net value outlined above will purchase at the net single premium, at the attained age of the insured at the time of the lapse, based upon the reserve basis described in the policy; provided, however, that under endowment contracts the term shall not extend beyond the endowment period named in the original contract, and the excess value, if any, shall be applied as a net single premium to purchase in the same manner paid-up pure endowment insurance, payable at the end of the endowment period named in the contract if the insured be then living, or,

Second—Paid-up nonparticipating term insurance in the amount of the face of the policy, plus dividend additions, if

any, and less any outstanding indebtedness, for such a period as the net value outlined above will purchase at the net single premium, at the attained age of the insured, based upon the reserve basis described in the policy; provided, however, that under endowment contracts the term shall not extend beyond the endowment period named in the original contract, and the excess value, if any, shall be applied as a net single premium to purchase in the same manner paid-up pure endowment insurance, payable at the end of the endowment period named in the contract if the insured be then living, or,

Third—Paid-up nonparticipating insurance payable at the time and on the conditions named in the policy for such an amount as the net value outlined above will purchase at the net single premium, at the attained age of the insured, based upon the reserve basis described in the policy.

Cash surrender value

10152. In lieu of the application of the provisions for automatic insurance upon nonpayment of premium the policy may be surrendered to the insurer at its home office, upon due application by the legal owner thereof, within one month after date of premium default for a specified cash value which shall be at least equal to the sum which would be otherwise available for the purchase of the automatic form of insurance provided therein. The insurer may defer payment of such cash value for not more than six months after application therefor is made.

Waiver prohibited.

10153. No agreement between the insurer and the policy holder or applicant for insurance contrary to the foregoing shall be held to waive any of the provisions of sections 10151 and 10152.

Policy not containing required provisions.

10154. Any life policy issued upon the life of a resident of this State and delivered within this State, which does not contain an automatic nonforfeiture value in conformity with section 10151 shall be construed as granting the nonparticipating term insurance as provided in paragraph first of section 10151. Such a benefit shall be read into the policy.

Article 4. Payment and Proceeds.

Payment

10170. An insurance upon life may be made payable:

(a) On the death of the insured.

(b) On his surviving a specified period.

(c) Periodically as long as he lives.

(d) Otherwise contingently on the continuance or determination of life.

Safeguarding proceeds

10171. Any life policy may provide that the proceeds thereof or payments thereunder shall not be subject to transfer, anticipation or commutation or encumbrance by any beneficiary, and shall not be subject to the claims of creditors of any beneficiary or any legal process against any beneficiary.

To whom paid

10172. When the proceeds of a life policy are due on the death of insured, the insurer shall pay the proceeds:

(a) To the beneficiary designated therein.

(b) If no beneficiary is designated therein, to the estate of the insured.

(c) If the policy has been assigned, to the assignee thereof.

Such payment shall satisfy all obligations of the insurer with respect to said policy.

Article 5. Exemption.

Provisions not applicable

10190. The provisions of sections 800, 801, 802, 803, 804, 805, 806, 807, 808 and 809 shall not apply to life insurance.

CHAPTER 2. GROUP LIFE POLICIES.

Who may issue.

10200. Any life insurer may issue life, disability, term, and endowment insurance on the group plan, with or without annuities, and with premium rates less than the usual rates for such insurance.

(Amended by Ch. 308, Stats. 1935.)

[ORIGINAL SECTION.]

10200. Any life insurer may issue life or endowment insurance on the group plan, with or without annuities and with premium rates less than the usual rates for such insurance.

Forms generally.

10201. The only forms of group life insurance are those set forth in this chapter.

Employees' groups.

10202. Life insurance conforming to all the following conditions is one form of group life insurance:

(a) Covering not less than fifty public or private employees.

(b) Written under a policy issued to the employer, the premium on which is to be paid by the employer or by the employer and employees jointly, and insuring either all of the employees or all of any class thereof, determined by conditions pertaining to the employment.

(c) For amounts of insurance based upon some plan which will preclude individual selection.

(d) For the benefit of persons other than the employer.

(e) When the premium is to be paid by the employer and employee jointly and the benefits of the policy are offered to all eligible employees, insuring not less than seventy-five per cent of such employees.

Such insurance may be issued either with or without medical examination.

Associated persons in same occupation.

10203. Life insurance conforming to all the following conditions is another form of group life insurance:

(a) Covering the members of any of the following:

(1) Any labor union.

(2) The national guard.

(3) Any association of governmental or public employees.

(b) Written under a policy issued to such union or association.

(c) The premium on the policy to be paid jointly by the union or association and the members thereof.

(d) Insuring only members of such union who are actively engaged in the same occupation or members of such association.

(e) Insuring for amounts of insurance based upon some plan which will preclude individual selection.

(f) Insuring for the benefit of persons other than the union or association or its officials.

(g) When a premium is to be paid by the union or association jointly with its members and the benefits are offered to all eligible members, insuring not less than seventy-five per cent of such members. In such case, when members apply and pay for additional amounts of insurance, a smaller percentage of members may be insured for such additional amounts of insurance.

Definitions

10204. For the purpose of this chapter, the term "employer" includes the association or union designated by section 10203, and the term "employee" shall include the members thereof.

Required provisions

10205. A policy of group life insurance shall not be issued or delivered in this State until a copy of its form is filed with the commissioner and approved by him. Except as provided in section 10211, such policy shall not be so issued or delivered unless it contains in substance the provisions set forth in sections 10206 to 10210 hereof.

Incontestability

10206. The policy shall provide that it is incontestable after two years from its date of issue, except for nonpayment of premiums and except for violation of the conditions of the policy relating to military or naval service in time of war.

Entirety of policy

10207. The policy shall contain a provision that:

(a) The policy, the application of the employer and the individual applications, if any, of the employees constitute the entire contract of insurance.

(b) All statements made by the employer or by the individual employees are, in the absence of fraud, representations and not warranties.

(c) Such statements will not be used in defense to a claim under the policy, unless contained in a written application.

Age of employee

10208. The policy shall contain a provision for the equitable adjustment of the premium or the amount of insurance payable in the event of a misstatement of the age of an employee.

Certificate of insurance and policy in lieu of group insurance

10209. The policy shall contain a provision that the insurer will issue to the employer for delivery to the insured employee an individual certificate setting forth:

(a) A statement as to the insurance protection to which the employee is entitled and to whom payable.

(b) A provision that if the employment terminates for any reason whatsoever and the employee applies to the insurer within thirty-one days after such termination, paying the premium applicable to the class of risk to which he belongs and to the form and amount of the policy at his then attained age, he is entitled, without producing evidence of insurability, to the issue by the insurer of an individual life policy in any one of the forms, other than term insurance, customarily issued by the insurer.

(c) A statement that such policy in lieu of group insurance will be in an amount equal to the amount of his protection under such group insurance at the time of such termination.

Addition of new employees.

10210. The policy shall contain a provision that to the group or class originally insured there will be added from time to time all new employees of the employer eligible to insurance in such group or class.

Alternative provisions.

10211. Policies of group life insurance may conform to the following conditions, any other provisions of this chapter notwithstanding:

(a) When issued in this State by any foreign insurer, they may contain any provision required by the law of the State under which the insurer is organized.

(b) When issued in other States or countries by domestic insurers, they may contain any provision required by the laws of the State, or country, in which they are issued.

(c) They may contain provisions on any of the requirements set forth in sections 10205 to 10210, which, in the opinion of the commissioner, are more favorable to the employer or to the employee than the required provisions.

Status of employer.

10212. Except as provided in this chapter, in every group policy issued by a domestic life insurer, the employer is the policyholder for all purposes within the meaning of this code. If entitled to vote at meetings of the insurer, he shall be entitled to one vote.

Policy and proceeds free from liabilities.

10213. A policy of group life insurance or the proceeds thereof paid to the insured employee or the beneficiary thereunder, shall not be liable, either before or after payment, to be applied by any legal or equitable process to pay any liability of any person having a right under the policy. The proceeds thereof, when not made payable to a named beneficiary, shall not constitute a part of the estate of the employee for the payment of his debts.

CHAPTER 3. BURIAL CONTRACTS.

Definition.

10240. A "burial contract" is a life policy embodying an agreement for valuable consideration, to embalm or dispose of, or to procure the embalmment or disposal, of the remains of any person living at the time of the execution of such policy.

Exempted contracts

10241. Burial contracts of any charitable, religious, benevolent or fraternal benefit society, or organization not having for its object pecuniary profit, are not subject to the provisions of this code nor to other provisions of law relating to insurance.

CHAPTER 4. STANDARD PROVISIONS IN DISABILITY POLICIES.

Article 1. Scope of Chapter and Definitions.

Blanket policies

10270. This chapter shall not affect workmen's compensation insurance or any general or blanket policy of insurance issued to any organization of which the officers, members, employees, or members of classes or departments are insured

for their individual benefit against specified accidental bodily injuries or sickness while exposed to the hazards of the occupation or otherwise, in consideration of a premium intended to cover the risks of all the persons insured under such policy.

Contracts supplemental to life insurance.

10271. Except as provided in section 10292, this chapter shall not apply to or in any way, affect life insurance, endowment or annuity contracts or contracts supplemental thereto which contain no provisions relating to accident or health insurance except (a) such as provide additional benefits in case of death by accidental means and except (b) such as operate to safeguard such contracts against lapse, or to give a special surrender value, or special benefit, or an annuity, in the event that the insured or annuitant becomes totally and permanently disabled as defined by the contract or supplemental contract.

(Amended by Ch. 308, Stats. 1935.)

[ORIGINAL SECTION.]

10271. Except as provided in section 10292, this chapter shall not affect contracts providing additional benefits for accidental death which are supplemental to contracts of life insurance, nor shall this chapter apply to provisions in such supplemental contracts which operate to safeguard such insurance against lapse or to provide a special surrender value if the insured becomes totally and permanently disabled by reason of accidental bodily injury or by sickness.

Indemnity

10272. The term "indemnity," as used in this chapter means benefits promised.

Article 2. Approval of Commissioner.

Requisites for delivery of policy

10290. A disability policy shall not be issued or delivered to any person in this State until:

(a) A copy of the form thereof and, if more than one class of risks is written, of the classification of risks, and the premium rates pertaining thereto are filed with the commissioner.

(b) Either:

(1) Thirty days expires without notice from the commissioner after such copy is filed, or,

(2) The commissioner gives his written approval prior to that time.

Notice of disapproval

10291. If the commissioner notifies the insurer, in writing, that the filed form does not comply with the requirements of law, specifying the reasons for his opinion, it is unlawful thereafter for any such insurer to issue any policy in such form.

Contracts supplemental to life insurance contracts

10292. A supplemental contract of the kind mentioned in section 10271 shall not be issued or delivered to any person in this State until a copy of the form thereof is submitted to and approved by the commissioner. The commissioner may make reasonable rules and regulations concerning the provisions in such contracts and their submission to and approval by him.

Article 3. Policy Form, Generally.

General requisites.

10310. Such disability policy shall not be issued or delivered to any person in this State:

(a) Unless the entire consideration therefor is expressed in the policy.

(b) Unless the times at which the insurance takes effect and terminates are stated in a portion of the policy above the evidence of its execution by the insurer.

(c) If the policy purports to insure more than one person.

(d) Unless every printed portion and any indorsements or attached papers are plainly printed in type of which the face is not smaller than ten point.

(e) Except in the case of railroad ticket policies sold only by railroad employees at railroad stations or ticket offices, unless a brief description of the policy is printed on its first page and on a filing back in type with the face not smaller than fourteen point.

(f) Unless the exceptions of the policy are printed with the same prominence as the benefits to which they apply.

(g) Unless, if any portion of such policy purports, by reason of the circumstances under which a loss is incurred, to reduce any indemnity to an amount less than that provided for the same loss occurring under ordinary circumstances, such portion is printed in bold-face type and with greater prominence than any other portion of the text of the policy.

Incorporation by reference

10311. Such a policy shall not be issued or delivered to any person in this State if it contains any provisions purporting to make any portion of the charter, constitution or by-laws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of or reference to a statement of rates or classification of risks filed with the commissioner in accordance with the provisions of Article 2 of this chapter.

Conformity to standard provisions

10312. Except as provided by section 10314, such a policy shall not be issued or delivered to any person in this State if it contains any provision contradictory, in whole or part, of any of the provisions designated in this chapter as "Standard provisions" or as "Optional standard provisions."

Indorsements.

10313. Indorsements or attached papers shall not vary, extend, or conflict with any of the "standard provisions" or "optional standard provisions."

Foreign law requirements

10314. The disability policies issued by a foreign insurer may contain, when issued in this State, any provision which is prescribed for insertion in such policies by the law of the State under which the insurer is organized.

Domestic insurer issuing policy in another State

10315. The disability policies issued by a domestic insurer may, when issued or delivered in any other State or country, contain any provision required by the laws of the State or country in which the same are issued.

Article 4. Compulsory Standard Provisions.

Standard provisions required

10330. Except as otherwise provided by this chapter, every disability policy issued and delivered to a person in this State shall contain certain standard provisions, which shall be in the words, and in the order of the number, of each provision

as set forth in this article and shall be preceded in every policy by the caption, "Standard Provisions."

Use of term "insurer."

10331. In each such standard provision wherever the word "insurer" is used, there shall be substituted therefor "company," "corporation," "association," "society" or such other word as will properly designate the insurer.

Change of occupation.

10332. There shall be a standard provision relative to the contract which shall be in either of the following two forms. Form (A) shall be used in policies which do not provide for reduction of indemnity on account of change of occupation, and form (B) shall be used in policies which do so provide. If form (B) is used and the policy provides indemnity against loss from sickness, the words "or contracts sickness" may be inserted therein immediately after the words "in the event that the insured is injured."

(A) 1. This policy includes the endorsements and attached papers, if any, and contains the entire contract of insurance. No reduction shall be made in any indemnity herein provided by reason of change in the occupation of the insured or by reason of his doing any act or thing pertaining to any other occupation.

(B) 1. This policy includes the endorsements and attached papers, if any, and contains the entire contract of insurance except as it may be modified by the insurer's classification of risks and premium rates in the event that the insured is injured after having changed his occupation to one classified by the insurer as more hazardous than that stated in the policy, or while he is doing any act or thing pertaining to any occupation so classified, except ordinary duties about his residence or while engaged in recreation, in which event the insurer will pay only such portion of the indemnities provided in the policy as the premium paid would have purchased at the rate but within the limits so fixed by the insurer for such more hazardous occupation.

If the law of the State in which the insured resides at the time this policy is issued requires that prior to its issue a statement of the premium rates and classification of risks pertaining to it shall be filed with the State official having supervision of insurance in such State then the premium rates and classification of risks mentioned in this policy shall mean only such as have been last filed by the insurer in accordance with such law, but if such filing is not required by such law then they shall mean the insurer's premium rates and classification of risks last made effective by it in such State prior to the occurrence of the loss for which the insurer is liable.

Representations of applicant or agent.

10333. Except in the case of railroad ticket policies when sold by railroad employees at railroad stations or ticket offices, there shall be a standard provision relative to changes in the contract, which shall be in the following form:

2. No statement made by the applicant for insurance not included herein shall avoid the policy or be used in any legal proceeding hereunder. No agent has authority to change this

policy or to waive any of its provisions. No change in this policy shall be valid unless approved by an executive officer of the insurer and such approval be endorsed hereon.

Reinstatement after lapse.

10334. Except in the case of railroad ticket-policies when sold by railroad employees at railroad stations or ticket offices, there shall be a standard provision relative to reinstatement of policy after lapse, which shall be in any of the three following forms: Form (A) shall be used in policies which insure only against loss from accident; form (B) shall be used in policies which insure only against loss from sickness; and form (C) shall be used in policies which insure against loss from both accident and sickness.

(A) 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the insurer or by any of its duly authorized agents shall reinstate the policy, but only to cover loss resulting from accidental injury thereafter sustained.

(B) 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the insurer or by any of its duly authorized agents shall reinstate the policy but only to cover such sickness as may begin more than ten days after the date of such acceptance.

(C) 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the insurer or by any of its duly authorized agents shall reinstate the policy but only to cover accidental injury thereafter sustained and such sickness as may begin more than ten days after the date of such acceptance.

Time of notice of claim

10335. There shall be a standard provision relative to time of notice of claim, which shall be in any of the three following forms. Form (A) shall be used in policies which insure only against loss from accident; form (B) shall be used in policies which insure only against loss from sickness, and form (C) shall be used in policies which insure against loss from both accident and sickness. If form (A) or form (C) is used the insurer may at its option add thereto the following sentence: "In event of accidental death immediate notice thereof must be given to the insurer."

(A) 4. Written notice of injury on which claim may be based must be given to the insurer within twenty days after the date of the accident causing such injury.

(B) 4. Written notice of sickness on which claim may be based must be given to the insurer within ten days after the commencement of the disability from such sickness.

(C) 4. Written notice of injury or of sickness on which claim may be based must be given to the insurer within twenty days after the date of the accident causing such injury or within ten days after the commencement of disability from such sickness.

Sufficiency of notice.

10336. There shall be a standard provision relative to sufficiency of notice of claim, which shall be in the following

form and in which the insurer shall insert in the blank space such office and its location as it may desire to designate for such purpose of notice.

5. Such notice given by or in behalf of the insured or beneficiary, as the case may be, to the insurer at _____ or to any authorized agent of the insurer, with particulars sufficient to identify the insured, shall be deemed to be notice to the insurer. Failure to give notice within the time provided in this policy shall not invalidate any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

Form for proof of loss.

10337. There shall be a standard provision relative to furnishing forms for the convenience of the insured in submitting proof of loss, as follows:

6. The insurer upon receipt of such notice, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not so furnished within fifteen days after the receipt of such notice, the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, character and extent of the loss for which claim is made.

Filing proof of loss.

10338. There shall be a standard provision relative to filing proof of loss which shall be in the one of the following forms appropriate to the indemnities provided.

(A) 7. Affirmative proof of loss must be furnished to the insurer at its said office within ninety days after the date of the loss for which claim is made.

(B) 7. Affirmative proof of loss must be furnished to the insurer at its said office within ninety days after the termination of the period of disability for which the company is liable.

(C) 7. Affirmative proof of loss must be furnished to the insurer at its said office in case of claim for loss of time from disability within ninety days after the termination of the period for which the insurer is liable, and in case of claim for any other loss, within ninety days after the date of such loss.

Examination or autopsy.

10339. Except in the case of railroad ticket policies when sold by railroad employees at railroad stations or ticket offices, there shall be a standard provision, relative to examination of the person of the insured and relative to autopsy, which shall be in the following form:

8. The insurer shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim hereunder. and also the right and opportunity to make an autopsy in case of death where it is not forbidden by law.

Indemnity other than for loss of time.

10340. There shall be a standard provision relative to the time within which payments other than those for loss of time on account of disability shall be made. Such provision shall be in either of the following two forms and may be omitted from any policy providing only indemnity for loss of time

on account of disability. The insurer shall insert in the blank space either the word "immediately" or appropriate language to designate such period of time, not more than sixty days, as it desires. Form (A) shall be used in policies which do not provide indemnity for loss of time on account of disability and form (B) in policies which do so provide.

(A) 9. All indemnities provided in this policy will be paid _____ after receipt of due proof.

(B) 9. All indemnities provided in this policy for loss other than that of time on account of disability will be paid _____ after receipt of due proof.

Indemnity for loss of time.

10341. There shall be a standard provision relative to periodical payments of indemnity for loss of time on account of disability. Such provision shall be in the following form and may be omitted from any policy not providing for such indemnity. The insurer shall insert, in the first blank space of the form, appropriate language to designate the proportion of accrued indemnity it desires to pay, which may be all or any part not less than one-half. In the second blank space the insurer shall insert any period of time not exceeding sixty days.

10. Upon request of the insured and subject to due proof of loss _____ accrued indemnity for loss of time on account of disability will be paid at the expiration of each _____ during the continuance of the period for which the insurer is liable, and any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of due proof.

Payment of indemnity

10342. There shall be a standard provision relative to indemnity payments which shall be in either of the two following forms. Form (A) shall be used in policies which designate a beneficiary and form (B) in policies which do not designate any beneficiary other than the insured:

(A) 11. Indemnity for loss of life of the insured is payable to the beneficiary if surviving the insured, and otherwise to the estate of the insured. All other indemnities of this policy are payable to the insured.

(B) 11. All the indemnities of this policy are payable to the insured

Cancellation by insured

10343. Except in the case of railroad ticket policies when sold by railroad employees at railroad stations or ticket offices, there shall be a standard provision providing for cancellation of the policy at the instance of the insured, which shall be in the following form:

12. If the insured shall at any time change his occupation to one classified by the insurer as less hazardous than that stated in the policy, the insurer, upon written request of the insured, and surrender of the policy, will cancel the same and will return to the insured the unearned premium.

Rights of beneficiary

10344. There shall be a standard provision relative to the rights of the beneficiary under the policy. Such provision

shall be in the following form and may be omitted from any policy not designating a beneficiary:

13. Consent of the beneficiary shall not be requisite to surrender or assignment of this policy, or to change of beneficiary, or to any other changes in the policy.

Time for suit.

10345. There shall be a standard provision limiting the time within which suit may be brought upon the policy, as follows:

14. No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after proof of loss has been filed in accordance with the requirements of this policy, nor shall such action be brought at all unless brought within two years from the expiration of the time within which proof of loss is required by the policy.

Time limitations of policy

10346. There shall be a standard provision relative to time limitations of the policy, as follows:

15. If any time limitation of this policy with respect to giving notice of claim or furnishing proof of loss is less than that permitted by the law of the state in which the insured resides at the time this policy is issued, such limitation is hereby extended to agree with the minimum period permitted by such law.

Article 5. Optional Standard Provisions.

Optional provisions

10360. A disability policy issued or delivered to any person in this State and containing any provision set forth below, shall embody such provisions in the words and figures and in the order set forth for optional standard provisions by this article:

(a) Relative to cancellation at the instance of the insurer.

(b) Limiting the amount of indemnity to a sum less than the amount stated in the policy and for which the premium has been paid.

(c) Providing for the deduction of any premium from the amount paid in settlement of claim.

(d) Relative to other insurance by the same insurer.

(e) Relative to the age limits of the policy.

Such provisions are hereby designated "optional standard provisions."

Omission of provisions

10361. The insurer may at its option omit from the policy any such optional standard provision.

Order of provisions

10362. Such optional standard provisions, if inserted in the policy, shall immediately succeed the standard provisions named in Article 4 of this chapter.

Cancellation by insurer

10363. There may be an optional standard provision relative to cancellation of the policy at the instance of the insurer, as follows:

16. The insurer may cancel this policy at any time by written notice delivered to the insured or mailed to his last address, as shown by the records of the insurer, together with cash or the insurer's check for the unearned portion of the premi-

ums actually paid by the insured, and such cancellation shall be without prejudice to any claim originating prior thereto

Concurrent insurance.

10364. There may be an optional standard provision relative to reduction of the amount of indemnity to a sum less than that stated in the policy, as follows:

17. If the insured shall carry with another company, corporation, association or society other insurance covering the same loss without giving written notice to the insurer, then in that case the insurer shall be liable only for such portion of the indemnity promised as the said indemnity bears to the total amount of like indemnity in all policies covering such loss, and for the return of such part of the premium paid as shall exceed the pro rata for the indemnity thus determined.

Deduction of premium on settlement of claim.

10365. There may be an optional standard provision relative to deduction of premium upon settlement of claim, as follows:

18. Upon the payment of claim hereunder any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

Other insurance by same insurer.

10366. There may be an optional standard provision relative to other insurance by the same insurer. It shall be in the one of the following forms appropriate to the indemnities provided. In the blank spaces the insurer shall insert such upward limits of indemnity as are specified in the insurer's classification of risks filed as required by this chapter.

(A) 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity in excess of $_____, the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured.

(B) 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for loss of time on account of disability in excess of $_____ weekly, the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured.

(C) 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for loss other than that of time on account of disability in excess of $_____, or the aggregate indemnity for loss of time on account of disability in excess of $_____ weekly, the excess insurance of either kind shall be void and all premiums paid for such excess shall be returned to the insured.

Age limits

10367. There may be an optional standard provision relative to the age limits of the policy. It shall be in the following form and in the blank spaces the insurer shall insert such number of years as it elects:

20. The insurance under this policy shall not cover any person under the age of _____ years nor over the age of _____ years. Any premium paid to the insurer for any period not covered by this policy will be returned upon request.

Article 5. Interpretation of Policy.

10380. The falsity of any statement in the application for any policy covered by this chapter shall not bar the right to recovery under the policy, unless such false statement was made with actual intent to deceive or unless it materially affected either the acceptance of the risk or the hazard assumed by the insurer. Falsity of statement in application

10381. The following shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under such disability policy: Matters in defense of claim

(a) The acknowledgment by any insurer of the receipt of notice given under any policy covered by this chapter.

(b) The furnishing of forms for filing proofs of loss.

(c) The investigation of any claim thereunder.

10382. There shall not be any alteration of written application for insurance except by, or with the written consent of, the applicant. The making of any such alteration without the consent of the applicant is a misdemeanor. If such alteration is made by any officer of the insurer, or by any employee of the insurer with the insurer's knowledge or consent, such alteration is deemed to be performed by the insurer issuing the policy upon such altered application. Alteration of application.

10390. A policy issued in violation of this chapter is valid but is construed as provided in this chapter. When any provision in such a policy is in conflict with any provision of this chapter, the rights, duties and obligations of the insurer, the policyholder and the beneficiary shall be governed by this chapter. Policy conflicting with chapter

Article 7. Exemption.

10395. The provisions of sections 800, 801, 802, 803, 804, 805, 806, 807, 808 and 809 shall not apply to disability insurance. Provisions not applicable

Article 8. Penalties.

10400. Any insurer, or any officer or agent thereof, that issues or delivers any policy in wilful violation of the provisions of this chapter is punishable by fine not exceeding $100 for each offense. The commissioner may revoke the license of any foreign insurer or of the agent thereof, that wilfully violates any provisions of this chapter. Penalties

10401. Any incorporated insurer admitted for disability insurance and any agent of such insurer, that makes or permits any discrimination between insureds of the same class in any manner whatsoever with relation to such insurance, is guilty of a misdemeanor. Discrimination between insureds

Chapter 5. General Regulation of Life Insurers.

Article 1. Restrictions on Business.

10430. An admitted life insurer shall not issue or deliver in this State, any securities or any special or advisory board or other contracts of any kind promising returns and profits Securities or contracts to induce insurance

as an inducement to insurance nor shall it permit its agents, officers or employees to do so.

Penalty

10431. A life insurer which, as an inducement to insurance, issues or permits its agents, officers, or employees to issue any such securities or contracts in this State or any other State shall not be admitted.

Transfer of securities to induce insurance

10432. A corporation or stock company, acting as agent of a life insurer and its agents, officers, or employees shall not sell, agree or offer to sell, or give or offer to give, directly or indirectly, any such securities or contracts as an inducement to insurance or in connection therewith.

Penalty.

10433. Upon proof, after notice and hearing, that any such insurer or agent has violated any of the provisions of sections 10430, 10431, or 10432, the commissioner shall revoke the certificate of authority or license of the insurer or agent so offending.

Restriction on compensation to officers

10434. An insurer transacting life or disability insurance in this State shall not pay nor contract to pay, directly or indirectly, any compensation contingent upon the acts set forth in subdivision (a) to any of the parties specified in subdivision (b):

(a) It shall not pay to such party any commission or other compensation contingent upon any of the following acts:

(1) The writing or procuring of any policy of life, disability or both classes of insurance in such insurer.

(2) Procuring an application therefor by any person.

(3) The payment of any renewal premium or the assumption of any life, disability or both of these classes of insurance by such insurer.

(b) It shall not pay such compensation to:

(1) Its president.

(2) Its vice president.

(3) Its secretary.

(4) Its treasurer.

(5) Its actuary.

(6) Its medical director or other physician charged with the duty of examining risks or applications for any of these classes of insurance.

(7) Any member of its board of directors.

(8) Any officer of the insurer other than its agent or solicitor.

Penalty.

10435. Whenever any insurer violates the provisions of section 10434, the commissioner shall revoke its certificate of authority.

Article 2. Registration of Life Policies.

Registration authorized

10450. Any insurer transacting life insurance in this State may register its policies with the commissioner.

Registration to be complete

10451. When an insurer elects to register any of its policies, it shall register every policy thereafter issued by it until it discontinues registration.

10452. Such registration shall in each case show the name and age of the insured, number and date of the policy and the kind and amount of insurance. Required data.

10453. Each policy thus registered shall have upon its face a certificate substantially in the following words: "This policy is registered and the reserve is deposited as required by sections 10450 to 10453 of the insurance code of California." Such certificate shall be signed by the commissioner and sealed with his official seal. Certificate

10454. An insurer registering policies shall maintain a special deposit of securities with the commissioner for the benefit of such registered policies. Such securities shall be of the character specified in Articles 3, 4 and 6 of Chapter 2, Part 2, Division 1, or specified in sections 10459 and 10460. Security deposits

10455. The commissioner shall give his receipt for the securities and the State shall be responsible for the custody and safe return of any securities so deposited. Custody of securities.

10456. Such deposit shall be maintained in an amount equal to the full net value of all policies registered up to the time of making the deposit, less the amount loaned on such registered policies. Amount of deposit.

10457. Upon receipt of such securities, the commissioner shall immediately deposit them in the State treasury in accordance with the provisions of sections 940 to 947, where they must remain as a special security for the benefit of such registered policies. Deposit as special security.

10458. Such insurer may at any time withdraw any excess of such securities above the required amount upon satisfying the commissioner by written proof that such excess exists. It may receive the interest on all securities deposited, and exchange such securities by substituting other securities of the required character. Withdrawal and substitution.

10459. If such insurer owns the building in which it has its principal office and the land upon which it stands, or if it owns other real property located in this State and requisite for its accommodation in the convenient transaction of its business, it may, with the permission of the commissioner, mortgage such property to the commissioner for such sum, not exceeding the market value thereof, as he determines. Mortgage of land as security

10460. Such mortgage may be deposited in the State treasury as part of the securities required by this article. Such mortgage is withdrawable in like manner with other securities in the deposit. The commissioner shall require the mortgage to be recorded before acceptance for deposit. Deposit of mortgage

10461. The commissioner may release any such mortgage or may foreclose it in case such foreclosure becomes necessary. Release or foreclosure

10462. Should any insurer thus registering policies become insolvent, the commissioner may reinsure all or any part of such registered policies, using the securities thus deposited for that purpose. Reinsurance if insurer insolvent

10463. The commissioner shall require in advance, in lawful money of the United States, as a fee for registering each Fee

policy and issuing certificate as provided by this article, twenty-five cents.

Article 3. Valuation of Life Policies.

Data for valuation Domestic insurers

10480. On or before the first day of February of each year every domestic incorporated life insurer shall furnish the commissioner the necessary data for determining the valuation of all its policies outstanding on the last preceding thirty-first of December.

Same Foreign insurers

10481. Every admitted foreign life insurer shall, upon the written demand of the commissioner, furnish him, at such time as he designates, the requisite data for determining the valuation of all its policies then outstanding.

Basis of valuation

10482. Except as provided in sections 10484 and 10485, valuations of life policies must be based on the standards set forth in section 986.

(Amended by Ch. 287, Stats. 1935.)

[ORIGINAL SECTION.]

10482. Except as provided in sections 10484 and 10485, valuations of life policies must be based on the standards set forth in section 916

Commissioner's certificate for foreign use.

10483. When the laws of any other State require a valuation of the outstanding policies of a domestic life insurer by any standard of valuation different from that named in this article, the commissioner may make such valuation for use in such other State, and issue his certificate in accordance therewith.

Insurance on foreigners

10484. In the case of insurance issued by a domestic insurer authorized to do business in a foreign country upon the lives of residents of that country, the commissioner may vary the mortality standard to a standard applicable to that country.

Group life valuations.

10485. Any life insurer issuing policies of group life insurance may value such policies on any accepted table of mortality with interest assumption adopted by the insurer for that purpose if such standard is not lower than the American Men Ultimate Table of Mortality with interest assumption at three and one-half per cent per annum.

Segregation of group insurance

10486. All policies of group insurance shall be segregated by the insurer into a separate class and the mortality experience kept separate. The number of policies, amount of insurance, reserves, premiums and payments to policyholders thereunder, together with the mortality table and interest assumption adopted by the insurer, shall be reported separately in its annual financial statement.

Reciprocal provisions

10487. When the insurance authorities of any other State do not accept the commissioner's certificate of the valuation of the policies of a domestic life insurer in lieu of a valuation of the policies by the insurance authority of such other State, and the certificate is one based on a valuation pursuant to this article, then every admitted insurer organized under the laws of such other State shall have a separate valuation of its

policies made under the authority of the commissioner, as provided in this article.

CHAPTER 6. INCORPORATED LIFE INSURERS ISSUING POLICIES ON A RESERVE BASIS.

Article 1. Capital.

Capital requirements

10510. An incorporated life insurer issuing policies on the reserve basis shall not transact life insurance in this State unless it has a paid-in capital of at least $200,000.

Additional capital and classes

10511. If authorized by its charter, such an incorporated life insurer may transact, in addition to life insurance, any of the following classes of insurance if its total paid-in capital is at least $200,000 in excess of the sum of the amounts set forth opposite the classes of insurance transacted:

Number and name of class transacted	Amount of capital to be added
6 Disability	$50,000
8 Liability 9 Common carrier liability 10 Workmen's compensation	$50,000 for all or any of them

Article 2. Dividends.

Basis for dividends

10530. A domestic incorporated life insurer issuing policies on the reserve plan shall not make any dividends, except from profits remaining on hand after retaining unimpaired assets amounting to the aggregate of the following:

(a) The entire capital stock.

(b) A sum sufficient to pay all losses reported or in course of settlement, and all liabilities.

(c) A sum sufficient to reinsure all outstanding policies, determined upon the basis of the rates specified in Article 3 of Chapter 5 of this part.

CHAPTER 7. MUTUAL LIFE AND DISABILITY INSURERS.

Article 1. Capital and Guaranty Fund.

Capital stock

10560. Every incorporated insurer formed for the purpose of mutual life or disability insurance shall have a capital stock of not less than two hundred thousand dollars.

Subscription to capital stock

10561. If more than the requisite amount of capital stock is subscribed, the stock shall be distributed pro rata among the subscribers. Any subscription may be rejected in whole or in part by the board of directors or its committee.

Guarantee fund

10562. Such insurer shall not transact any business as a corporation until its capital stock is fully paid up in cash, and until it has obtained a fund, to be known as a "guarantee fund" of not less than $250,000.

Guarantee fund notes

10563. Such guarantee fund shall consist of the promissory notes of solvent parties approved by the board of directors and by each such party. The amount of the notes given

by any one such party shall not exceed the sum of $5,000, exclusive of interest. Such notes shall be payable to the insurer or its order at such times, in such modes, in such sums with or without interest, and conformable in all other respects to such requirements as the board of directors prescribes.

Insurer's power over guarantee fund notes

10564. Guarantee fund notes shall be negotiable, and may be dealt with by the insurer at its discretion, without reference to any contingency of losses or expenses.

Status of notes

10565. Such notes, or the proceeds thereof, shall remain with the insurer as a fund for the better security of persons dealing with it, and constitute the assets of the insurer. They are liable, next after its assets from premiums and other sources, for all its obligations exclusive of capital stock, until the filing of the declaration of fixed capital.

Fund to be maintained

10566. Until the guarantee fund is discharged from its obligations, no note may be withdrawn from the fund unless another note of equal value and character is substituted therefor with the approval of the board of directors.

Commission and interest on notes

10567. The insurer shall allow a commission to the makers, not exceeding five per cent per annum, on all such guarantee notes while outstanding, and also shall allow interest on all moneys actually paid on such notes by the parties liable thereon. Such interest shall be at the rate of twelve per cent per annum, payable half-yearly until repaid by the insurer, unless the current rate of interest is different from this amount. In such case the rate payable may, from time to time at intervals of not less than one year, be increased or reduced by the board of directors to conform to the current rate.

Fixed capital

10568. Whenever such insurer accumulates net earnings, over and above expenses, losses and liabilities, in an amount such that the aggregate of the net earnings and capital stock is equal to the sum of the original amounts of the guaranty fund and capital stock, such aggregate earnings and stock constitute the fixed capital of the insurer.

Declaration of fixed capital

10569. Whenever the fixed capital of the insurer is obtained, its president and its actuary, or its secretary if there is no actuary, shall make a declaration in writing, sworn to before some notary public stating the amount of such fixed capital, the particular kinds of property composing that capital and the nature and amount of each kind. Such declaration shall be filed with the original articles of incorporation. A copy of the declaration, certified by the officer with whom they are filed, shall be published for at least four successive weeks, in a newspaper published in the county where the principal business of the insurer is situated and shall be filed with the clerk of that county.

Discharge of guarantee fund

10570. Upon the filing of such declaration the guarantee fund is discharged of its obligation and all notes of the fund remaining in the control of the insurer and not affected by any lien or claim shall be surrendered by it to the makers, respectively, or other parties entitled to receive the same.

Status of fixed capital

10571. The fixed capital of the insurer shall not be subject to division among the shareholders or parties dealing with it. It shall not be expended in any manner otherwise than is required in payment of the insurer's debts and actual expenses, until the business of the insurer is closed, its debts paid, and all outstanding policies and obligations canceled or provided for. If from any cause a deficiency at any time occurs in such fixed capital, further division of profits shall not take place until such deficiency has been made up.

Article 2. Directors and Members.

Number of directors

10590. The number of directors specified in the articles of incorporation may be altered from time to time during the existence of the insurer, but shall not be reduced below five. Such alteration shall be by resolution, at the annual meeting of a majority of those entitled to vote at the election of directors.

Vote of policy holders

10591. After the filing of the declaration of the fixed capital, the holders of life policies for the term of life, on which the premiums are not in default, may vote at the election of directors. Each holder has one vote for each one thousand dollars insured by his policy.

Restrictions on shareholding.

10592. The insurer may, by its by-laws, limit the number of shares which may be held by any one person. It may make such other provisions for the protection of the shareholders, and the better security of those dealing with it, as seem proper to a majority of the shareholders and are not inconsistent with the provisions of this chapter.

Article 3. Premiums.

Payment of premiums

10610. All premiums shall be payable either wholly in cash or one-half or a greater proportion in cash, with the remainder in promissory notes bearing interest, as the by-laws provide.

Participating policies

10611. Policies issued by the insurer may be upon the basis of full or partial participation in the profits or without any participation therein, as provided by the by-laws and agreed between the insurer and insured.

CHAPTER 8.

Article 1. Life Insurance Upon The Mutual Benefit Assessment Plan.

(Chapter 8 added by Ch. 283, Stats. 1935.)

Associations subject to provisions of chapter.

10640. Every association having the following characteristics or doing business under the following conditions, is a mutual benefit life association engaged in the business of life insurance upon the mutual benefit assessment plan, and shall be subject to the provisions of this chapter:

(a) Such association is organized to provide money benefits payable upon the death of its members.

(b) Such association provides for the payment of such death benefits by assessments.

(c) Such association provides for the expense of management of the business by collecting membership fees and the annual dues specified in this chapter.

(d) The member's liability to contribute to the payment of losses accrued, or to accrue, is not a fixed sum but is dependent on the amount needed to pay such losses in full as they arise during his membership. Such liability does not cease upon lapsation of such membership.

Provisions not applicable.

10641. Mutual benefit life associations shall not be governed by the provisions of Chapters 9 or 10 of this part.

Article 2. Special Exemptions.

Associations exempted.

10650. Except as provided in section 10651, the provisions of this chapter shall not apply to the following associations:

Stats 1911, p. 1320.

(a) Fraternal benefit societies operating under "An act for the regulation and control of fraternal benefit societies," approved May 1, 1911, or Chapter 10 of this part.

(b) Benefit and relief associations formed by churches, lodges, labor unions, or employees of a common employer, the privileges and applications for membership in which are confined to the members of such churches, lodges, or labor unions, or to employees of such common employer, or employees or officers of such common employer, or employees of companies or corporations of which a single employer owns at least one-quarter of the issued capital or voting stock, or to those who were such corporate officers or employees at the time of becoming members of such association.

Provisions applicable to exempted associations

10651. The provisions of sections 10660 and 10661 and Articles 4 and 13 of Chapter 1 of Part 2 of Division 1 of this code shall apply to associations exempted by the provisions of subdivision (b) of section 10650.

Article 3. Qualification.

Provisions of articles of incorporation.

10660. The articles of incorporation shall contain the statements required by section 595 of the Civil Code, except that they shall provide that

(a) The voting power of the respective members is equal.

(b) The property rights of each member of the association are measured by that proportion of the total of the assets of the association represented by the proportion of the members' death benefit to the total of such benefits in all policies issued by the association and in force at the time when the determination of rights is made.

(c) If the association ceases to do business, the property rights of the members as to one another are those which exist at the time of such cessation of business.

Documents to be filed with commissioner

10661. Any such association operating under the provisions of this chapter shall file with the commissioner:

(a) A certified copy of its articles of incorporation.

(b) A copy of its by-laws.

(c) Copies of any contracts or benefit certificates which it proposes to issue.

(d) Copies of applications for membership.

(e) A statement containing the names and addresses of its officers. All of such officers shall be bona fide residents of this State.

(f) A certified copy of any amendment or change in any matter set forth in any of the foregoing documents.

Surety bond

10662. Such association shall furnish a bond to the commissioner in the penal sum of ten thousand dollars in favor of the commissioner as trustee for all persons benefited by its terms. Such bond shall be executed by the association with an admitted surety insurer, approved by the commissioner, as surety thereon.

Conditions of bond.

10664. Such bond shall provide that if the association fails, within one year after the issuance of the permit to solicit applications, to qualify as provided by Article 5 of this chapter, each applicant will be repaid the money which he pays to the association under the provisions of that article.

Permit

10665. After the documents required by this article are filed with him, the commissioner, at the request of the association, shall issue to it a permit to solicit applications for membership and insurance.

Associations organized after January 1, 1936

10666. On and after January 1, 1936, no association may be organized or admitted to operate under this chapter, except as provided in Article 4 of this chapter.

Article 4. Existing Corporations May Continue.

Completion of existing or reinstated contracts

10669. Any domestic corporation now transacting business under the provisions of Chapter IV of Part IV, Title II, Division First of the Civil Code shall be subject to the provisions of this chapter, but may carry to completion under the terms of said chapter of the Civil Code the following contracts:

(a) Contracts existing on the date this section takes effect.

(b) After the lapse of any such existing contract, a contract which constitutes a reinstatement thereof within sixty days after such lapse, even though such lapse and reinstatement occurs after this section takes effect, and notwithstanding any provisions of such reinstatement contract which set forth that such contract shall take effect as a new contract from the date of such reinstatement.

Duty of certain existing associations

10670. Any such existing association having assets, excluding any right of assessment, which, on the date this section takes effect, are not equal to its outstanding claims and debts, shall show to the satisfaction of the commissioner a continuous improvement in its condition and shall accumulate the benefit fund prescribed by section 10694 by June 30, 1936.

Intent of Legislature

10671. It is the intention of the Legislature, by the enactment of this article, to permit any existing domestic association now engaged in transacting business of life insurance on the mutual benefit assessment plan to continue its corporate existence and business under the provisions of this chapter

without the necessity of reincorporating or requalifying, except as provided by this article.

Article 5. Commencement of Business.

Qualification

10680. Any association hereafter organized shall not execute or issue any benefit certificate until it qualifies by showing the following facts to the satisfaction of the commissioner:

(a) That a minimum of one thousand eligible persons have applied in writing to the association for membership and insurance therein.

(b) That such applicants have each paid an amount of not less than five dollars nor more than ten dollars.

(c) That the association has on deposit in a bank or trust company authorized to do business in this State for the benefit fund an amount equal to the largest benefit contracted to be paid by it to any one person.

Certificate of authority.

10681. Upon such qualification the commissioner shall issue a certificate of authority to the association to transact business under this chapter.

Article 6. Powers and Restrictions.

Directors.

10690. The affairs of all such associations shall be governed by not less than three nor more than seven directors. Such directors shall be residents of this State and shall be elected from and by the members, present in person or by proxy, at such time and place and for such period not exceeding four years, as is prescribed in the by-laws. Not less than thirty days' notice of every election of directors shall be given by mail to the members. Any director shall be eligible for reelection and, as far as practicable, an equal number shall be elected at such election. Whenever the directors are elected, a certificate under the seal of the association shall be filed with the commissioner, stating the names of such directors. Vacancies in the board of directors shall be filled as prescribed in the by-laws.

General powers.

10691. The association may

(a) Make such by-laws as are necessary for the government and the transaction of its business, not inconsistent with the provisions of this chapter or the general laws.

(b) Sue and be sued in its own name.

(c) Establish and maintain a benefit fund.

(d) Establish and maintain an expense fund.

(e) Establish and maintain a trust fund in which shall be placed all advance assessments paid by members and such payments shall be credited to the member's account.

Benefit fund and payment of claims

10692. The benefit fund of such association shall be used exclusively for the payment of claims arising out of contracts of insurance or benefit certificates issued by it and taxes applicable thereto and costs of defending disputed claims in litigation not in excess of twenty per cent of the face value of the certificate sued upon. Within sixty days after the association

receives due proof of any loss, it shall either approve or reject the claim. Upon approval of any claim which exceeds in amount the benefit fund of the association, the president shall convene the directors of the association. Thereupon the directors shall levy assessments against all members, pursuant to the provisions of their certificates, for an amount sufficient to pay such loss or all losses of the association due at the time said assessment is made, and for an amount in excess thereof sufficient to maintain the minimum amount of the benefit fund prescribed by this chapter. All payments received pursuant to such levy, regardless of lapsation shall be placed in the benefit fund.

Assessments

When suit is brought against such association on any rejected claim, an assessment shall thereupon likewise be levied against all members, pursuant to the provisions of their certificates, for an amount which will produce at least fifty per cent of the amount of benefits stated on the face of the certificate on which suit was brought; provided, however, that the commissioner, upon a proper showing, may excuse the levy of such assessment, or after hearing may require the levy of such assessment for a larger or smaller per cent. The proceeds of such levy shall be placed in the trust fund provided by section 10691 and held therein until final determination of the suit. After such final determination, the amount of such proceeds shall be withdrawn from the trust fund and placed in the benefit fund prescribed by this chapter.

Additional assessments

10693. In order to provide for the contingency of an unexpected number of deaths, any such association may levy assessments additional to those required by the preceding section, whenever the board of directors, in its discretion, believes such additional assessments to be advisable. All the proceeds of such additional assessments shall be placed entirely in the benefit fund and the benefit fund shall not in any case be permitted to exceed a sum greater than twenty-five thousand dollars.

Minimum amount of benefit fund

10694. On and after June 30, 1936, the minimum amount of such benefit fund shall be the amount of the largest benefit certificate outstanding.

Investment of fund.

10695. Such fund may be held in cash or invested in securities specified as legal for investment of all assets of domestic insurers by Article 3 of Chapter 2, Part 2, Division 1 of this code.

Insolvency

10696. Whenever the benefit fund of any association falls below the amount required by this chapter and is not replenished within ninety days, the association is insolvent and the commissioner shall proceed against such association as provided for in Article 14 of Chapter 1, Part 2, Division 1 of this code.

Expense fund Membership fees and dues

10697. Every such association shall keep an expense fund out of which all operating expenses other than those chargeable to the benefit fund shall be paid. For the purpose of maintaining such fund the association may charge membership

fees and dues to its members. Such dues, exclusive of initial membership fees payable in the first policy year, shall not exceed twelve dollars a year for each one thousand dollars or fraction thereof, of the death benefits contracted to be paid. The term "membership fees" shall mean the amount paid by an applicant, in addition to dues or assessments. After an association has commenced business under this chapter a membership fee in excess of five dollars per thousand dollars, or fraction thereof, of insurance shall not be charged.

Assessments.

10698. Whenever any assessment is levied, the association shall immediately mail properly addressed notice thereof to each member. Such notice shall set forth the amount and the purpose of the assessment and shall also state the time when the payment of the assessment is to be made. The time so stated shall not be less than ten nor more than thirty days from the date of such notice. Unless the payment is made on or before the time so stated in any notice or notices of such assessment, the association shall send to the member a final notice, by registered mail, return receipt demanded, requiring the payment of such assessment within ten days following the date of mailing such final notice. The association may include a charge of not to exceed twenty per cent of the amount of such assessment as a penalty for the member's failure to pay the assessment within the time specified in the original notice. A member's certificate shall not be lapsed for the failure of a member to pay any assessment, membership fees or dues unless the final notice by registered mail shall have been given in the manner hereinbefore provided in this section. Unless a payment on behalf of the member equal in amount to the assessment together with the penalty, if required is received by the association on or before the tenth day so specified, the certificate of the member shall lapse. Where advance payments have been made from which assessments are to be deducted, then the notices hereinabove specified shall not be necessary as to such members.

Assessments for mortuary purposes.

10699. The assessments authorized to be levied for mortuary purposes pursuant to the provisions of this chapter shall be as provided in the respective certificates held by the members.

If the proceeds of any assessment levied for mortuary purposes under the provisions of this chapter are not sufficient to pay the claims for which such assessments are levied, additional assessments sufficient to meet such claims shall promptly be levied.

Methods of assessment.

10700. The assessments for mortuary purposes provided in this chapter shall be established in accordance with one of the following methods:

(a) In proportion to face amount of the certificate held by each member.

(b) In accordance with some accepted experience table of mortality:

(1) According to age at issue of the certificate;

(2) According to attained age at date of assessment. Every certificate hereafter issued by such association shall fully set forth the method by which is to be determined the amount of any assessment to be levied against the member. Such association shall not concurrently issue certificates providing for more than one method of assessment.

Bonds of officers

10701. Those officers of such association who have the custody of its funds shall give bond with an admitted surety insurer, approved by the commissioner, as surety thereon. Such bond shall be in an amount at least equal to the sum of the benefit fund together with the trust fund as reported in the annual statement last filed with the commissioner, conditioned upon the faithful performance of their duties and the accounting for the funds delivered into their custody. The form of every surety bond shall be approved by the commissioner before acceptance by him.

Article 7. Membership.

Minimum membership

10710. Every such association shall maintain at least one thousand members in good standing.

Where membership below required minimum

10711. If the membership at any time falls below the minimum, the association shall immediately notify the commissioner of that fact. The association shall increase its membership to the required minimum within ninety days from and after the date the membership of the association falls below the minimum unless the commissioner allows additional time. Unless the membership is thus increased, the commissioner shall revoke its certificate of authority.

Procedure on revocation of certificate.

10712. Upon revocation of its certificate of authority the association shall either liquidate and dissolve under the supervision of the commissioner, or merge or consolidate its business as provided in Article 9 of this chapter.

Article 8. Forms and Amount of Benefit Certificates.

Limitation on amount of benefit certificate

10720. No association subject to the provisions of this chapter may hereafter issue or deliver in this State any benefit certificate for an amount greater than three thousand dollars nor may it so issue or deliver such certificate until after a copy of the form thereof, including the form of application and any rider or endorsement, is filed with and approved by the commissioner.

Duty of commissioner

10721. The commissioner shall approve or disapprove such form within thirty days thereafter; otherwise such form shall be deemed approved. Before disapproving such form he shall notify the association, giving his reasons for disapproval, and shall grant a hearing to the association thereon.

Benefit certificates

10722. Every such certificate may provide for payment by the insured thereunder of membership fees, and shall provide for the payment of the insured thereunder of dues and assessments. The certificates may provide for the payment of assessments at a fixed rate pursuant to levy by the

association after a death, or for the payment of such assessments at a fixed rate at periodic intervals in advance of deaths. The certificates may provide for the payment of fractional parts of membership fees or dues at periodic intervals.

No such benefit certificate hereafter issued may contain any provision purporting to limit the number of mortuary assessments which may be levied in accordance with this chapter. No such benefit certificate hereafter issued may call for or designate any payments by members, except membership fees, dues or assessments. Any provision in a certificate limiting another provision shall be printed with the same prominence as the provision which it limits.

Action of commissioner

10723. In determining whether or not he will approve any such form, the commissioner shall consider whether or not it takes into consideration the provisions of this chapter and all standard provisions applicable thereto.

Printing standards.

10724. The provisions of such form shall be clearly and unambiguously stated. The form shall not contain any provision with respect to surrender values, except that it may provide that if the member has paid advance assessments which have been placed in the trust fund and credited to the member's account, the unused portion of such advance assessment will be refunded on termination of his membership.

Required provisions

10725. Such certificate shall not be issued or delivered unless it contains, in substance, the following provisions:

(a) A provision that the certificate shall be incontestable after it has been in force during the lifetime of the insured member for a period of three years from its date of issue, or from the date of any reinstatement thereof, except for nonpayment of assessments or dues made pursuant to the provisions of this chapter and except for violation of the conditions of the certificate relating to military and naval service in time of war, and suicide.

(b) A provision that the certificate constitutes the entire contract between the member and the association, but if the association desires to make the application a part of the contract or certificate, it may do so if a copy of such application is endorsed upon or securely attached to the certificate when issued. In such case, the policy or certificate shall contain a provision that it, with the application therefor, shall constitute the entire contract between the member and the association.

Other provisions.

10726. Any certificate hereafter issued containing any provision purporting to provide for the payment of mortuary assessments in stipulated amounts at specific intervals shall clearly state, in type no less prominent than that used to state the benefits to be paid under the certificate, that the member is subject to assessment at any time to cover his proportion of any claims occurring during his membership.

Contract of insurance

10727. Every contract of insurance executed by an association operating under this chapter shall be embodied in a benefit certificate.

10728. If the commissioner fails to approve or disapproves any such form within thirty days after it is filed with him, his act or decision thereon shall be subject to review, in accordance with the provisions of Chapter I, Part III, Title I of the Code of Civil Procedure. Upon such review the burden of proof shall lie upon the appellant and the court shall receive and consider pertinent evidence, whether oral or documentary concerning the action of the commissioner under review, but shall be limited to a consideration and determination of the question whether there has been an abuse of discretion on the part of the commissioner in failing to approve or in disapproving any such form. No such certificate or form may be issued or delivered pending the final determination of any such review.

Where commissioner disapproves form

Article 9. Merger or Consolidation.

10730. Any such association may merge or consolidate with, or transfer its membership certificates and assets to, any other association operating under the provisions of this chapter.

Merger or consolidation.

10731. The agreement of merger, consolidation or transfer shall be submitted to and approved by a two-thirds vote of the members of the ceding association present in person or by proxy at a meeting called to consider that agreement. A written or printed notice of such meeting shall be mailed to each member at least thirty days before the day fixed for the meeting.

Approval by members of ceding association

10732. Before the merger, consolidation or transfer is effected, the association which proposes to assume the liabilities of the ceding association shall submit to its members the question of merger, consolidation or transfer, as the case may be, and a similar notice shall be given and a similar vote required as in the case of members of the ceding association.

Approval by members of association assuming liabilities

10733. If the vote in the case of both associations is in the affirmative by the required majority, a certified copy of all proceedings relating to the proposed merger, consolidation or transfer, shall be filed with the commissioner. If the commissioner finds that the proceedings have been in accordance with law, he shall approve the agreement.

Filing copy of proceedings

10734. Upon the approval by the commissioner of such agreement, the consolidated association shall thereupon issue certificates of assumption to each and every member of the ceding association. Such certificates shall be in a form approved by the commissioner.

Certificates of assumption

10735. The approval of the commissioner of the agreement of merger, consolidation or transfer, shall operate to dissolve the ceding association, and all its liability upon its insurance contracts or benefit certificates shall thereupon cease, but its officers may thereafter perform any act necessary to close its affairs. The officers of the ceding association shall file a certified copy of the agreement and of the approval of the commissioner in the office of the Secretary of State. Such certified

Effect of approval of agreement

copy shall be in lieu of the certificate of dissolution required by the provisions of the general corporation laws.

Rights of consolidated association.

10736. The consolidated association shall be entitled to all the assets of the ceding association and shall assume all its liabilities. The policies or benefit certificates in force at the date of the merger, consolidation or transfer shall continue in full force and effect in all their provisions, agreements and undertakings, and shall be construed according to the provisions of law under which they were issued.

Article 10. Transformation.

Transformation authorized.

10739. Whenever any domestic association subject to the provisions of this chapter has accumulated a fund of twenty-five thousand dollars or more in excess of all liabilities for undisputed claims or expenses incurred and taxes, it may, at its option, elect to transform itself into and to operate as a mutual life and disability insurer on the stipulated premium plan with provision for assessments as defined in Chapter 9 of this part.

Deposit

10740. Any such association at its option, instead of depositing twenty-five thousand dollars as provided for in section 10739 of this chapter, may, beginning not later than two years after the effective date of this chapter, deposit five thousand dollars at the time of transformation, and the balance of twenty thousand dollars as follows: Five thousand dollars within one year after the certificate of authority is issued to such association, five thousand dollars within two years after the certificate of authority is issued to such association, five thousand dollars within three years after the certificate of authority is issued to such association, and five thousand dollars within four years after the certificate of authority is issued to such association. If any such association fails to deposit any of such installments when due or within any extension of time granted by the commissioner, it shall be subject to liquidation by the commissioner for failure to comply. No portion of such deposit may be considered as part of the reserves as defined in section 10870 of this code until the total thereof equals twenty-five thousand dollars.

Such deposit shall be in cash or in such securities in which domestic incorporated insurers are allowed by this code to invest their capital.

Vote of members

10741. Such action shall be taken by resolution adopted by not less than a two-thirds vote of the membership or certificate-holders present in person or by proxy at a meeting duly called for that purpose. A written or printed notice of such meeting shall be mailed to each member or certificate-holder at least thirty days before the date fixed for the meeting.

Filing copy of proceedings.

10742. A certified copy of all proceedings relative to such action shall be filed with the commissioner and, if he finds

that the proceedings have been in accordance with law, the commissioner shall approve the resolution.

Articles of incorporation and by-laws.

10743. Such transformed association shall amend its articles of incorporation and by-laws to conform to the transformation, but shall be a continuation of the original corporation by the same name, or by any other name approved by the commissioner.

Provisions of contracts.

10744. Thereafter the transformed association shall not include in its contracts the provisions required by this chapter, but shall be subject as to subsequent business to the provisions of Chapter 9 of Part 2 of Division 2 of this code. The transformation of such association shall not affect the rights or obligations of the association to its members on any contract theretofore made.

Article 11. Contributions.

Advances to associations

10745. Any person may advance any sum of money to any association operating under this chapter for the purpose of conserving the association's business or to enable it to qualify as a mutual life and disability insurer on the stipulated premium plan with provision for assessments, as defined in Chapter 9 of this part, or to comply with the laws of any State. The return of such money, together with such interest thereon as was agreed upon, not exceeding eight per cent per annum, shall be payable only out of surplus remaining after providing for all required reserves, surplus, or minimum funds and other liabilities, whether required by the laws of this State or any other State in which the association does business. The obligation to return such money shall not be a liability or claim, whether as to principal or interest, against the association or any of its funds or assets.

Commission or promotion expense

10746. Commission or promotion expense shall not be paid in connection with the advance of any such money to the association.

Annual statement

10747. The amount of such advance shall be reported in each annual statement.

Return of surplus

10748. When any association authorized under this chapter discontinues business, after the payment of or provision for all claims or liabilities following a determination made by the commissioner, any surplus shall be returned to the person who advanced it. If the money advanced was repaid, then such surplus shall be distributed or disposed of as is determined by the superior court of the county in this State in which such association has its principal place of business.

Contribution certificates

10749. The advance of any sum of money or contribution for the purposes specified in this article shall be evidenced by contribution certificates in such form as is approved by the commissioner.

The repayment, in whole or in part, of the principal of such contribution or advance shall not be made without prior approval in writing by the commissioner.

Article 12. Association Exceeding Its Powers. Liquidation.

Power of commissioner.

10750. If the commissioner, on investigation, ascertains that any such association has exceeded its powers, has failed to comply with any provision of this chapter or the law under which it was organized, or is conducting its business fraudulently, he shall proceed in accordance with Article 14 of Chapter 1, Division 1, Part 2 of this code. Except as prescribed by this chapter, the commissioner may proceed against an association operating under this chapter upon any other grounds specified in that article.

Article 13. Insurance Laws Applicable.

Law applicable to contracts, etc.

10770. Except as expressly provided to the contrary in this chapter or elsewhere, or inconsistent with this chapter all insurance or benefit contracts hereafter made, relative to life insurance upon the mutual benefit assessment plan, and any association issuing such contracts within this State, shall be subject to all laws now in effect or hereafter enacted relating to life insurance.

Agents.

10771. All agents of such associations in this State shall be subject to the provisions of Article 2 of Chapter 5, Part 2, Division 1 of this code.

Article 14. Penalty.

Penalty.

[10780.] 10880. Any such association or any officer or agent thereof refusing to comply with or violating any provision of this chapter is, except as otherwise provided, guilty of a misdemeanor.

(Chapter 8 repealed and added by Ch. 283, Stats. 1935.)

[ORIGINAL CHAPTER.]

CHAPTER 8. MUTUAL BENEFIT ASSOCIATIONS.

Article 1. Scope of Chapter.

10640. Mutual benefit associations shall not be governed by the provisions of chapters 9 or 10 of this part.

Article 2. Formation and Organization.

10650. Twenty-five or more persons may incorporate a mutual benefit association as a life insurer, to pay death benefits to the nominee of any member upon the death of the member.

10651. The articles of incorporation shall contain the statements required by section 595 of the Civil Code, except that they shall provide that:

(a) The voting power of the respective members is equal.

(b) The property rights of each member of any association are that proportion of the total of the assets of the association represented by the proportion of the member's death benefit to the total of such death benefits in all the policies issued by the association and in force at the time when the determination of rights is made.

(c) If the association ceases to do business, the property rights of the members as to one another are those which exist at the time of such cessation of business.

10652. Any such association incorporated under the provisions of this chapter after August 20, 1933, shall file with the commissioner: Original chapter.

(a) A certified copy of its articles of incorporation.

(b) A copy of its by-laws.

(c) A bond conditioned as provided in this article.

(d) Copies of the forms of any policies which it proposes to issue.

(e) A statement containing the names and addresses of its officers, all of whom must be bona fide residents of this State.

10653. Such bond shall be executed by sureties approved by the commissioner. It shall be in the penal sum of $10,000 in favor of the commissioner as trustee for all persons benefited by its terms.

10654. Such bond shall provide that if the association fails to qualify, as provided by Article 3 of this chapter within one year after the issuance of the permit to solicit applications, each applicant will be repaid the money which he pays to the association under the provisions of Article 3 of this chapter.

10655. After the documents required by this article are filed with him, the commissioner, at the request of the association, shall issue to it a permit to solicit applications for membership and insurance.

Article 3. Commencement of Business.

10670. Such association shall not execute any contract of insurance until it qualifies by showing the following facts to the satisfaction of the commissioner:

(a) A minimum of one thousand persons have applied in writing to the association for membership and insurance therein.

(b) Such applicants have each paid an amount of not less than five dollars nor more than ten dollars on account of their applications.

(c) The association has on deposit in a bank or trust company authorized to do business in this State an amount equal to the largest benefit contracted to be paid by it to any one person.

10671. Upon such qualification the commissioner shall issue a certificate of authority to the association to transact business under this chapter.

Article 4. Powers and Restrictions.

10690. The association may:

(a) Make such by-laws as are necessary for its government and the transaction of its business.

(b) Sue and be sued in its own name.

(c) Loan such funds as it has on hand.

(d) Own sufficient real property for its business purposes and such as it becomes necessary to purchase on the foreclosure of its mortgages.

10691. The death benefit paid by the association shall not exceed an amount equal to three dollars for each of the number of thousands of dollars and fractions thereof contained in separate policies in force and shall not exceed the sum of three thousand dollars.

Article 5. Membership.

10710. Every such association shall maintain at least one thousand members in good standing.

10711. If the membership at any time falls below the minimum, the association shall immediately notify the commissioner of that fact. Thereafter the association shall increase its membership to the required minimum within ninety days unless the commissioner allows additional time. Unless the membership is thus increased the commissioner shall revoke its certificate of authority.

10712. Upon revocation of its certificate of authority the association shall either liquidate and dissolve under the supervision of the commissioner, or merge or reinsure its business as provided in Article 8 of this chapter.

10713. An association organized under this chapter shall not accept any member nor issue any policy to any person who is more than fifty-five years of age.

Article 6. Dues, Assessments and Premiums.

10730. Every mutual benefit association may, on the death of a member, levy and collect an assessment on the surviving members in an amount not exceeding three dollars for each $1,000 of insurance or fraction thereof carried by such member. Out of the proceeds of the assessment it shall pay the benefits provided for in the decedent's policy to the beneficiary. Any residue from the proceeds of such assessment shall be deposited in the emergency mortality fund of the association.

Original chapter.

10731. Such association may also provide for the payment of annual dues by members. Except as provided in this section, such annual dues, exclusive of the initial membership fee payable in the first policy year, shall not exceed in the aggregate a sum equal to twelve dollars per $1,000 or fraction thereof of insurance. A member shall not be subject to the payment of any annual dues in excess of that established upon the issuance of the policy held by him. The limitations of annual dues shall not apply to associations existing on August 21, 1933, under the provisions of "An act relating to mutual benefit and relief associations," approved March 28, 1874.

10732. Any mutual benefit association may provide for the payment by members of stipulated amounts at periodic intervals as advanced premiums. That portion of such advanced premiums which are to constitute payment or part payment for mortality purposes, shall be carried on the association's books as a trust fund in the name of the paying member.

10733. Amounts chargeable to the member as they become due shall be withdrawn from such trust funds and shall be used for payment of policy claims or the replenishment or creation of the emergency mortality fund or apportioned for both purposes.

10734. Any unused portion of such trust fund shall be the member's credit balance and subject to the terms of the policy held by such member.

Article 7. Emergency Mortality Fund.

10750. Every mutual benefit association may, in addition to other assessments authorized by this chapter, levy and collect assessments for the purpose of creating, maintaining and replenishing an emergency mortality fund.

10751. An assessment for the emergency mortality fund shall not exceed three dollars for each one thousand dollars of insurance or fraction thereof carried by the member.

10752. Such emergency mortality fund may be used for financing collection of assessments accruing to it, and for payment of policy claims, inspections, taxes, professional services, reinsurance and expenses incidental to such uses. No such payment shall be made out of such fund for the payment of any death claim to an amount in excess of the net proceeds of the last preceding assessment.

10753. Notwithstanding the payment of any death claims out of the emergency mortality fund, the association may, in addition to the special assessment for the emergency mortality fund, levy an assessment in the same manner as though for the payment of the death claim, but the proceeds thereof shall be paid into said fund to replenish it for the loss arising out of the payment of the death claim.

Article 8. Merger, Consolidation and Reinsurance.

10770. Any mutual benefit association and any association doing business on August 20, 1933, under the act entitled "An act relating to mutual beneficial and relief association," approved March 28, 1874, may merge, consolidate, or reinsure its membership and business, or any part thereof, or any amount of any liability under any policy or policies issued by it. Such merger, consolidation or reinsurance shall be with any solvent admitted life insurer, under any plan approved by the commissioner.

Article 9. Special Exemptions.

10780. Any association of employees or other persons, organized under the provisions of this chapter and which does not directly or indirectly pay, or agree to pay, any compensation for solicitation of applications for membership or insurance therein, shall not be subject to the laws of this State applying to or regulating the transaction of insurance business, with the exception of sections 725, 730 to 738, 10650, 10651, 10690, 10691, 10730 to 10734, and 10750 to 10753.

10781. The provisions of sections 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 1700, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713, and 1714 shall not apply to mutual benefit associations operating under this chapter.

(Section 10781 was originally part of Chapter 8, Part 2, Division 2, repealed by Ch. 283, Stats. 1935, as follows: "Chapter 8 of Part 2 of Division 2 of the Insurance Code, comprising sections 10640 to 10780, inclusive, is hereby repealed.")

CHAPTER 9. MUTUAL LIFE AND DISABILITY INSURANCE ON THE STIPULATED PREMIUM PLAN, WITH PROVISION FOR ASSESSMENTS.

(Chapter 9 added by Ch. 282, Stats. 1935.)

Article 1. Contract of Stipulated Premium Insurance.

Definitions

10810. Every contract whereby a benefit is to accrue to a person named therein through the death of the insured, or his physical disability from accident or sickness, or for the payment of any sum of money as an annuity or endowment, if the benefit is conditioned, not upon fixed payments but upon the collection from time to time of stipulated premiums with provision requiring additional payments from insured members by assessment, shall be a contract of mutual insurance on the stipulated premium plan; and the business involving the issuance of such contracts shall be carried on in this State only by duly organized corporations subject to this chapter.

Article 2. Special Exemptions.

Associations exempted

10811. Except as provided in this section, the provisions of this chapter shall not apply to the following associations:

Stats 1911, p. 1320.

(a) Fraternal benefit societies operating under "An act for the regulation and control of fraternal benefit societies," approved May 1, 1911, as subsequently amended or Chapter 10 of this part.

(b) Benefit and relief associations formed by churches, lodges, labor unions, or employees of a common employer, membership in which is confined to the members of such churches, lodges, or labor unions, or employees or officers of such common employer, or employees or officers of companies or corporations of which a single employer owns at least one-quarter of the issued capital or voting stock, or to those who were such corporate officers or employees at the time of becoming members of such association.

Section 10815, Article 4 and Article 13 of Chapter 1, Part 2, Division 1 of this code shall apply to any such society, association or corporation exempted by subdivision (b) of this section.

Article 3. Formation and Organization.

Formation of mutual corporation.

10815. Seven or more persons, residents of this State, may form a mutual corporation for the purpose of transacting the business of life, disability, or life and disability insurance as defined in this chapter. Such corporation shall be formed in the manner prescribed in, and shall be subject to the provisions of Article 3 of Chapter 10, Part 2, Division 2 of this code, so far as applicable to such a corporation not operating on the lodge plan. Except as is otherwise expressly herein provided this section shall not apply to existing corporations. Applicants may be accepted as to insurability as the by-laws of such corporation may provide.

Name of corporation

10816. The name of the corporation shall contain the word "insurance" and shall be first submitted to and approved by the commissioner. A name shall not be approved which is so similar to that of an existing insurer as to lead to confusion.

Officers

10817. Officers chosen at the first meeting of the incorporators shall hold office until the next succeeding meeting of the company for the election of officers, the date of which shall be within two years of the time of organization, and shall be prescribed by the by-laws. At that meeting and thereafter at least quadrennially the officers shall be chosen and shall hold office until their successors are elected and qualified.

Article 4. Existing Corporations May Continue. Time for Beginning Business by New Corporation.

Existing corporations

10820. A domestic corporation now engaged in transacting the business of insurance under Chapter VI of Division I, Part IV, Title II of the Civil Code of this State, may continue to exercise all rights, powers and privileges conferred by said chapter, or its articles of incorporation not inconsistent herewith, subject to this chapter, except that corporations heretofore organized shall be privileged to carry to completion under the terms of said Chapter VI their existing contracts, but no new policy shall be issued except under the provisions of this chapter.

Lapse of certificate of corporation

10821. A certificate of incorporation granted under the provisions of this chapter shall not continue valid after one year from the date thereof, unless the organization shall have been completed and business begun thereunder.

Article 5. Issuance of Policies.

Conditions.

10830. An insurer hereafter organized under this chapter shall neither assume any liability nor collect any other than the advance premium, nor issue any policy or certificate until all the following conditions are complied with:

(a) At least one thousand persons have subscribed in writing agreements for each to be insured therein for a death benefit or not less than one thousand dollars if life insurance, or for a disability benefit of not less than five dollars per week if disability insurance.

(b) Each such subscriber has paid one full stipulated premium or assessment of not less than five dollars, to be held in trust for the beneficiaries, and which has been deposited as provided in section 10901 of this code, and such deposited fund is at least equal to the largest benefit provided in any contract of insurance applied for.

(c) The insurer has deposited twenty-five thousand dollars with the commissioner.

(d) The commissioner certifies that the insurer has complied with the provisions of law and is authorized to transact business.

10831. The commissioner may require of the applicants for such policy or certificate, and at any time of the officers of any such corporation evidence, under oath or otherwise, relative to its affairs as he may consider it necessary. If it appears that the incorporators or persons acting in their behalf have advanced to or for the subscribers the stipulated premiums or assessments herein required to be paid, an authorization shall not be issued and the corporation shall be immediately dissolved. It is the intent of this chapter that no person shall have a proprietary interest in such corporation except equally with all other members. Powers of commissioner

Article 6. Reinsurance, etc.

10840. Such insurer may reinsure with, or transfer its membership certificates or policies and funds to, any insurer doing business under this chapter, or to any stock or mutual insurer admitted to transact the business of life, disability or life and disability insurance. Reinsurance authorized

10841. The contract of reinsurance or transfer shall be submitted to and approved by a two-thirds vote of the policy or certificate holders of the ceding insurer present in person or by proxy at a meeting called to consider the same. A written or printed notice of such meeting shall be mailed to each policyholder or certificate holder, at least thirty days before the day fixed for the meeting. If the vote is in the affirmative, a certified copy of all proceedings relating to the proposed reinsurance shall be filed with the commissioner, who, if he finds that the proceedings have been in accordance with law, shall approve the contract. Approval of reinsurance or transfer

10842. The reinsuring corporation shall be entitled to all the assets of the ceding insurer and shall assume all of its liabilities, but the commissioner may make such requirements as to segregation of assets and accounts as will best protect the interest of policyholders of both corporations. If such vote of approval of reinsurance or transfer includes an agreement for the transfer to the reinsuring corporation of a reserve fund deposited with the State, the commissioner shall approve an order for the transfer of the deposit fund to such corporation, and the State Treasurer shall thereupon pay over the deposited fund to the reinsuring corporation or credit said corporation with it as a deposit. Rights of reinsurer

10843. If the corporation assuming the reinsurance or transfer is subject to this chapter, the proposed contract of reinsurance shall be submitted to its policy or certificate holders, and a similar notice given and a two-thirds affirmative vote required of its policy or certificate holders the same as is required of the policy or certificate holders of the ceding insurer. Approval by policy holders of certain reinsurers

10844. The policies or certificates in force at the date of reinsurance or transfer shall continue in full force and effect in all their provisions, agreements and undertakings and shall Policies or certificates

be construed according to the provisions of law under which they were issued. Any defenses or evidence relative to such policies or certificates available under their provisions shall constitute a defense, and shall be received as evidence in any controversy between the parties to and interested in such policies or certificates.

Reinsurance of individual policies

10845. Any such insurer may reinsure any individual policy or policies, or any part thereof, issued by it with any insurer admitted to transact life, disability, or life and disability insurance business without submitting the reinsurance thereof for approval to the commissioner.

Authority to reinsure or assume contracts

10846. Any insurer authorized to do business under this chapter may reinsure or assume, in whole or in part, the contracts of any association authorized to do business under Chapter 8 of Part 2, Division 2 of this code; except that no individual contract shall be so reinsured or assumed and the contract of reinsurance or assumption in all such cases shall be subject to the approval of the commissioner.

Dissolution of ceding insurer.

10847. The approval by the commissioner of a contract of reinsurance or transfer of all of its business shall be cause for dissolving the ceding insurer, and all its liabilities shall thereupon cease, but its officers may thereafter perform any act necessary to close its affairs.

Article 7. Amount of Benefit to be Specified, Payment of Benefit, etc.

Policy provisions

10850. Every policy issued by any such insurer shall specify:

(a) The amount of money which it promises to pay upon the contingency insured against.

(b) The number of days after satisfactory proof of the happening of such contingency and of the liability of the insurer when such payment will be made.

Upon the occurrence of such contingency and the elapse of the specified number of days after proof, the beneficiary may maintain an action upon such policy in his own name.

Hearing by commissioner

10851. If the commissioner is satisfied, on investigation, after a hearing upon notice of not less than thirty days, that any such insurer has refused or failed to pay a policy claim within a reasonable time after it became due and after proper demand, he shall notify the insurer that until such indebtedness is fully paid, and while such notice is in force, no officer or agent of the insurer may make, sign or issue any policy or contract of insurance.

Article 8. Life Insurance Policies, Policy Provisions.

Filing and approval of policy form

10860. An insurer subject to the provisions of this chapter shall neither issue nor deliver in this State any contract of life insurance until a copy of the form thereof, including the form of application and any rider or indorsement, has been filed with and approved by the commissioner. The commis-

sioner shall approve or disapprove such form within thirty days thereafter. Otherwise such form shall be deemed approved. Before disapproving such form he shall notify the insurer of his reasons therefor and grant a hearing to the insurer thereon.

Duty of commissioner, required provisions

10861. In considering whether a form of policy shall be approved, the commissioner shall consider whether or not it takes into consideration the provisions of this chapter and all standard provisions applicable thereto; and such policy shall not be so issued or delivered unless it contains in substance the following provisions:

(1) A provision that the insured (after three months' premiums have been paid) is entitled to a grace not less than twenty days within which time the payment of any premium or assessment after the first may be made, subject at the option of the insurer to an interest charge not in excess of six per centum per annum for the number of days of grace elapsing before the payment of the premium or assessment during which period of grace the policy shall continue in full force, but in case the policy becomes a claim during the said period of grace before the overdue premium or assessment or the deferred premiums of the current policy year if any are paid, the amount of such premiums or assessment with interest on any overdue premium or assessment may be deducted from any amount payable under the policy in settlement.

(2) A provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for a period of three years from its date of issue or from the date of any reinstatement thereof except for suicide and except for nonpayment of premiums or assessments and except for violation of the conditions of the policy relating to military or naval service in time of war or relating to additional insurance with the insurer upon the monthly or weekly payment plan without special indorsement and at the option of the insurer provisions relative to benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident may also be excepted.

(3) A provision that the policy shall constitute the entire contract between the parties, but if the insurer desires to make the application a part of the contract it may do so provided a copy of such application, except for insurance on the weekly or monthly premium basis, shall be indorsed upon or securely attached to the policy when issued, and in such case the policy shall contain a provision that the policy and the application therefor shall constitute the entire contract between the parties.

(4) A provision that if the age of the insured has been misstated the amount payable under the policy shall be such as the premium or assessment would have purchased at the correct age in accordance with the table of premium rates of the insurer on file with the commissioner.

Required provisions

A policy, or any application, indorsement or rider form used in connection with any policy issued in violation of this section, shall nevertheless be held valid but shall be construed as provided in this section, and when any provision in such policy, application, indorsement or rider is in conflict with any provision of this section, or of any other statutory provision, the rights, duties and obligations of the insurer, the policyholder and the beneficiary shall be governed by the provisions of this section. Any such policy may be issued or delivered in this State which, in the opinion of the commissioner, contains provisions on any one or more of the several foregoing requirements more favorable to the insured than hereinbefore required. The provisions of this section shall not apply to policies of reinsurance. Every such insurer shall file with the commissioner complete schedules of its premiums, rates and classifications.

Review of commissioner's action.

10862. If the commissioner fails to approve within thirty days any such form or disapproves the same, his act or decision thereon shall be subject to review, in accordance with the provisions of Chapter I, of Part III, Title I of the Code of Civil Procedure. Upon such review the burden of proof shall lie upon the appellant, and the court shall receive and consider any pertinent evidence, whether oral or documentary, concerning the action of the commissioner under review, but shall be limited to a consideration and determination of the question whether there has been an abuse of discretion on the part of the commissioner in failing to approve or in disapproving any such form. Such policy or form shall not be issued or delivered pending the final determination of any such review.

Article 9. Life Insurance Reserves.

Required reserves

10870. Every insurer subject to the provisions of this chapter shall hold and maintain, upon every contract of life insurance issued on and after the date upon which it becomes subject to the provisions of this chapter, assets in excess of other liabilities, to provide for reserves not less than the minimum tabular reserves prescribed herein. The statutory deposit required by law may be considered as a part of such reserves or of other required policy reserves.

The basis for minimum reserves under this act shall be the American Experience Table of Mortality, with Farr's Table No. 3 or Craig's Extension for ages under ten, and interest at four per centum per annum; provided, however, that contracts issued on a weekly premium basis and providing therein for valuation according to the Standard Industrial Table of Mortality and interest at four per centum per annum shall be valued according to such industrial table of mortality and rate of interest. Such contracts may provide for not more than one year preliminary term insurance by incorporating therein a clause plainly showing that the first year's insurance under such contracts is term insurance, purchased by the

whole or a part of the premiums to be received during the first contract year, and such contracts may be valued on the basis of the mortality table and interest rate above prescribed by the preliminary term plan; provided, however, that the reserve according to such standard for the first to the fifth policy years, inclusive, may be reduced by the following percentages: first year, eighty per cent; second year, eighty per cent; third year, sixty per cent; fourth year, forty per cent; fifth year, twenty per cent; and provided, further, that at no time shall the reserve be less than the value of any nonforfeiture provision contained in the policy.

In computing reserves as required by this section, no allowance or reduction may be made in consideration of the fact that members may be assessed to make up a deficiency.

Article 10. Additional Premiums or Assessments.

Additional premiums or assessments

10875. All life contracts issued or delivered in this State by corporations subject to this chapter shall provide, in addition to the stipulated premiums, for the payment of additional premiums or assessments, to the extent needed to pay for their share of claims and expenses and to maintain the tabular reserves required by this chapter, or shall require such additional amount to be charged as an indebtedness, at a rate of interest specified in the contract, not exceeding the tabular reserves on the contract and shall provide for terminating the contract whenever the total indebtedness thereon equals such tabular reserves. On such contract no liability may be charged in any valuation for any deficiency in future contributions so long as such payments are actually collected or such charges are actually made. No such additional premiums or assessments may be enforced against any holder of a life contract except upon due notice to such holder.

Every such holder shall have the option of paying such additional premiums or assessments in cash or permitting the same to be charged as an indebtedness against the tabular reserves as above provided but if no option selection is made within thirty days after the mailing of such notice the second option shall become applicable and said additional premiums or assessments shall become a lien upon said contract, and it is further provided that all said life contracts and notices of said additional premiums or assessments shall contain a statement to that effect.

Article 11. Conversion to Mutual Legal Reserve.

Conversion

10880. If a domestic insurer subject to the provisions of this chapter is possessed of admitted assets in excess of all liabilities, and such excess is equal to the minimum paid-in capital required by sections 10510 and 10511 of this code to transact the classes of insurance which it proposes to transact, such insurer may, at its option, without reincorporation, elect to operate as a mutual legal reserve insurer.

Such action shall be by resolution adopted by not less than a two-thirds vote of the policy or certificate holders present in person or by proxy at a duly called meeting for that purpose. A written or printed notice of such meeting shall be mailed to each policy or certificate holder at least thirty days before the day fixed for the meeting. A certified copy of all proceedings relative to such action shall be filed with the commissioner, who, if he finds that the proceedings have been in accordance with law, shall approve the same.

Amended articles and by-laws

10881. Such transformed corporation may amend its articles and by-laws, and shall be considered a continuation of the original corporation by the same name.

Law applicable.

10882. Thereafter the insurer shall not include in its policies the provisions required by the preceding article, but shall be subject as to subsequent business to the test of solvency provided for life, disability, and life and disability insurers by this code and to all other provisions relating to mutual life, and disability insurance not on the stipulated premium plan. But such election shall not affect the rights or obligations of the insurer or its members on any contract theretofore made.

Article 12. Contributions.

Advances of money to insurer.

10885. Any person may advance any sum of money to an insurer operating under this chapter, such advance being made for the purposes of organization or to promote or conserve the insurer's business or to enable it to qualify as a mutual legal reserve insurer as provided herein, or to comply with the laws of any State. The return of such money, together with such interest thereon as may have been agreed upon, not exceeding eight per cent per annum, shall be payable only out of the surplus remaining after providing for all required surplus, reserves and other liabilities, whether required by the laws of this State or any other State in which the insurer does business. The obligation to return such money shall not be a liability or claim, either as to principal or interest, against the insurer or any of its assets. Commission or promotion expenses shall not be paid in connection with the advance of any such money to the insurer. The amount of such advance shall be reported in each annual statement. When any insurer organized under this chapter discontinues business, after the payment of or provision for all liabilities, following a determination made by the commissioner, any surplus fund must be returned to the person or persons who advanced it, or if the money advanced is repaid then such surplus shall be distributed or disposed of as may be determined by the superior court of the county in this State in which such insurer has its principal place of business.

Contribution certificates

10886. The advance of any sum of money or contribution for the purposes specified in the preceding section shall be evidenced by contribution certificates in such form as may be approved by the commissioner.

The repayment, in whole or in part, of the principal of such contribution or advance shall not be made without the prior approval in writing of the commissioner.

Article 13. Life Insurance. Separation of Accounts and Segregation of Assets.

Segregation of assets, liability of policy holders for assessments

10890 Any insurer subject to the provisions of this chapter which issues life policies shall keep separate accounts of its life insurance business and shall segregate the assets relating to that business such assets and the interest thereon together with all premiums or assessments on life policies shall be held for the sole benefit of such business, provided that there may be paid from the premiums and assessments a reasonable amount for the proportion of the insurer's expenses due to its life insurance business. The holder of a life insurance policy shall not be liable as such to assessment for losses incurred other than in connection with the life insurance business of the insurer. The holder of a contract other than of life insurance shall not be liable as such to assessment for losses incurred in connection with the life insurance business of the insurer. It is the intention of this provision that the life insurance business and the disability insurance business of an insurer subject to this chapter and doing both classes shall each be self-sustaining and not dependent one upon the other.

Article 14. Insolvency. Investigation by Commissioner. Revocation of Certificate of Authority.

When insurer insolvent.

10895. If the liabilities of any insurer organized or operating under this chapter exceed its resources, and it can not within a reasonable time, not more than three months from the date of the original default on any obligation, pay its accrued indebtedness in full, without impairment of the reserves for its business as required by this chapter, it is insolvent. When the commissioner has given the notice required by section 10851 of this chapter, he shall proceed without delay to investigate the condition of the insurer, and if it appears to him that such insurer is insolvent, he shall proceed in accordance with the provisions of Article 14 of Chapter 1, Part 2, Division 1, of this code. The provisions of this section shall not prevent the commissioner from proceeding under said Article 14 for any other cause stated therein.

Revocation of certificate

10896. If an undisputed claim arising out of the death or disability of a policy holder is not paid within sixty days after the filing, pursuant to the policy, of satisfactory proof of such death or disability, and available assets of the insurer are not sufficient to pay the claim, then unless the insurer levies an assessment or otherwise obtains funds to provide for the payment, the commissioner may revoke its certificate of authority.

Article 15. Statutory Deposit and Investment of Funds.

Investment of deposit and reserves

10901. The statutory deposit and reserves required by this chapter shall be invested in securities in which domestic incor-

porated insurers are allowed by this code to invest their capital. Of such securities an amount not less in value than twenty-five thousand dollars shall remain deposited in trust with the commissioner for the benefit of contract holders of the company.

Article 16. Insurer Exceeding Its Powers, Etc.

Powers of commissioner.

10915. If the commissioner, on investigation, is satisfied that any such insurer has exceeded its powers, failed to comply with any provision of law or is conducting business fraudulently, he shall proceed in accordance with Article 14 of Chapter 1, Part 2, Division 1, of this code.

Article 17. Foreign Corporations May Be Admitted.

Conditions precedent to admission.

10920. A corporation organized under the authority of another State or government to issue policies of life, disability or life and disability insurance on the stipulated premium or assessment plan, as a condition precedent to admission, shall deposit the following with the commissioner:

(a) A certified copy of its charter or articles of incorporation or association.

(b) A statement, made on oath by its president and secretary in the form required by the commissioner, of its business for the preceding year.

(c) A designation of an agent in this State together with an agreement or stipulation, as provided by sections 1600 to 1604, inclusive, of this code.

(d) A certificate, made on oath by its president and secretary, showing that it is paying, and for the twelve months then last preceding has paid, the maximum amount named in its policies or certificates in full.

(e) A certificate from the proper authority of its home State, showing that corporations of this State engaged according to this chapter in insurance on the stipulated premium or assessment plan are legally entitled to do business in such State.

(f) A copy of its policy and application, showing that benefits are provided for by stipulated premiums or assessments upon policyholders.

(g) Evidence satisfactory to the commissioner that it has accumulated and maintains a deposit and reserves equal in amount to that required by this chapter, and that such accumulation is permitted by the law of its incorporation, is held in trust for the benefit of policyholders only, and is securely invested.

Certificate of authority

10921. The commissioner shall thereupon make or cause to be made an examination, as provided by Article 4 of Chapter 1, Part 2, Division 1, Part 2 of this code, and if he is satisfied thereby he shall issue a certificate of authority authorizing such corporation to do business in this State until July first following unless it is sooner revoked. Such certificate may be

renewed annually by the commissioner before that date upon written application of the insurer. Such certificate shall be revoked if the commissioner, on investigation, is satisfied that such corporation is not paying in full the maximum amount named in its policies, or that it has otherwise failed to comply with any provision of this chapter or its own contracts. Upon such revocation the commissioner shall cause notice thereof to be published in such manner as he deems necessary for the protection of the public. Thereafter new business shall not be done by such insurer or its agents in this State.

Article 18. Additional Premium or Assessment Demand.

Provisions of demand for payment

10925. Every demand for payment by the policyholders under the assessment provision of any policy or contract shall distinctly state the purpose of the same, and if any part of the amount called for is to be used for expenses the demand shall clearly state how much.

Article 19. Insurance Laws Applicable.

Laws applicable.

10928. Except as specifically provided to the contrary herein or elsewhere, all contracts of insurance hereafter issued or delivered under the provisions of this chapter, and any company issuing such contracts in this State, shall be subject to all laws now in effect or hereafter enacted, except section 384 and Article 3 of Chapter 1, Part 2, Division 2, of this code.

Article 20. Licensing of Agents.

Agents

10930. All agents of such insurers in this State shall be subject to the provisions of Article 2 of Chapter 5, Part 2, Division 1, of this code.

Article 21. Penalty.

Penalty.

10940. Any such insurer or any officer or agent thereof refusing to comply with or violating any provision of this chapter is, except as otherwise provided, guilty of a misdemeanor.

(Chapter 9 repealed and added by Ch. 282, Stats. 1935.)

[ORIGINAL CHAPTER.]

CHAPTER 9. LIFE AND DISABILITY INSURANCE ON THE ASSESSMENT PLAN.

Article 1. The Contract.

10810. Every contract of life or disability insurance, the benefits of which are dependent in any degree upon the collection of assessments or dues from persons holding similar contracts, is a contract of mutual insurance upon the assessment plan. Policies evidencing such contracts shall, by their terms show that the liabilities of the insured are not limited to fixed premiums.

10811. Every such policy issued by an insurer operating under this chapter shall specify the sum or sums to become due upon the happen-

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ing of the contingency insured against, and when payments will be made.

10812. Unless such a policy is invalidated by fraud or breach of its conditions, the insurer shall pay the beneficiary the amount specified in the policy at the time therein named. Such obligation is a lien upon all the property of such insurer, with priority over all indebtedness thereafter incurred, except in case of insolvency.

10813. An insurer's right to do business in this State is forfeited by failure to make payment within thirty days after notice at the home office by mail of a final judgment on an obligation under a policy of mutual insurance on the assessment plan, unless waiver is made by the beneficiary.

10814. Every policy issued by an insurer doing business under this chapter must be founded upon written application therefor.

10815. Except where the application is either for disability insurance only, or for $3,000 or less life insurance, or for policies issued upon the group plan, the application must be accompanied by the report of a reputable physician. Such report shall contain a detailed statement of his examination of the applicant, showing the applicant to be in good health and recommending the issuance of a policy.

10816. In cases of policies issued upon the group plan, medical examinations shall be discretionary with the board of directors of the insurer.

10817. A policy issued by any insurer doing business under the provisions of this chapter does not lapse for the nonpayment of any assessments, dues or premiums unless the insurer collects specific amounts at specific dates under the provisions of the policy, or unless it first mails to the insured a notice setting forth the amount to be paid and the time the amount is due and payable.

10818. Such notice must be mailed to the member at his last given post office address, at least fifteen days before the assessment is due.

10819. An affidavit made by the officer, bookkeeper, or clerk in charge of mailing the notices of any such insurer setting forth the required facts as they appear on the records in the office of the insurer, and showing that such notice was mailed and the date of mailing, is conclusive evidence of the mailing.

10820. The benefits to be paid as provided by the policies issued by an insurer doing business under this chapter are not liable to attachment nor to be applied by any legal or equitable process or operation of law to pay any liability of the policyholder or of any beneficiary named in the policy.

10821. Any person making a false or fraudulent statement to any insurer doing business under this chapter, with reference to any application for insurance, or for the purpose of obtaining any money or benefit from such insurer, is guilty of a misdemeanor.

10822. Any person who makes a false statement of any material fact or thing in a sworn statement as to the death or disability of a policyholder in any such insurer for the purpose of procuring or aiding the beneficiary or policyholder in procuring the benefit named in the policy, is guilty of a misdemeanor.

Article 2. Domestic Assessment Plan Life or Disability Insurers.

10840. Insurers may be incorporated and formed to carry on the business of mutual life or disability insurance upon the assessment plan. They are subject, as to such business, only to the provisions of this chapter and exempt from other provisions of this code except section 156 and those provisions prior to Division 1 entitled "General Provisions."

10841. Such insurer shall not enter into contracts of insurance until at least one thousand persons apply in writing to the commissioner for membership or insurance therein, and pay $25,000 to the treasurer of such insurer. This sum shall be invested in securities approved by the commissioner, or deposited in some bank in this State where it will earn interest.

10842. Such securities or evidences of such deposit shall be delivered to the commissioner and by him deposited with the State Treasurer. The principal sum of such securities or evidences shall be held in trust for the policyholders of such insurer, with the right in the insurer to exchange the securities or evidences for others of like value.

10843. Such insurer shall, as a condition precedent to issuing any policy, obtain the written certificate of approval of the commissioner. Such certificate shall state that it has complied with the requirements of this chapter, and that the name of the insurer is not the same as that of any other insurer of this or other States, as indicated by the

records in his office. The commissioner shall not approve any name so closely resembling another as to mislead the public. Original chapter

10844. An insurer formed hereunder has no legal existence after one year from the date of filing its articles with the Secretary of State, unless its organization has been completed and business commenced. An insurer or individual representing it shall not solicit, or cause to be solicited, any assessment plan life or disability insurance until such insurer has complied with the provisions of Article 2, Chapter 5, Part 2, of Division 1 of this code.

10845. Any existing insurer engaged in the business of life or disability insurance on the assessment plan may reincorporate under the provisions of this chapter, but is not obliged to do so. It may, without such reincorporation, exercise the rights, powers, and privileges conferred by this chapter.

10846. Within a year from the date of the filing of its articles with the Secretary of State, every domestic insurer organized or doing business under this chapter shall accumulate a reserve fund. Such fund shall at all times be not less than the largest benefit contracted to be paid by it to any one person.

10847. The reserve fund shall be invested and deposited, as provided in section 10842 with the right in the insurer to exchange any such securities for others of equal value. The deposit required by section 10842 may constitute a part of the reserve fund, at the option of the insurer.

10848. When any such insurer discontinues business, this reserve fund shall be returned to it or disposed of as determined by the superior court of the county in which is located the insurer's principal place of business.

Article 3. Foreign Insurers.

10860 A foreign incorporated insurer organized to transact the business of life or disability insurance on the assessment plan shall, as a condition precedent to transacting business in this State, comply with the provisions of section 405 of the Civil Code, and shall deposit with the commissioner:

(a) A certified copy of its charter or other instrument required by its home authorities.

(b) A statement under oath of its president or secretary, of its business for the preceding year, in such form as the commissioner requires.

(c) An appointment of a general agent, service upon whom binds the insurer.

(d) A certificate that for the next preceding twelve months it has paid in full its liabilities under its policies.

(e) A certificate from the proper officer of the State or government under the laws of which it is organized, that like insurers of this State are legally entitled to do business in such State or country.

(f) Copies of its proposed forms of policies and applications. These shall show that the liabilities of its members are not limited to fixed premiums.

(g) Evidence satisfactory to the commissioner, that the insurer has accumulated a fund equal to that required of like domestic insurers constituting a reserve fund held in trust for the benefit of its policyholders, and so invested and held as required by the laws of the State or government under which such insurer is organized.

10861. Upon such deposit, the commissioner shall issue a certificate of authority to such insurer to do business in this State. This certificate shall be renewed annually unless revoked.

10862. The certificate of authority may be revoked whenever it is ascertained that the statements required by this article are not true. Upon such revocation, notice thereof must be given by the commissioner by daily publication for two weeks in some newspaper published in the City and County of San Francisco and new insurance shall not be made by the insurer in this State.

Article 4. Reports, Statements and Examinations.

10880. Every admitted insurer doing business under this chapter shall annually, on or before the first day of March, file a statement with the commissioner. Such statement shall be in such form as he prescribes, and shall set forth the insurer's affairs for the year ending on the preceding December thirty-first.

10881. Every insurer subject to the provisions of this chapter shall maintain on its books separate accounts for the money received and the disbursements of its funds for its life, disability, and general business.

Original chapter

The accounts shall show the amounts received from initiation fees, dues, premiums, interest, assessments and general income according to class of business.

10882. The commissioner may at any time examine the affairs of any domestic insurer doing business or claiming to do business under this chapter. He shall make such examination at least once a year.

10883. The commissioner shall commence proceedings to revoke the certificate of authority of such an insurer if, after an examination of its affairs, he finds that any of the following facts exist:

(a) It is not doing its business in conformity to this chapter.

(b) It is doing a fraudulent or unlawful business.

(c) It is not carrying out the terms of its policies.

(d) It can not, within three months from the date of notice of default, pay its obligations.

He shall commence such proceedings by issuing an order requiring that the president, secretary, manager or general agent of the corporation, or any or all of them, appear before the commissioner at a designated time and place, to show cause why the insurer's certificate of authority should not be revoked. If on further proceeding cause is not shown, then the commissioner shall report the facts to the Attorney General of this State. In such case the Attorney General shall commence proceedings in the proper court to restrain the insurer from doing any further business.

Article 5. Registration of Policies.

10900. Insurers authorized to do business under this chapter may register life policies issued by them, and make and maintain a deposit, under the provisions of and in the manner provided by Article 2 of Chapter 5 of this part.

10901. A full legal reserve shall be maintained in connection with such registered life policies, at rates based upon the American experience table of mortality, with interest at three and one-half per cent per annum.

10902. The reserve required to be maintained under the provisions of section 10846 may be included in and computed as part of the deposit required to cover registered policies.

Article 6. Promotion, Conservation and Change to Reserve Basis.

10920. Any person may advance any sum of money to an insurer operating under this chapter, such advance being made to promote or conserve the insurer's business or to enable it to comply with the laws of any State.

10921. Such money, together with any agreed interest not exceeding eight per cent per annum, is repayable only out of the surplus remaining after providing for all reserves and liabilities required by the laws of this State or any other State in which the insurer is admitted or authorized to transact insurance. Such repayment is not otherwise a liability or claim against the insurer or any of its assets.

10922. Commission or promotion expenses shall not be paid in connection with any such advance to the insurer. The amount of such advance shall be reported in each annual statement of the insurer.

10923. When any such insurer discontinues business, after the payment of, or provision for, all required reserves, liabilities and reinsurance, the balance in this fund shall be returned to the person to whom it is owed. Any surplus in the fund shall be retained by the insurer or disposed of as determined by the superior court of the county in which is its principal place of business.

10924. Any domestic insurer subject to this chapter and having admitted assets equal to at least $200,000 in excess of all required reserves and liabilities may, at its option and without reincorporation, elect to operate as a mutual insurer issuing policies on a reserve basis. In such case, such insurer may, subject to section 10926 transact such other insurances as are permitted to be transacted by an incorporated life insurer issuing policies on a reserve basis whenever its admitted assets are equal to the paid in capital required of such an insurer for such purposes.

10925. Upon a two-thirds majority vote of its directors such insurer may amend its articles and by-laws in such manner as to transform itself into a mutual insurer issuing nonassessable policies on a reserve basis. In such case it may continue to operate under the same name or its directors may adopt a new name, subject to the provisions of this code relating to names of admitted insurers. Such amendment shall take effect only after approval by a majority of the aggregate, taken as a whole, of members and policyholders.

10926 After such amendment, upon procuring from the commissioner a certificate of authority as a mutual insurer issuing nonassessable policies upon a reserve basis, it may do the classes of business in this State permitted by such certificate and which it is entitled to do by virtue of assets held as required by section 10924.

10927. Such policies thereafter executed need not include the provisions required by Article 1 of this chapter. The insurer shall be subject as to all its subsequent business to the tests of solvency and other provisions of law relating to insurers issuing policies on a reserve basis. But such change shall not affect the rights or obligations of the insurer or its members on any policy theretofore executed.

Article 7. Fees and Expenses.

10940. The fees for filing statements, certificates, or other documents required by this chapter, or for any service or act of the commissioner, and the penalties for any violation of this chapter shall, except as otherwise provided herein, be the same as in the case of other life insurers and shall be disposed of in the same manner.

CHAPTER 10. FRATERNAL BENEFIT SOCIETIES.

Article 1. Scope of Chapter.

Governed by this chapter only

10970. Fraternal benefit societies shall be governed by this chapter and shall be exempt from all other provisions of this code, except those provisions prior to division 1 entitled "General Provisions." A statute relating to insurance shall not apply to them, unless they are expressly designated therein.

Certain societies exempt

10971. This chapter shall not, except as provided by section 10972, affect:

(a) Grand or subordinate lodges of Masons or Odd Fellows, or lodges of the Knights of Pythias other than the insurance department of the supreme lodge Knights of Pythias.

(b) That portion of the Junior Order of United American Mechanics other than the beneficiary degree or insurance branch of the national council Junior Order United American Mechanics.

(c) Societies which limit their membership to one hazardous occupation.

(d) Similar societies which do not issue policies.

(e) An association of local lodges of a society doing business in this State on July 29, 1911, and which provides death benefits not exceeding $300 to any one person, disability benefits not exceeding $300 in any one year to any one person, or both such types of benefits.

(f) Contracts of reinsurance on a plan under subdivision (e).

(g) Domestic societies which limit their membership to the employees of a particular city or town, designated firm, business house or corporation.

(h) Domestic lodges, orders or associations of a purely religious, charitable and benevolent description, and which do not provide for a death benefit of more than $100, or for disability benefits of more than $150 to any one person in any one year.

Limit of exemptions

10972. Any domestic lodge, order or society otherwise covered by section 10971, but which has more than five hundred members, and provides for death or disability benefits, and any

domestic lodge, order or society which issues to any person a policy providing for the payment of benefits, shall comply with all the requirements of this chapter.

Commissioner's investigation.

10973. The commissioner may require from any society such information as will enable him to determine whether or not such society is exempt from the provisions of this chapter.

Restriction on exempted societies

10974. A society which is exempted from the requirements of this chapter by section 10971 shall not give or allow, nor promise to give or allow, any compensation for procuring new members.

Disability insurance

10975. Any fraternal benefit society organized and operating within the definition set forth in sections 10990 to 10992 on July 29, 1911, providing benefits in case of death or disability resulting solely from accidents but not obligating itself to pay death or sick benefits, may obtain a certificate of authority under this chapter. Such society shall have all the privileges and shall be subject to all the provisions of this chapter, except those requiring medical examination, valuations of policies, and that the policies specify the amount of benefits.

Societies existing in 1911

10976. Any incorporated fraternal benefit society engaged on July 29, 1911, in transacting business in this State may exercise all of the rights conferred by this chapter, and all of the rights, powers and privileges not inconsistent with this chapter, which were theretofore exercised or possessed by it under its charter. Any unincorporated fraternal benefit society thus engaged may incorporate hereunder.

A society already incorporated shall not be required to reincorporate hereunder. Any such society may amend its articles of incorporation. All such amendments shall be filed with the commissioner and shall become operative upon such filing, unless a later time is otherwise provided.

Article 2. Definitions.

Fraternal benefit society

10990. A fraternal benefit society is an incorporated or unincorporated insurer having all the following characteristics:

(a) It is organized without capital stock.

(b) It is organized and carried on solely for the mutual benefit of its members and their beneficiaries and not for profit.

(c) It has a lodge system and representative form of government or it limits its membership to a secret fraternity having a lodge system and representative form of government.

(d) It makes provision for the payment of benefits in accordance with sections 11116 and 11117.

Lodge systems

10991. Any society having all the following characteristics is operating on the lodge system:

(a) It has a supreme governing or legislative body.

(b) It has subordinate lodges or branches by whatever name known.

(c) Members are elected and admitted into such subordinate lodges or branches in accordance with the constitution, laws, rules and regulations of the supreme body.

(d) Such subordinate lodges or branches are required by the laws of the society to hold regular or stated meetings at least once each month.

Representative form of government

10992. Any such society has a representative form of government when it has all the following characteristics:

(a) It provides in its constitution and laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members as are prescribed by its constitution and laws.

(b) The elective members of the supreme legislative or governing body constitute a majority in number and have not less than two-thirds of the votes nor less than the votes required to amend its constitution and laws.

(c) The meetings of the supreme or governing body, and the election of officers, representatives or delegates are held at least once in four years.

(d) The members, officers, representatives or delegates do not vote by proxy.

Status of societies

10993. Every fraternal benefit society organized or admitted under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every State, county, district, municipal and school tax, other than taxes on real estate and office equipment.

Article 3. Formation and Organization of Domestic Societies.

Formation

11010. Seven or more citizens of the United States, a majority of whom are citizens of this State, may form a fraternal benefit society.

Execution of articles.

11011. Such persons may commence proceedings to form a fraternal benefit society by making and signing articles of incorporation and acknowledging such signatures before some officer competent to take acknowledgments of deeds.

Contents of articles

11012. Articles of incorporation shall state:

(a) The proposed corporate name of the society.

(b) The purpose for which it is formed and the mode in which its corporate powers are to be exercised.

(c) The names, residences and official titles of all the officers, trustees, directors or other persons who are to have and exercise the general control and management of the affairs and funds of the society for the first year or until the ensuing election.

(d) The address of each person signing the articles, which address may be placed under the subscriber's signature.

Name

11013. The proposed corporate name of the society shall not so closely resemble the name of any admitted insurer as to mislead the public or lead to confusion.

Purposes.

11014. The purpose for which the society is formed shall not include more liberal powers than are granted by this chapter, although any lawful social, intellectual, charitable, benevolent, moral or religious advantages may be set forth among the purposes of the society.

Officers

11015. The persons who are to exercise the general control and management of the affairs of the society after those holding office for the period stated in the articles, shall be elected by the supreme legislative or governing body at an election held not later than one year from the date of the issuance of the permanent certificate.

Documents to be filed

11016. There shall be filed with the commissioner:

(a) The articles of incorporation.

(b) Duly certified copies of the constitution and laws, rules and regulations.

(c) Copies of all proposed forms of policies, applications therefor and circulars to be issued by such society.

(d) A bond in the sum of $5,000, with sureties approved by the commissioner, conditioned upon the return of the advanced payments to applicants if the organization is not completed within one year.

Preliminary certificate.

11017. The commissioner may require such further information as he deems necessary. If the purposes of the society conform to the requirements of this chapter, and all relevant provisions of law have been complied with, the commissioner shall so certify. In such case he shall retain and file the articles of incorporation, and furnish the incorporators a preliminary certificate authorizing the society to solicit members.

Solicitation of members

11018. Upon receipt of the preliminary certificate from the commissioner the society may solicit members to complete its organization. It shall collect from each applicant not less than one regular monthly payment in accordance with the table of rates provided by its constitution and laws. It shall issue to each such applicant a receipt for the amount collected.

Conditions

11019. (a) Until the conditions set forth in subdivision (b) are fulfilled, such society shall not:

(1) Incur any liability other than for such advanced payments of members.

(2) Issue any policy.

(3) Pay or allow, or offer or promise to pay or allow, any death or disability benefit to any person.

(b) The acts set forth in subdivision (a) shall not be performed by such society until it conforms to the following conditions:

(1) Actual bona fide applications for life policies are secured upon at least five hundred lives for at least $1,000 each.

(2) All such applicants for life policies are regularly examined by legally qualified practicing physicians, and certificates of such examinations are filed and approved by the chief medical examiner of such society.

(3) There are established ten subordinate lodges or branches into which the five hundred applicants are initiated.

(4) There is submitted to the commissioner, under oath of the president and secretary, or corresponding officers of such society, a list of the applicants. Such list shall contain:

(a) Their names.

(b) Their addresses.

(c) Date applicant is examined.

(d) Date application is approved.

(e) Date applicant is initiated.

(f) Name and number of the subordinate lodge or branch of which each applicant is a member.

(g) Amount of benefits to be granted each applicant.

(h) Rate of stated periodical contributions.

(5) It is shown to the commissioner by the sworn statement of the treasurer or corresponding officer of such society, that at least five hundred applicants have each paid in cash at least one regular monthly payment for each $1,000 of his insurance, and that such payments in the aggregate amount to at least $2,500.

Advanced moneys

11020. The money collected to the extent stated in condition (5) of section 11019 shall be credited to the mortuary or disability fund on account of such applicants. Such money shall not be used for expenses.

Handling advanced payments

11021. The advanced payments shall be held in trust during the period of organization. If the organization is not completed within one year such payments shall be returned to the applicants.

Certificate of authority

11022. The commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of this article, the commissioner shall issue to such society a certificate of authority. Such certificate shall be prima facie evidence of the existence of such society at the date of its issue. The commissioner shall cause a record of such certificate to be made and kept in his office.

Time limit for organization

11023. A preliminary certificate and the articles of incorporation and all proceedings thereunder shall become void unless the organization of the society is completed as provided, in this article:

(a) Within one year, unless the time is extended by the commissioner.

(b) Within such extension of time over one year, and not exceeding one additional year, as the commissioner allows.

When charter void

11024. Whenever any domestic society discontinues business for one year or has less than four hundred members, its charter becomes void.

Constitution and by-laws.

11025. Every fraternal benefit society may make a constitution and by-laws for its own government, the admission of its members, the management of its affairs and the fixing and readjusting, from time to time, of the rates of contribution of

its members. It may change, alter, add to or amend such constitution and by-laws and shall have such other powers as are necessary and incidental to effectuate the objects and purposes of the society.

Meetings and principal office

11026. Any domestic fraternal benefit society may authorize its legislative or governing body to meet in any State, district, province or territory wherein the society has subordinate lodges or branches. All business transacted at such meetings shall be as valid in all respects as if such meetings were held in this State. Its principal office shall be located in this State.

Article 4. Foreign Societies.

Certificate of authority.

11040. A foreign society shall not transact any business in this State without a certificate of authority from the commissioner.

Conditions of admission

11041. Any such society shall be entitled to, and the commissioner shall issue, a certificate of authority to transact business within this State upon filing with him the documents, furnishing information, and making a showing as follows:

(a) It shall file:

(1) A duly certified copy of its charter or articles of association and a copy of its constitution and laws, certified by its secretary or corresponding officer.

(2) A power of attorney for service of process on the commissioner as provided in this chapter.

(3) A statement of its business under oath of its president and secretary, or corresponding officers, in the form required by the commissioner. Such statement shall be duly verified by an examination made by the supervising official of its home State or another State satisfactory to the commissioner.

(4) A certificate from the proper official in the state, province or country in which the society is legally organized, stating the fact of such organization.

(5) A copy of its policy. Such policy shall show that benefits are provided for by payments by persons holding similar contracts.

(b) It shall furnish the commissioner such other information as he deems necessary to a proper exhibit of its business and plan of working.

(c) It shall show that the assets of the society are invested in accordance with the laws of the jurisdiction where it is organized.

Qualifications

11042. Any foreign society desiring admission shall have the qualifications required of domestic societies organized under this chapter.

Article 5. Certificate of Authority; Fees and Revocation.

Foreign society

11060. For each certificate of authority or renewal thereof, a foreign society shall pay the commissioner twenty dollars.

Domestic society.

11061. For each certificate of authority or renewal a domestic society shall pay the commissioner ten dollars. A duly

certified copy or duplicate of the certificate of authority is prima facie evidence that the licensee is a fraternal benefit society.

Expiration of certificate

11062. Such certificates shall terminate after the first day of July succeeding issue, at the time when the new certificate of authority is issued or expressly refused.

Notice and order to show cause

11063. When the commissioner, after investigation, finds that an admitted foreign society has exceeded its powers, has failed to comply with any provisions of this chapter, is conducting business fraudulently, or is not carrying out its contracts in good faith, he shall notify the society of his finding, ordering it to show cause why its certificate of authority should not be revoked. The notice and order to show cause shall specify the facts constituting the basis for his finding and shall name a date, a reasonable time after notice, for hearing on the order.

Revocation of certificate

11064. If on the date named in the notice the society does not present good and sufficient reasons why its authority to transact business in this State should not be revoked, the commissioner may revoke the authority of the society to continue business in this State.

Existing policies.

11065. Any foreign society, after revocation of its certificate, may continue in good faith all policies made in this State during the time such society was admitted.

Proceeding against domestic society

11066. Whenever, after examination, the commissioner finds that a domestic society has failed to comply with any provisions of this chapter, is exceeding its powers, is not carrying out its contracts in good faith, or is transacting business fraudulently, or whenever any domestic society, after the existence of one year or more, has a membership of less than four hundred or determines to discontinue business, the commissioner may present the facts relating thereto to the Attorney General.

Action by Attorney General

11067. In such case the Attorney General may commence an action against the society to forfeit its corporate existence in a court of competent jurisdiction. Any of the grounds set forth in section 11066 constitutes sufficient cause for such forfeiture.

Appointment of receiver

11068. If, upon hearing of such case, it appears that the society should be liquidated, it shall be enjoined from carrying on any further business and some person shall be appointed receiver of such society.

Liquidation

11069. The receiver appointed under the provisions of section 11068 shall proceed at once to take possession of the books, papers, moneys and other assets of the society and shall forthwith, under the direction of the court, proceed to liquidate the society and to distribute its assets to those entitled thereto.

Notice and hearing

11070. Such proceedings shall not be commenced by the Attorney General against any society until notice is served on the chief executive officers of the society and a reasonable opportunity is given to it, on a date named in the notice, to show cause why such proceedings should not be commenced.

Restriction on actions to liquidate.

11071. An application for injunction against, proceedings for the dissolution of, or the appointment of a receiver for, any domestic society or branch thereof shall not be entertained by any court unless made by the Attorney General.

Rulings of commissioner.

11072. When the commissioner refuses to issue a certificate of authority to any society, or revokes its certificate of authority to do business in this State, he shall reduce his ruling, order or decision to writing and file it in his office. Upon request he shall furnish a copy thereof, together with a written statement of his reasons, to the officers of the society.

Article 6. Attorney for Service of Process.

Appointment of commissioner

11090. Every admitted society and every society applying for admission, shall appoint the commissioner and his successors in office its attorney upon whom all legal process in any action or proceeding against it may be served. Such appointment shall be made in writing and filed with the commissioner.

Contents of appointment.

11091. In the writing containing the appointment the society shall agree that when any lawful process is served upon such attorney the service will be of the same legal effect as if served upon the society, and that such appointment shall continue in force so long as any liability of the society remains outstanding in this State.

Requisites of service

11092. Service on the society shall be made only upon such attorney. Such service shall be made in duplicate upon the commissioner or, in his absence, upon the person in charge of his office and shall be sufficient service upon such society.

Restriction on service

11093. Such service is not valid against any such society when it is required thereunder to file its answer, pleading or defense in less than thirty days from the date of mailing the copy of such service to such society.

Forwarding of served process.

11094. When legal process against any such society is served upon the commissioner, he shall forthwith forward one of the duplicate copies prepaid by registered mail, directed to the secretary or corresponding officer of the society.

Article 7. Membership and Policies. Limits of Insurable Age.

Insurable age limits.

11110. Any person not less than sixteen nor more than sixty years of age may be admitted to beneficial, general or social membership in any fraternal benefit society in such manner and upon such showing of eligibility as the laws of the society provide.

Beneficiary of member having family

11111. If a member has a wife, husband, or children and has not, since issuance of the policy, become dependent upon a charitable institution, only the following persons may be beneficiaries under the certificate: the member's wife, husband, relative by blood to the fourth degree, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepchildren, children by legal adoption, parents by

legal adoption, persons upon whom the member is dependent, persons dependent upon the member, persons of his family or a trustee for the sole benefit of any such beneficiary.

Charitable institutions

11112. If, after issuance of the policy such member becomes dependent upon a charitable institution, he may, with the consent of the society, designate such institution as beneficiary, either direct or in trust.

Member without family

11113. If the member has no wife, husband or children, he may designate any beneficiary, direct or in trust, permitted by the laws of the society.

Change of beneficiary

11114. A beneficiary shall not have any vested interest in the benefits provided in the policy until such benefits become due and payable in conformity with the provisions of the insurance contract. The member may change the beneficiary in accordance with the laws, rules and regulations of the society.

Rate of stated periodical contributions

11115. The commissioner shall not issue a certificate of authority, other than a renewal of an existing certificate, to a domestic society unless the rate of stated periodical contributions is sufficient to provide for meeting the mortuary obligation contracted, when valued as follows, with an interest assumption, in each case, of not more than four per cent per annum:

(a) For death benefits, upon the basis of the national fraternal congress table of mortality as adopted by the national fraternal congress August 23, 1899, or any standard having a higher mortality rate at the option of the society.

(b) For disability benefits, by tables based upon reliable experience.

(c) For combined death and permanent total disability benefits, by tables based upon reliable experience.

Benefits

11116. Every fraternal benefit society shall provide for the payments of benefits upon the death of its members, either within a term of years or at any time, and may provide for:

(a) Benefits payable upon its members reaching seventy years of age.

(b) The payment of benefits in case of total and permanent disability.

(c) The payment of benefits in the event of temporary disability.

(d) Monuments or tombstones to the memory of its deceased members.

(e) The payment of funeral benefits.

Other permissible benefits

11117. Any fraternal benefit society may enter into life or disability insurance contracts in such other forms and granting such benefits as its laws authorize if it provides for the accumulation and maintenance of assets to be required for the payment of such benefits. For this purpose such benefits shall be valued upon an interest basis not exceeding four per cent per annum and with mortality standards adopted by it within the limitations of this code relating to fraternal benefit societies, or, at the option of the society, the limitations of this

code relating to life or life and disability insurers issuing non-assessable policies on the reserve basis.

Provisions of policy

11118. Every policy issued by any fraternal benefit society shall specify the amount of benefit provided by it, and shall provide that the following documents constitute the agreement between the society and the member:

(a) The policy.

(b) The corporation's charter or the association's articles of association, as the case may be.

(c) The constitution and laws of the society.

(d) The application for membership and medical examination, signed by the applicant.

(e) All amendments to each such document.

Copies of documents as evidence

11119. Copies of the documents specified in section 11118, certified by the secretary of the society, or corresponding officer, shall be admissible in evidence without further proof of execution and shall be evidence of the terms and conditions of the documents.

Effect of amendments

11120. Any changes, additions or amendments to the charter, articles, constitution or laws of the society, duly made subsequent to the issuance of the policy, shall bind the member and his beneficiaries and shall govern and control the contract of insurance in all respects as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership.

Constitution and laws of society

11121. The constitution and laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the society. Such provision shall be binding on the society and every member and beneficiary of a member.

No individual liability

11122. Officers and members of the supreme, grand or any subordinate body of any incorporated fraternal benefit society shall not be individually liable for the payment of any disability or death benefit provided for in the laws and contracts of such society. Such benefits are payable only out of the funds of such society and in the manner provided by its laws.

Exemptions of benefit from liability

11123. Money or other aid paid or rendered by any such society, shall not be liable, either before or after payment, to attachment, or to be applied by any legal or equitable process or operation of law to pay any liability of a member or any person having a right thereto.

Article 8. Insurance of Juveniles.

Insurance of children

11140. Any admitted fraternal benefit society may, in addition to other benefits provided for in its laws, provide for the payment of death and annuity benefits upon the lives of children under eighteen years of age. Such insurance shall be based upon the application of such adult person as the laws of such society prescribe and upon whom the child is dependent for support and maintenance. Policies issued

under this article for such purpose are known as juvenile policies.

11141. Any such society may organize and operate branches for such children. Membership in local lodges shall not be required of such children, nor shall they have any voice in the management of the society. Status of insured children.

11142. A society shall not issue its first juvenile policy under this article unless it simultaneously puts in force at least five hundred such juvenile policies, on each of which at least one assessment is paid. Requisites for insuring

11143. In the case of such insured children, the death benefits shall in no case exceed the following amounts at the following ages: Maximum benefits

Years of age at birthday following death.	Maximum benefits.
One	$100.00
Two	200.00
Three	400.00
Four	600.00
Five	800.00
unless otherwise authorized by law:	
Six to eighteen	1,000.00

11144. A juvenile policy shall not take effect as to any child until after such examination or inspection as the laws of the society require. Examination

11145. The death benefit contributions to be made upon such juvenile policy shall be based upon one of the following tables, with rate of interest not greater than four per cent per annum: Table of reserves

(a) The "Standard Industrial Mortality Table."

(b) The "English Life Table Number Six."

(c) A table based upon the juvenile experience of the society, covering at least ten years of such experience and not less than one hundred thousand lives.

(d) A table having mortality rates higher than any specified in this section.

11146. Any society issuing juvenile policies shall maintain on all such policies the reserve required by the standard of mortality and interest adopted by the society for computing contributions. Reserves

11147. Contributions on juvenile policies may be waived or returns may be made from any surplus held in excess of required reserve and other liabilities, as provided in the laws of the society. Extra contributions shall be made if the required reserves become impaired. Waiver or return

11148. The funds representing the benefit contributions, together with all accretions thereon, shall be kept as separate and distinct funds of the society. Until the child becomes a member of the society, such funds shall not be liable, nor used, for the payment of debts and obligations of the society other than the benefits herein authorized under this article. Segregation of funds

Admission of child into society

11149. A society may provide for admission into beneficial membership of a child insured pursuant to this article. Upon becoming eligible for benefit membership such child may be admitted into such society upon compliance with such requirements as are provided by the laws of the society. Upon such admission any reserve upon his juvenile policy shall be transferred to the benefit or reserve fund of the society.

Termination of juvenile policy

11150. If the child is not admitted to benefit membership, the juvenile policy shall terminate upon the child's reaching age of eighteen, or any younger age fixed by the laws of the society as the maximum age at death for the payment of benefits under this article.

Beneficiary

11151. Upon such admission of a child into beneficial membership, he may nominate an eligible beneficiary. Such nomination shall not be affected by the existence of any person having claims under the juvenile policy prior to such admission. All such claims cease upon such admission.

Annual report.

11152. In the annual report to the commissioner by any society availing itself of the provisions of this article, there shall be a separate statement of business transactions, assets and liabilities arising from transactions under such provisions.

Preservation of separate reserves.

11153. The separation of assets, funds and liabilities required by this article shall not be terminated, rescinded or modified and the funds shall not be diverted other than as specified in section 11149, as long as any juvenile policies issued under this article remain in force. This requirement shall be enforced in any liquidation, reinsurance, merger or other change in the condition or the status of the society.

Expense or general fund.

11154. Any society may provide in its laws, and in the juvenile policies, for payment on account of the expense or general fund. The laws of the society may provide for or prohibit the mingling of such payments with the general fund of the society.

General powers

11155. Pursuant to this article, a society may provide, in respect to juvenile policies:

(a) For means of enforcing payment of contribution.

(b) For designation of beneficiaries and changing such designations.

(c) In all other respects for the regulation, government and control of juvenile policies and all rights, obligations and liabilities incident thereto and connected therewith.

Article 9. Reports and Statements.

Filing constitution and laws

11170. Every society transacting business under this chapter shall file with the commissioner a duly certified copy of all amendments of, or additions to, its constitution and laws, within ninety days after the enactment of the same.

Status of certified copies.

11171. Printed copies of the constitution and laws as amended, changed or added to, certified by the secretary or corresponding officer of the society are prima facie evidence of the legal adoption thereof

11172. Every admitted society shall annually, on or before the first day of March, file with the commissioner a statement in such form as he requires, under oath of its president and secretary or corresponding officers. Annual statement

11173. Such a statement must show the condition and standing of the society on December thirty-first next preceding, and its transactions for the year ending on that date. The society also shall furnish such other information as the commissioner deems necessary to a proper exhibit of its business and plan of working. Contents of statement.

11174. Each such society shall pay a fee of twenty dollars to the commissioner for, and at the time of filing such annual statement. Filing fee

11175. The commissioner may at other times require any further statement he deems necessary, relating to such society. Supplemental statements

Article 10. Examination.

11190. The commissioner may inspect and examine the affairs of any domestic society. He shall have free access to all the books, papers and documents that relate to the business of the society, and may summon, qualify as witnesses under oath and examine any persons in relation to the affairs, transactions and condition of the society. Examination of domestic society.

11191. The expense of such examination shall be paid by the society examined, upon receipt of statement furnished by the commissioner. The examination shall be made at least once in three years. Expense and time of examination.

11192. The commissioner may examine any foreign society which is admitted or applying for admission. He shall have free access to all the books, papers and documents that relate to the business of the society. He may summon, qualify as witnesses under oath and examine any persons in relation to the affairs, transactions and condition of the society. Foreign society

11193. In lieu of his own examination he may, in his discretion, accept the examination of the insurance authority of the jurisdiction where such society is organized. Foreign examination

11194. The actual expenses of examiners making any such examination shall be paid by the society upon receipt of statement furnished by the commissioner. Expenses

11195. If any such society or its officers refuse to submit to such examination or to comply with the provisions of this article relative thereto, its certificate of authority shall be suspended or issuance or renewal refused until satisfactory evidence is furnished to the commissioner relating to the condition and affairs of the society. During such suspension the society shall not write further insurance in this State. Suspension of certificate.

11196. The commissioner shall neither make public nor permit to become public any financial statement, report or finding affecting the status, standing or rights of any such society until a copy is served upon such society, at its home office and such society is afforded a reasonable opportunity to make such showing in connection therewith as it desires. Submission of reports to society

Provisions not applicable

11197. The provisions of sections 1018 to 1053 do not apply to fraternal benefit societies.

Article 11 Valuation of Policies, Generally.

Valuation required.

11210. In addition to its annual report, each society shall annually report to the commissioner a valuation of its policies in force on the last preceding December 31st. In cases where the contributions for the first year are used in whole or in part for current mortality and expenses, there shall be omitted from valuation those policies which were issued during the year preceding the valuation date.

Requisites of report

11211. Each such valuation report shall set forth clearly and fully the mortality and interest basis and the method of valuation.

Basis of valuation

11212. Such valuation report shall be either on a standard reserve basis set forth in this section or on the accumulation basis described in Article 14 of this chapter. If on a standard reserve basis, such report of valuation shall show the value of policies either in the manner set forth in subdivision (a) or in the manner set forth in subdivision (b), following:

(a) It may show as contingent liabilities, the present mid-year value of the benefits provided for under policies then subject to valuation. In such case it shall show as contingent assets, the present mid-year value of the future net contributions provided for under such policy as the same are in practice actually collected.

(b) It may show the net value of the policies subject to the valuation computed on the basis of net premiums under the experience table and rate of interest in use by the society. Such net value, when computed in the case of monthly contributions, may be the mean of the terminal values for the end of the preceding and of the current insurance years.

Certification and filing

11213. Such valuation shall be certified by a competent accountant or actuary or, at the request and expense of the society, verified by the actuary of the insurance authority of the home state of the society. It shall be filed with the commissioner within ninety days after the submission to him of the annual report.

Mailing report to members

11214. A report of such valuation and an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each beneficiary member of the society not later than June 1st of each year. If not printed separately, but published in the society's official paper, the issue containing the report shall be mailed to each beneficiary member of the society.

Article 12. Valuation of Disability Policies.

Separation of funds and experience bases

11230. A society providing for disability benefits shall keep the net contributions for such benefits separate from all other funds unless a combined contribution table is used by a society for both death and permanent total disability benefits. If such

combined table is used, the valuation shall be according to tables of reliable experience.

Article 13. Valuation of Life Policies and Maintenance of Reserves on Standard Reserve Basis.

Permissible basis tables

11240. Except in the valuation of disability benefits, the legal standard of valuation for all policies on standard reserve basis shall be one of the following, with rate of interest not greater than four per cent per annum:

(a) The national fraternal congress table of mortality as adopted by the national fraternal congress August 23, 1899.

(b) Any table having a higher mortality rate than that specified in subdivision (a).

(c) A table based upon the society's own experience of at least twenty years and covering not less than one hundred thousand lives.

Additional contributions.

11241. The laws of a society on the standard reserve basis shall provide that if the stated periodical contributions of the members are insufficient to pay all matured death and disability claims in full and to provide for the creation and maintenance of the funds required by its laws, additional increased or extra rates of contribution shall be collected from the members to meet such deficiency.

Deficiency as charge on policy

11242. Such laws may provide that, upon the written application or consent of the member, his policy may be charged with its proportion of any deficiency disclosed by valuation, with interest thereon not exceeding five per cent per annum.

Deficiency in reserves

11243. In the case of the valuation of the policies of a society on the standard reserve basis, the valuation at the close of every third year following December 31, 1917, shall be taken as the triennial valuation under this article. Whenever the triennial valuation shows that the sum of the present value of future net contributions together with the admitted assets is less than the present value of the promised benefits and accrued liabilities, such society shall thereafter maintain a financial condition with no greater deficiency at each succeeding triennial valuation than was shown in the valuation as of December 31, 1917, or, if the society did not transact business in this State until after December 31, 1917, than was shown at the first triennial valuation during which it does such business. The provisions of section 11244 shall apply when such standard is not maintained.

When deficiency increases

11244. At any triennial valuation succeeding that one at which the deficiency in reserves was shown, if such society shows a greater deficiency, the commissioner shall direct that it lessen the deficiency to the amount specified in section 11243. If the next succeeding triennial valuation after the receipt of such notice shows that the society has failed to lower its deficiency as directed, the commissioner may, in the absence of good cause shown for such failure, institute proceedings for the dissolution of such society or revocation of

its certificate of authority, as specified in Article 5 of this chapter.

Rates on failure to maintain reserves

11245. Whenever such a society is shown by such triennial valuation to have allowed such an increase of deficiency, unless within two years thereafter it makes such improvement as to eliminate such increase, such society shall be governed as to stated rates of new members' contributions by the provisions of section 11115. In such case the net mortuary or beneficiary contributions and funds of new members shall be kept separate and apart from the other funds of the society.

Classification of new member reserves

11246. If such required improvement is not shown by the succeeding triennial valuation, then the new members may be required to be placed in a separate class and their policies valued as an independent society in respect of contributions and funds.

Tabular basis

11247. Policies are on the tabular basis when they are issued, rerated or readjusted, on a standard reserve basis. The tabular reserve is the reserve required by such standard.

Policy valued on tabular basis

11248. A policy shall be valued on the tabular basis unless on the first such valuation a deficiency in assets covering its reserve is shown for such policy. If such deficiency is shown, the policy shall be valued on the accumulation basis set forth in Article 14 of this chapter.

Transfer from one basis to another.

11249. Any member may transfer to any plan adopted by the society having net rates on which tabular reserves are maintained. On such transfer he shall be entitled to make such application of the existing credit on his policy under another plan as the laws of the society provide.

Article 14. Valuation of Life Policies and Maintenance of Reserves on Accumulation Basis.

Option of society

11260. In lieu of the standard reserve basis, any society accepting in its laws the provisions of this article may value its policies on the accumulation basis. Any policy having a deficiency in its reserve as specified in section 11247 shall also be valued on the accumulation basis.

Method of valuation

11261. Valuation on the accumulation basis shall be made by crediting each member with the net amount contributed for each year with interest at approximately the net rate earned and by charging him with his share of the cost of insurance for the year. Any balance shall be carried to his credit on his policy.

Cost of insurance

11262. The charge for the cost of insurance shall be in accordance with the table of mortality, modified by taking a proportion thereof according to the ratio which the total losses of the society for the year bear to the total probable losses computed on the table. The table of mortality used for such computation shall be one authorized by this chapter. The charge shall be based on the amount at risk during each year. Such amount is the amount payable at death less the credit to the member.

11263. Except as specifically provided in the society's articles, laws, or contracts, a charge shall not be carried forward from the first valuation under this article against any member for any past share of losses exceeding the contributions and credit. Charge from first valuation

11264. If, after the first valuation on the accumulation basis, any member's share of losses for any year exceeds his credit, including the contribution for the year, the contribution shall be increased to cover his share of the losses. If the credit at the time any benefit becomes payable during the lifetime of the member, including any available funds, does not equal such benefit, the amount of deficiency shall be added to the contributions to be made by the member or on his behalf or shall be paid out of a fund or contributions especially created or required for such purpose. Increase of contributions.

Article 15. Surpluses and Deficiencies.

11280. In any society having members upon the tabular basis and upon the accumulation basis, whenever the total of the charges for costs of insurance under the accumulation basis for any year is insufficient to meet the actual death and disability losses for the year, the deficiency shall be met for the year from one of the following sources: Funds covering deficiencies

(a) The available funds after setting aside assets equal to the total of all accumulation basis credits and standard reserves.

(b) Increased contributions.

(c) An increase in the number of assessments, applied to the society as a whole or to such classes of members as are specified in its laws.

Savings from an amount of death losses lower than provided for may be returned in such manner as is specified in the laws of the society.

11281. When the society does not maintain reserves on the tabular basis, it shall with each annual report file a table showing the rates being paid by and the credits to individual members at each age and year of entry. Such table shall also show, opposite each credit, either the tabular rates and the tabular reserve required for the character and amount of the member's insurance or the required reserve for such insurance on the rate actually paid by the member, taken as a level net rate according to assumptions for mortality and interest recognized by the laws of this State and adopted by the society. There shall be included, in either case, any benefit payable at a specified age or on account of old age disability. A society reporting under this section shall also furnish the matter required by section 11283 to each member before every July first. Table of reserves and rates.

11282. If the laws of a society so provide, the assets representing the reserves of any separate class of members may be carried separately for such class as if for an independent society, and the required reserve accumulation of such class Separation of reserves by classification of members

so set apart shall not thereafter be mingled with other assets of the society.

Statements to members.

11283. A society reporting under section 11281 shall furnish to each member either a copy of the table required by section 11281 or a statement giving the data in the table for the particular member. For this purpose, individual bookkeeping accounts for each member shall not be required and all calculations may be made by actuarial methods.

Surplus

11284. A society may maintain such surplus, over and above the credits on the accumulation basis and the reserves on the standard basis, as it provides by or pursuant to its laws.

Right of member.

11285. An individual member has no right or claim to any reserve or credit other than as provided in the contract and the laws of the society.

Article 16. Solvency and Standards of Membership Contribution.

Measure of solvency.

11300. The annual valuation report shall not be a test of the financial solvency of the society. Each society is legally solvent so long as the funds in its possession are equal to or in excess of its matured liabilities.

Payments by members

11301. The funds from which benefits are paid and the funds from which the expenses of the society are defrayed shall be derived from periodical or other payments by the members of the society and accretions of proceeds of such payments.

Assets to cover reserves.

11302. All domestic societies hereafter incorporated and foreign societies hereafter admitted shall have assets equal to the credits and reserves under their policies. Such assets shall not be disbursed except in fulfillment of the terms of the policies for the protection of which the assets are maintained.

Liability on matured claims

11303. Payments due from the society but deferred as to date and instalments owing but not yet due on claims against the society shall be deemed to become fixed liabilities on the happening of the event which terminates the contingency as to such payment. Such liability shall be the present value of such future payments or installments upon the rate of interest and mortality assumed by the society for valuation. The society shall maintain a fund sufficient to meet such liability, in addition to any proposed future collections.

Maintenance of assets

11304. When a society, or a class or section thereof, has assets equal to the reserves and credits on its policies, it may collect periodical or other contributions from the members of the society, class or section which, with interest accretions, will be sufficient to accomplish all the following:

(a) Pay the claims arising from its policies.

(b) Pay for the expense of management of the society.

(c) Maintain a fund sufficient to meet its accrued liabilities.

(d) Maintain assets equal to the reserves and credits.

Societies not operating pursuant to this section shall comply with section 11305.

11305. Unless it operates under section 11304 a society, or class or section thereof, shall collect from its members both stated contributions expressly segregated for the mortuary or disability funds and stated contributions expressly segregated for the expense or management funds. Both of such contributions may be included in the member's periodical payment to the society. The society shall not use the money in the mortuary or disability funds nor the interest accretions thereon for expense purposes. Maintenance of mortuary or disability funds

Article 17. Property Not Connected With Insurance.

11320. Any society may maintain and use an emergency, surplus or other similar fund, consistent with the purposes for which such society is organized. Such funds may include hospital and help, sanataria, home, thrift, pension for its employees, patriotic, educational and relief funds, in accordance with its laws. Funds maintainable

11321. Any such society may own real estate and buildings within or without the State of its incorporation, for any purposes for which it may use funds. It may receive gifts and bequests for such purposes and may be named in policies as beneficiary in trust for such purposes. Real estate, gifts, bequests

11322. Unless otherwise provided in the contracts of the members, such funds shall be held, invested, and disbursed for the use and benefit of the society, and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment thereof. Rights in property

Article 18. Investments of Funds.

11340. Every domestic society shall invest its funds only in securities permitted by the laws of this State for the investment of the assets of life insurers issuing nonassessable policies on a reserve basis. Such securities shall be valued according to the methods used in valuing similar securities held by such insurers. Domestic societies

11341. An admitted foreign society shall invest its funds either under the same restrictions as domestic societies or in accordance with the laws of the State in which it is incorporated. Foreign societies

11342. Any admitted foreign society may deposit securities in accordance with the laws of any State. Deposit of securities

Article 19. Mergers and Reinsurance of Societies.

11360. A domestic fraternal benefit society shall neither consolidate or merge nor reinsure any of its risks with any other fraternal benefit society, nor assume, nor reimburse any of the risks of any other fraternal benefit society, except as provided in this article Scope of article

11361. A fraternal benefit society or subordinate body thereof shall not merge or consolidate with or be reinsured by any insurer other than an admitted benefit society. Restrictions

Submission of contract to societies.

11362. When any fraternal benefit society proposes to consolidate or merge its business, to enter into any contract of reinsurance, or to assume or reinsure the whole or any portion of the risks of any other fraternal benefit society, one of the parties to the transaction being a domestic society, the proposed contract shall be in writing. Such contract shall set forth the terms and conditions of such proposed consolidation, merger or reinsurance and shall be submitted, after due notice, to the legislative or governing bodies of each society.

Submission to commissioner

11363. If approved by such bodies, the approved contract shall be submitted to the commissioner for his approval. The parties to the contract shall at the same time submit a sworn statement showing the financial condition of each of the parties on the thirty-first of December preceding the date of the contract or, at the discretion of the commissioner, showing such condition on the last day of the month preceding the date of the contract.

Approval by commissioner.

11364. The commissioner shall thereupon consider the contract and shall approve the contract as submitted if he is satisfied that under it the interests of the policyholders of the parties are properly protected, that such contract is just and equitable to the members of each of the parties, and that there exists no reasonable objection to it.

Societies of different States.

11365. In case the parties to such contract are incorporated in different States such contract shall be submitted as provided in this article to the insurance authority of each of such States to be considered and approved separately by each such authority.

Certificate

11366. When the contract of consolidation, merger or reinsurance is approved, the approving insurance authority shall issue a certificate to that effect. When all such certificates required by this article are issued, the contract shall take effect.

Secrecy when contract not approved

11367. In case such contract is not approved, the fact of its submission and its contents shall not be disclosed by the commissioner.

Expense of proceedings

11368. All necessary and actual expenses and compensation incident to the consolidation, merger or reinsurance proceedings shall be paid only as provided by the contract.

Approval of expense statement.

11369. An itemized statement of all such expenses shall be filed in the same manner as the contract with the same insurance authorities, subject to their approval. When approved by all the authorities whose approval of the contract is required, the statement shall bind the parties to the contract.

Restrictions on expense

11370. Brokerage or commission shall not be included as expense or compensation in any such statement or contract. Compensation shall not be paid to any officer or employee of either of the parties to such contract for directly or indirectly aiding in effecting such contract, and shall not be included in any such statement. Except as fully expressed in such contract or itemized statement of expenses approved by the proper authorities, compensation for negotiating, aiding or

promoting such a consolidation, merger or reinsurance shall not be paid to any person.

11371. Any person violating any provision of this article is guilty of a felony and punishable by a fine not exceeding $5,000, or imprisonment in the State prison not exceeding five years, or both. Penalty.

Article 20. Penalties.

11390. It is a felony for any officer, director, agent or employee of any fraternal benefit society to, directly or indirectly, for himself or as partner or agent of others: Borrowing society funds, etc.

(a) Borrow any of the funds of such society.

(b) Become indorser or surety for loans by the society to others.

(c) In any manner be obligor for moneys borrowed or loaned by such society.

11391. It is a felony for any officer, trustee, agent or employee of a fraternal benefit society to ask, receive, or consent or agree to receive anything of value for procuring or endeavoring to procure a loan to any person from the trust funds of, or funds belonging to, a fraternal benefit society. Loan brokerage

11392. Any person who solicits membership for, or in any manner assists in procuring membership in, any nonadmitted fraternal benefit society is guilty of a misdemeanor and punishable by fine not less than fifty dollars nor more than $200. Solicitation for nonadmitted society.

11393. Any person who knowingly or wilfully makes any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining money or benefit from any fraternal benefit society is guilty of a misdemeanor and punishable by fine not less than $100 nor exceeding $500, or imprisonment in the county jail not less than thirty days nor exceeding one year, or both. False representation to society

11394. Any person who wilfully makes any false statement in any verified report or declaration under oath required or authorized by this chapter is guilty of perjury and punishable as provided by law. Perjury.

11395. Any society and any officer, agent or employee thereof neglecting or refusing to comply with or violating any provision of this chapter is punishable by fine not exceeding $200 if no other punishment is prescribed by this chapter. Generally.

CHAPTER 10A—FIREMEN'S, POLICEMEN'S, OR PEACE OFFICERS' BENEFIT AND RELIEF ASSOCIATIONS.

(Chapter 10A added by Ch. 161, Stats. 1935.)

11400. Firemen's, policemen's or peace officers' benefit and relief associations now existing, or which may be formed hereafter for the purpose of aiding their members or dependents of their members in case of sickness, accident, distress, or death, shall be subject to the provisions of this chapter. While such an association operates strictly in accordance with this chapter, Scope of chapter.

it shall not be subject to any other provision of this code nor to any law of this State relating to insurance, whether now existing or hereafter enacted, except when expressly designated therein.

Certificate of authority.

11401. Such an association shall not operate or do business in this State without a certificate of authority. The commissioner shall issue a certificate of authority to any such association unless he determines, after examination, the cost of which shall be borne by such association, that it does not comply with the provisions of this chapter.

Incorporated associations.

11402. Such association may be incorporated or unincorporated, but if incorporated it shall neither issue nor be authorized to issue shares of stock.

Membership.

11403. The membership of such association shall consist solely of the following or any combination thereof:

(a) Members of police departments of municipal or public corporations or districts.

(b) Members of fire departments of municipal or public corporations or districts.

(c) Peace or law enforcement officers who are regular and salaried officers or employees of the State or of a single county or other political subdivision or public or municipal corporation.

(d) Persons who at the time of becoming members of such association were qualified pursuant to subdivisions (a), (b) or (c) of this section.

Compensation for procuring members prohibited.

11404. Such association shall not pay, promise or agree to pay, either directly or indirectly, any consideration of any nature for the solicitation or procuring of members or applications for membership.

Election of officers.

11405. The trustees, directors or governing body of such association, by whatever name their office is known or designated, shall be elected by the membership of the association.

Benefits.

11406. Moneys or property directly or indirectly contributed to such association by its members shall not be paid out as benefits to any persons other than its members, their dependents, or beneficiaries nominated in writing by them.

Contributions.

11407. Such association shall be supported mainly by contributions from its members, whether in the form of fees, dues, assessments, or otherwise, and by donations made to it from time to time.

(Chapter 10A added by Ch. 161, Stats. 1935.)

CHAPTER 11. CHANGE BY ASSESSMENT PLAN INSURER TO RESERVE PLAN.

Article 1. Authorization and Effect.

Authorization to change.

11420. Any domestic insurer providing life insurance upon the assessment plan may transform itself into an incorporated life insurer issuing policies on a reserve basis with such name as its directors or trustees determine. If incorporated, such insurer may make the transformation by amendment of its

articles and by-laws, either by a majority vote of its directors or trustees or in any other lawful manner. If unincorporated it may make the transformation by incorporating.

Effect of change.

11421. After completing such transformation and procuring from the commissioner a certificate of authority to transact business in this State as an incorporated insurer issuing policies on a reserve basis, it may incur the obligations and enjoy the benefits of such insurer.

Existing officers and obligations

11422. The transformed insurer is a continuation of the original insurer. Its officers elected before or during the transformation serve through their respective terms as provided in the articles and by-laws under which they were elected. Their successors shall be elected and serve as the law and its articles and by-laws provide after the transformation. Such transformation shall not affect existing suits, rights or contracts.

Article 2. Capital Adjustments.

Capital stock.

11440. Any insurer so reorganized shall have assets representing a paid-in capital represented by shares of stock apart from any assets described in section 11441. At least $200,000 of such capital shall be paid up before such insurer issues any policies on the reserve plan.

Assets under assessment plan.

11441. All assets belonging before transformation to any such insurer or arising or accruing from policies issued upon the assessment plan, shall be used only for the benefit of the holders of such policies. Such assets shall not be used or considered as any part of the paid in capital provided for by section 11440.

Deficiency in assessment plan assets

11442. If, at or after the time of the transformation, it appears, either from the last preceding annual report by such insurer to the commissioner, or from an investigation made by the commissioner, that the present value of the contributions to be received from the holders of policies on the assessment plan, together with all assets owned by the insurer that have been accumulated from assessments paid by members on that plan, are not equal to the present value of the benefits, including all matured liabilities, to be derived by members under the assessment plan, the insurer shall set aside and maintain a fund for the purpose set forth in section 11443. Such fund together with the present value of contributions and assets, shall equal the present value of such benefits.

Amount of fund.

11443. The fund required by section 11442, shall be used for the payment of matured liabilities arising under the assessment plan when other assets applicable thereto are exhausted. It may be derived from the excess over $200,000 of the paid in capital of the insurer. It need be maintained only during the existence of conditions set forth in section 11442.

Article 3. Transfer of Insurance.

Terms of transfer.

11460. Members of the insurer who are in good standing prior to the transformation may thereafter transfer their

insurance, without change of amount and without medical examination, from the assessment plan to the nonassessable reserve basis at the reserve rates. The interest and the assets of the insurer credited to the person so transferring shall become a part of the assets of the insurer on the reserve basis.

Article 4. Powers of Insurer After Transformation.

New duties and powers.

11470. The insurer, after such transformation, shall exercise all the rights and powers and perform all the duties conferred or imposed by law upon insurers writing the classes of insurance written by it.

Existing rights and contracts

11471. Such insurer shall exercise all the rights and powers and perform all the duties necessary to protect rights and contracts existing prior to reorganization.

Duties of commissioner.

11472. The commissioner shall exercise the powers and discharge the duties, concerning any such insurer, that are applicable to domestic insurers issuing policies of the same class. He shall issue a certificate of authority to transact the proper classes of insurance in this State to any such insurer which is solvent as to its reserve basis policies under Article 13, Chapter 1, Part 2, Division 1, and has fully complied with the laws of this State.

Article 5. Valuation of Policies.

Standards of valuation

11490. Any life insurer which has transformed its business pursuant to this chapter, shall value its assessment policies according to the standard of valuation which would be used in the absence of the transformation, and shall value its nonassessable reserve basis policies according to the standard of valuation set forth in Article 3, Chapter 5, Part 2, Division 2. The various kinds of insurance written shall be governed by the provisions of this code applicable thereto.

Chapter 12. Grants and Annuities Societies.

Who may contract.

11520. The following organizations and persons may receive transfers of property, conditioned upon their agreement to pay an annuity to the transferor or his nominee:

(a) Any charitable, religious, benevolent or educational organization, pecuniary profit not being its object or purpose, after being in active operation for at least ten years.

(b) Every organization or person maintaining homes for the aged for pecuniary profit, after obtaining from the commissioner a certificate of authority so to do.

Reserve fund

11521. Upon granting to such organization or person a certificate of authority to receive such transfers, the commissioner shall require it to establish and maintain a reserve fund in accordance with the standard of valuation based upon McClintock's table of mortality among annuitants, with interest assumption at three and one-half per cent per annum. For any failure on its part to establish and maintain such reserve fund, the commissioner shall revoke its certificate of

authority. This table shall also be the standard of valuation of future benefits, set forth in section 11523.

Filing copies of contracts

11522. Every organization or person holding a certificate of authority to receive transfers under this chapter, shall file with the commissioner a copy of each agreement entered into between such permit or certificate holder and the transferor.

Provisions of agreement

11523. Such annuity agreement must show:

(a) The value of the property transferred.

(b) The amount of annuity agreed to be paid to the transferor or his nominee.

(c) The manner in which, and the intervals at which, such annuity is to be paid.

(d) The reasonably commensurate value, as of the date of such agreement, of the benefits thereby created. This value shall not exceed by more than fifteen per cent the net single premium for such benefits, determined in accordance with the standard of valuation set forth in section 11521.

Law applicable

11524. Except as prescribed in this chapter, such organization or person shall be otherwise exempt from the provisions of this code and other insurance laws of this State.

CHAPTER 13. VOLUNTARY MUTUALIZATION OF INCORPORATED LIFE AND LIFE AND DISABILITY INSURERS HAVING A CAPITAL STOCK AND ISSUING NONASSESSABLE POLICIES ON A RESERVE BASIS.

(Chapter 13 added by Ch. 530, Stats. 1935.)

Article 1. Authority and Requirements to Mutualize.

Authorization to mutualize.

11525. A solvent domestic incorporated insurer having a paid-in capital represented by outstanding shares of capital stock and issuing, on a reserve basis, nonassessable policies of life insurance or of both life and disability insurance, may convert itself into an incorporated mutual life insurer, or life and disability insurer, issuing nonassessable policies on a reserve basis. To that end it may provide and carry out a plan for the acquisition of the outstanding shares of its capital stock for the benefit of its policyholders by complying with the requirements of this chapter.

Method.

11526. Such plan shall include appropriate proceedings for amending the insurer's articles of incorporation to give effect to the acquisition, by said insurer, of the outstanding shares of its capital stock and the conversion of the insurer from a stock corporation into a nonstock corporation for the profit of its members. All such members shall be policyholders of said insurer. Such plan shall be:

(a) Adopted by a vote of a majority of the directors.

(b) Approved by the vote of the holders of at least a majority of the outstanding shares at a special meeting of shareholders called for that purpose.

(c) Submitted to the commissioner and approved by him in writing.

(d) Approved by a majority vote of all the policyholders voting at an election by the policyholders called for that purpose, subject to the provisions of section 11528. For the purpose of this chapter such policyholders include the employer to whom, or a president, secretary or other executive officer of any corporation or association to which a master group policy has been issued, but exclude the holders of certificates or policies issued under or in connection with a master group policy.

(e) Filed in the office of the Secretary of State after having been approved as provided in subdivisions (b), (c) and (d) of this section.

Approval by commissioner

11527. The commissioner shall examine the plan submitted to him under the provisions of subdivision (c) of section 11526. He shall not approve such plan unless in his opinion the rights and interests of the insurer, its policyholders and shareholders are preserved, nor unless he is satisfied that the plan will be fair and equitable in its operation.

Approval by policyholders.

11528. At the election prescribed by subdivision (d) of section 11526, every policyholder whose insurance shall have been in force for at least one year prior to such election shall have one vote, regardless of the number of policies or amount of insurance he holds, and regardless of whether such policies are policies of life insurance or policies of disability insurance. Notice of such election shall be given to such policyholders by mail from the principal office of such insurer at least thirty days prior to the date set for such election, in a sealed envelope, postage prepaid, addressed to each such policyholder at his last known address.

Voting shall be by one of the following methods:

(a) At a meeting of such policyholders, held pursuant to such notice, by ballot in person or by proxy.

(b) If not by the method described in subdivision (a) of this section, then by mail pursuant to a procedure and on forms to be prescribed by such plan.

Such election shall be conducted under the direction and supervision of three impartial and disinterested inspectors appointed by the insurer and approved by the commissioner. In case any person appointed as inspector fails to appear at such meeting or fails or refuses to act at such election, the vacancy, if occurring in advance of the convening of the meeting or in advance of the opening of the mail vote, may be filled in the manner prescribed for the appointment of inspectors and, if occurring at the meeting or during the canvass of the mail vote, may be filled by the person acting as chairman of said meeting or designated for that purpose in such plan. The decision, act or certificate of a majority of the inspectors shall be effective in all respects as the decision, act or certificate of all. The inspectors of election shall determine the number of policyholders, the voting power of each, the policyholders represented at the meeting or voting by mail, the existence of a quorum and the authenticity, validity and effect

of proxies. They shall receive votes, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes, determine the result, and do such other acts as are proper to conduct the vote with fairness to all policyholders. The inspectors of election shall, before commencing performance of their duties, subscribe to and file with the insurer and with the commissioner an oath that they, and each of them, will perform their duties impartially, in good faith, to the best of their ability, and as expeditiously as is practicable. On the request of the insurer, the commissioner, a policyholder or his proxy, the inspectors shall make a report in writing of any challenge or question or matter determined by them and execute a certificate of any fact found by them. They shall also certify the result of such vote to the insurer and to the commissioner. Any report or certificate made by them shall be prima facie evidence of facts stated therein. All necessary expenses incurred in connection with such election shall be paid by the insurer. For the purpose of this section, a quorum shall consist of five per centum of the policyholders of such insurer entitled to vote at such election.

Article 2. Execution of Plan

Acquisition and cancellation of stock.

11529. In carrying out any such plan, the insurer may acquire any shares of its own stock by gift, bequest or purchase. Any shares so acquired shall be acquired in trust for the policyholders of the insurer as hereinafter provided. Such shares shall be assigned and transferred on the books of such insurer to three trustees appointed by the insurer and approved by the commissioner. Such trustees shall hold in trust and vote such stock at all corporate meetings at which stockholders have the right to vote, until all of the outstanding shares of capital stock of such insurer have been acquired. Thereupon all said shares shall be canceled, the certificate of amendment of the insurer's articles of incorporation giving effect thereto shall be filed in accordance with the provisions of section 362b of the Civil Code, and the insurer shall become a nonstock corporation for the profit of its members. Thereafter such corporation shall be conducted for the mutual benefit, ratably, of its policyholders and shall, upon issuance to it by the commissioner of a certificate of authority, have power to issue nonassessable policies on a reserve basis subject to all provisions of law applicable to incorporated life insurers or life and disability insurers, as the case may be, issuing nonassessable policies on a reserve basis, but shall be exempt from the provisions of Chapter 7 of Part 2 of Division 2 of this code.

Payment for stock.

11530. Every payment for the acquisition of any shares of the capital stock of such insurer, the purchase price of which is not fixed by such plan, shall be subject to the prior approval of the commissioner. Neither such plan, nor any such payment, may be approved by the commissioner unless he finds

that the rights and interests of the insurer, its policyholders and shareholders are preserved, nor unless at the time of each such approval, the paid-in capital of the insurer, after deducting the amount described in subdivisions (a) or (b) of this section, as is proper thereunder, is sufficient at least to qualify such insurer to be admitted as to the classes of insurance transacted by it in this State. The amounts to be deducted as provided in this section are as follows:

(a) The aggregate sum fixed by such plan for the acquisition of any part or all of its shares of capital stock.

(b) In case of any payment not fixed by such plan and subject to separate approval after the approval of such plan, the amount of such payment.

Funds received by trustees

11531. The trustees referred to in section 11529 shall file with such insurer and with the commissioner a verified acceptance of their appointments and verified declarations that they will faithfully discharge their duties as such trustees. All dividends and other sums received by said trustees on the shares held by them, after paying the necessary expenses of executing their trust, shall be immediately repaid to such insurer for the benefit of all who are, or may become, policyholders of such insurer and entitled to participate in the profits thereof and shall be added to and become a part of the assets of such insurer.

Rights and duties after mutualization.

11532. Such insurer, after mutualization, shall be a continuation of the original insurer, and such mutualization shall not affect existing suits, rights or contracts except as provided in said plan for the acquisition of the outstanding shares of the capital stock of such insurer, approved as provided in this chapter. Such insurer, after mutualization, shall exercise all the rights and powers and perform all the duties conferred or imposed by law upon insurers writing the classes of insurance written by it, and to protect rights and contracts existing prior to mutualization, subject to the effect of said plan.

Provisions not applicable.

11533. The provisions of Article 8 of Chapter 1 of Part 2 of Division 1 of this code shall not apply to any of the following:

(a) Shares of the capital stock of such insurer acquired as provided in section 11529 and assigned and transferred to the trustees as is provided in said section, and the assignment and transfer of said shares as so provided.

(b) Any certificate or other instrument issued to a policyholder of such mutualized insurer conferring or evidencing membership in such mutualized insurer or conferring or evidencing such member's right to participate in the profits or share in the assets of such mutualized insurer by virtue of his membership therein, and the issuance of such certificate or other instrument.

(c) The plan for the acquisition of the outstanding shares of the capital stock of such insurer authorized by the provisions of this chapter, the submission of said plan to the commissioner and to the policyholders of such insurer as provided

in this chapter, and the approval and carrying out of said plan or any part thereof in accordance with the provisions of this chapter.

(Chapter 13 added by Ch. 530, Stats. 1935.)

PART 3. LIABILITY, WORKMEN'S COMPENSATION, AND COMMON CARRIER LIABILITY INSURANCE.

CHAPTER 1. GENERAL REGULATIONS.

Article 1. Reserves of Insurers.

"Liability" defined.

11550. As used in this article, the term "liability" means liability and common carrier liability insurance.

"Compensation."

11551. As used in this article, the term "compensation" means workmen's compensation insurance.

"Earned premium."

11552. As used in this article, the term "earned premium," means the amount remaining of the gross premiums charged on all policies written, including all determined excess and additional premiums, after deducting the aggregate of:

(a) Return premiums other than premiums returned to policyholders as dividends.

(b) Reinsurance premiums and premiums on policies canceled.

(c) Unearned premiums on policies in force.

"Loss payments", "loss expense payments"

11553. As used in this article, the terms "loss payments," and "loss expense payments," mean all payments to claimants or on account of claims. Such payments include but are not restricted to those for:

(a) Medical and surgical attendance.

(b) Legal expense.

(c) Salaries and expenses of investigators, adjusters and field men.

(d) Rents.

(e) Stationery, telegraph and telephone charges.

(f) Postage.

(g) Salaries and expenses of office employees.

(h) Home office expenses, and all other payments made on account of claims, whether or not such payments are allocated to specific losses.

Liabilities to be charged

11554. In estimating the condition of any insurer admitted to transact such liability or compensation insurance, the commissioner shall charge as liabilities, among any other items, the following:

(a) All outstanding indebtedness of such insurer.

(b) A premium reserve on policies in force, equal to the unearned portions of the gross premiums charged for covering the risks and computed on each respective risk from the date of the issuance of the policy.

(c) Proper reserves for outstanding losses, computed as set forth in this article.

Schedules in annual statement.

11555. An insurer transacting such compensation or liability insurance shall include the following schedules in its annual statement required by law:

(a) A schedule showing distribution of unallocated liability loss expense payments.

(b) A schedule showing distribution of unallocated compensation loss expense payments.

(c) A schedule of its experience under policies of such insurance, in such form as the commissioner prescribes.

Outstanding loss reserves.

11556. The reserve for outstanding losses under such liability or compensation insurance, shall be the sum of the amounts set forth in sections 11558 to 11561.

Additional reserves.

11557. Whenever the liability or compensation loss reserves of any insurer, computed pursuant to this article, seem inadequate to the commissioner, he shall require such insurer to maintain additional reserves upon such basis as he prescribes.

Allowances for liability suits.

11558. For liability suits being defended by the insurer there shall be charged as part of the reserve under section 11556 the following amounts, respectively:

(a) Suits under policies written more than ten years prior to the date as of which the statement is made, $1,500 for each suit.

(b) Suits under policies written more than five but not more than ten years prior to the date as of which the statement is made, $1,000 for each suit.

(c) Suits under policies written more than three but not more than five years prior to the date as of which the statement is made, $850 for each suit.

Allowance based on earned premiums.

11559. For all liability policies written during the three years immediately preceding the date as of which the statement is made, there shall be charged as part of the reserve under section 11556 an amount computed by taking sixty per cent of the earned liability premiums of each of such three years and deducting all loss and loss expense payments made under the liability policies written in the corresponding years from such sixty per cent; except that, for the furthest preceding of such three years, there shall be charged not less than $750 for each outstanding liability suit on that year's policies.

Claims under policies over three years old

11560. For all compensation claims under policies written more than three years prior to the date as of which the statement is made, there shall be charged as part of the reserve under section 11556 an amount equal to the aggregate of the present values, at four per cent interest, of the determined and the estimated future payments.

Claims under policies less than three years old

11561. For all compensation claims under policies written in the three years immediately preceding the date as of which the statement is made, there shall be charged as part of the reserve under section 11556 an amount computed by taking seventy per cent of the earned compensation premiums of each of such three years, and deducting all loss and loss expense payments made in connection with such claims under policies written in the corresponding years from such seventy per cent; except that for the furthest preceding year of any such three-year period there shall be charged not less than the

present value at four per cent interest of the determined and the estimated unpaid compensation claims under policies written during such year.

Unallocated liability loss expense after four years

11562. All unallocated liability loss expense payments made in a given calendar year subsequent to the first four years in which an insurer has been issuing liability policies, shall be distributed as follows:

(a) Thirty-five per cent shall be charged to the policies written in that year.

(b) Forty per cent shall be charged to the policies written in the preceding year.

(c) Ten per cent shall be charged to the policies written in the second year preceding.

(d) Ten per cent shall be charged to the policies written in the third year preceding.

(e) Five per cent shall be charged to the policies written in the fourth year preceding.

Unallocated liability loss expense in first four years

11563. Unallocated liability loss expense payments made in each of the first four calendar years in which an insurer issues liability policies shall be distributed as follows:

(a) In the first calendar year one hundred per cent shall be charged to the policies written in that year.

(b) In the second calendar year fifty per cent shall be charged to the policies written in that year and fifty per cent to the policies written in the preceding year.

(c) In the third calendar year forty per cent shall be charged to the policies written in that year, forty per cent to the policies written in the preceding year, and twenty per cent to the policies written in the second year preceding.

(d) In the fourth calendar year thirty-five per cent shall be charged to the policies written in that year, forty per cent to the policies written in the preceding year, fifteen per cent to the policies written in the second year preceding, and ten per cent to the policies written in the third year preceding.

Unallocated compensation loss expense after first three years

11564. All unallocated compensation loss expense payments made in a calendar year subsequent to the first three years in which an insurer issues compensation policies shall be distributed as follows:

(a) Forty per cent shall be charged to the policies written in that year.

(b) Forty-five per cent shall be charged to the policies written in the preceding year.

(c) Ten per cent shall be charged to the policies written in the second year preceding.

(d) Five per cent shall be charged to the policies written in the third year preceding.

Unallocated compensation expense for first three years.

11565. Unallocated compensation loss expense payments made in each of the first three calendar years in which an insurer issues compensation policies shall be distributed as follows:

(a) In the first calendar year one hundred per cent shall be charged to the policies written in that year.

(b) In the second calendar year fifty per cent shall be charged to the policies written in that year and fifty per cent to the policies written in the preceding year.

(c) In the third calendar year forty-five per cent shall be charged to the policies written in that year, forty-five per cent to the policies written in the preceding year and ten per cent to the policies written in the second year preceding.

Article 2. Actions on Policies Containing Liability Provisions.

Provisions of policy.

11580. A policy insuring against losses set forth in subdivision (a) shall not be issued or delivered to any person in this State unless it contains the provisions set forth in subdivision (b). Such policy, whether or not actually containing such provisions, shall be construed as if such provisions were embodied therein.

(a) Unless it contains such provisions, the following policies of insurance shall not be thus issued or delivered:

(1) Against loss or damage resulting from liability for injury suffered by another person other than a policy of workmen's compensation insurance.

(2) Against loss of or damage to property caused by draught animals or any vehicle, and for which the insured is liable.

(b) Such policy shall not be thus issued or delivered to any person in this State unless it contains all the following provisions:

(1) A provision that the insolvency or bankruptcy of the insured will not release the insurer from the payment of damages for injury sustained or loss occasioned during the life of such policy.

(2) A provision that whenever judgment is secured against the insured in an action brought by the injured person, or by his heirs or personal representatives in case death results from the accident, then an action may be brought against the insurer, on the policy and subject to its terms and limitations, by such judgment creditor to recover on the judgment.

Supplementary proceedings.

11581. Upon any proceeding supplementary to execution, such judgment debtor may be required to exhibit any policy carried by him, insuring him against the liability for the loss or damage for which judgment was obtained.

Article 3. Capital Requirements of Reserve Basis Insurers.

Required capital

11600. An incorporated insurer issuing policies of liability, workmen's compensation, or common carrier liability insurance, shall not transact any such insurance in this State unless it has a paid-in capital of at least $100,000.

Insurances covered by required capital.

11601. Except as restricted by its charter, such an incorporated insurer, having such a paid-in capital, may transact all three of such insurances.

11602. Any such insurer which on July 26, 1919, was authorized by its charter to transact liability insurance may transact workmen's compensation and common carrier liability insurance as though expressly permitted by its charter to do so. Construction of charter powers.

11603. Except as restricted by its charter or otherwise provided by section 12054, such an incorporated insurer may transact, in addition to those three insurances, any of the following classes of insurance if its total paid in capital is at least $100,000 in excess of the sum of the amounts set forth opposite the classes of insurance transacted: Additional permitted insurances

Number and name of class transacted	Amount of capital to be added
6 Disability	$50,000
7 Plate glass	50,000
11 Boiler and machinery	50,000
12 Burglary	50,000
13 Credit	50,000
14 Sprinkler	50,000
15 Team and vehicle	50,000
16 Automobile	50,000
18 Aircraft	50,000
20 Miscellaneous	50,000

11604. A liability, workmen's compensation or common carrier liability insurer which also transacts surety insurance is governed by the provisions of section 12054 as to permitted insurances and capital requirements. Surety insurer.

CHAPTER 2. WORKMEN'S COMPENSATION POLICIES.

Article 1. Definitions.

11630. As used in this chapter, the term "compensation" means the benefits insured by workmen's compensation insurance. Compensation.

11631. As used in this chapter, the term "insurer" includes the State Compensation Insurance Fund. Insurer.

Article 2. Policy Provisions.

11650. Every contract insuring against liability for compensation and every compensation policy is conclusively presumed to contain all of the provisions required by this article. Conclusive presumption.

11651. Every such contract or policy shall contain a clause to the effect that the insurer will be directly and primarily liable to any proper claimant for payment of any compensation for which the employer is liable, subject to the provisions, conditions and limitations of the policy. Insurer directly liable.

11652. Every such contract or policy shall contain a clause to the effect that, as between the employee and the insurer, notice to or knowledge of the occurrence of the injury on the part of the employer will be deemed notice or knowledge, as the case may be, on the part of the insurer. Notice of injury.

Jurisdiction.

11653. Every such contract or policy shall contain a clause to the effect that jurisdiction of the employer will, for the purpose of the law imposing liability for compensation, be jurisdiction of the insurer.

Insurer's liability

11654. Every such contract or policy shall contain a clause to the effect that the insurer will in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer under the provisions of the law imposing liability for compensation, subject to the provisions, conditions and limitations of the policy. The insurance contract shall govern as between the employer and insurer as to payments by either in discharge of the employer's liability for compensation.

Insolvency of employer.

11655. Such policy shall not contain any provisions relieving the insurer from payment when the employer becomes insolvent or is discharged in bankruptcy, or otherwise, during the period that the policy is in operation or the compensation remains owing.

Incapacity of employer.

11656. Such policy shall also provide that the employee has a first lien upon any amount which becomes owing to the employer from the insurer on account of the policy, and that in case of the legal incapacity or inability of the employer to receive the money and pay it to the claimant, the insurer will pay it directly to the claimant. To the extent of such payment, the obligations of the employer to the claimant are thereby discharged.

Limited policies.

11657. Subject to the provisions of sections 11658, 11659, and 11660, limited workmen's compensation policies may be issued insuring either the whole or any part of the liability of any employer for compensation. Subject to those provisions, any such policy may restrict or limit such insurance in any manner whatsoever.

Approval of commissioner.

11658. A workmen's compensation policy limited pursuant to section 11657 shall not be issued by any insurer unless it is previously approved, as to substance and form, by the commissioner. Before approving such a policy, the commissioner shall consult concerning it with the Industrial Accident Commission.

Changes in limited policy.

11659. Such approved form of policy, limited pursuant to section 11657, shall not be otherwise limited except by endorsement thereon in accordance with a form prescribed by the commissioner or in accordance with rules adopted by the commissioner. Before prescribing such form or adopting such rule, the commissioner shall consult concerning it with the Industrial Accident Commission.

Penalty.

11660. Failure to observe the requirements of sections 11658 and 11659, shall render any such policy, issued under section 11657 and not complying therewith, unlimited.

Serious and wilful misconduct.

11661. An insurer shall not insure against the liability of the employer for the additional compensation recoverable for serious and wilful misconduct of the employer or his agent.

11662. Whenever any employer is insured against liability for compensation with any insurer, such insurer is subrogated to the rights of the employer to recover losses arising out of any of the following acts by the insurer: Subrogation of insurer.

(a) Assuming the liability of the employer for compensation in the manner provided by the law relating thereto.

(b) Payment of any compensation for which the employer is liable.

Such insurer may enforce any such subrogated rights in its own name.

CHAPTER 3. REGULATION OF BUSINESS OF WORKMEN'S COMPENSATION INSURANCE.

Article 1. Bond to Protect Beneficiaries.

11690. Except in the case of the State Compensation Insurance Fund or as provided by section 11715, every insurer desiring admission for workmen's compensation insurance shall, as a prerequisite to such admission, maintain on file in the office of the commissioner a bond in favor of the commissioner as trustee for the beneficiaries of awards of compensation against the insurer. Filing of bond.

11691. Such bond shall be executed by the insurer and some admitted surety insurer approved by the commissioner. Surety on bond.

11692. A certificate of authority to transact workmen's compensation insurance in this State shall not be issued nor renewed to any insurer until such bond is filed with the commissioner and approved by him. The commissioner shall notify the Industrial Accident Commission concerning the approval and filing of every bond given pursuant to this article. Admission of insurer dependent on bond

11693. Every such insurer shall, on or prior to every July first, file in the office of the commissioner a new bond covering the succeeding twelve months, in the penal sum and conditioned as required by this article. New bond

11694. Upon the filing of each annual new bond, approved as required, all liability under the previous bond shall terminate. Effect of filing

11695. The new bond shall embrace the entire liability of the previous bond except as already paid or discharged. Coverage of new bond

11696. The commissioner shall require any compensation insurer at any time to file an additional bond conditioned as required by this article, whenever he finds that the amount of the bond then on file is insufficient to cover the compensation liability of the insurer, or whenever he finds the surety on the bond is insufficient. Additional bond.

11697. The commissioner shall, before approving any such bond, satisfy himself of the financial ability of the surety to assume the obligations imposed thereby. He shall not approve a surety if it has assumed obligations in excess of the limits prescribed by standards of suretyship recognized as reason- Approval of bond

able and proper. The commissioner shall promulgate such standards for uniform application in such cases.

Division of bond.

11698. Two or more surety insurers may be accepted as sureties on a bond under this article, or separate bonds may be executed with different sureties for amounts aggregating the sum specified by the commissioner. In such cases each of such sureties shall be jointly and severally liable to the extent of the amount of the liability assumed by it.

Amount.

11699. The bond shall be in an amount:

(a) Not less than the insurer's required reserve for outstanding losses on compensation insurance in this State on the preceding December thirty-first, calculated as prescribed by this code.

(b) Not less than $100,000.

(c) If such reserve exceeds $50,000, not more than double the amount of that reserve.

Amount after first year.

11700. After the first annual statement to the commissioner covering business of the insurer for a full year in this State, the bond shall be computed from the figures shown in the last preceding report of business as of December 31, filed in the office of the commissioner.

Bond after withdrawal.

11701. Where such insurer has ceased to do such business in this State the bond shall be fixed by the commissioner at such amount as he deems sufficient for the protection of the beneficiaries of the policies of such insurer.

Condition of bond.

11702. It shall be provided in such bond that, in the event the insurer fails to pay any compensation award rendered against it by the Industrial Accident Commission, the surety will, to the extent of its liability under said bond, pay the award to the commissioner as trustee for the beneficiary within thirty days after the award becomes final.

Further condition.

11703. The bond shall further provide that if the insurer suspends payment or becomes insolvent or enters receivership, the surety will pay such awards, to the extent of its liability under the bond, upon the expiration of thirty days after the awards become final and without regard to any proceedings for the liquidation or reinstatement of the insurer.

Additional remedy.

11704. It shall be further provided in such bond, as an additional remedy, that if the insurer fails to pay any such award within thirty days after the award becomes final, a separate award may be rendered against the surety and in favor of the commissioner as trustee for the beneficiary of the original award against the principal. Such separate award may be rendered by the authority which rendered the original award and may be rendered without notice to the surety. It shall be in the amount of the unpaid portion of the original award against the principal.

Jurisdiction of commission

11705. The Industrial Accident Commission is vested as to such awards against the surety, with the same power, authority and jurisdiction as it has over the insurer. It shall issue a certified copy of such award upon the application of any party affected thereby.

11706. Such party may file a certified copy of any such award in the office of any county clerk of this State. Upon the filing of such copy the clerk shall immediately enter a judgment thereon against the surety. Filing copy of award

11707. Such certified copy of award together with such judgment shall constitute the judgment roll and shall establish the liability of the surety without any additional evidence in any and all proceedings to renew said judgment or to enforce the payment thereof. Judgment on award

11708. Such bond shall provide for the payment by the surety of all court costs, including reasonable attorney's fees, of actions or proceedings taken to enforce payment, to the extent of the penal sum of the bond, of such awards or judgments against the surety. Costs.

11709. A stay of execution of any such judgment shall not be granted except upon the order of the Industrial Accident Commission. Stay of execution

11710. The liability of the sureties, under and to the limit and amount of the bonds required by this article, shall be the entire liability of the principals named therein for the payment of awards of compensation rendered or to be rendered against the principals under workmen's compensation laws. Such surety's liability shall exist without regard to the time when the injury, upon which an award is based, occurs but shall not include any other liability of the insurer. A payment made under any such bond by such a surety shall not be applied otherwise than in satisfaction of such awards. Extent of surety's liability

11711. The liability of such surety is limited to the penal sum of its bond. Payment by the surety of awards aggregating the amount of its bond shall constitute a full discharge of all its liability under the bond. Limit of liability.

11712. Any such surety shall have the right to require the principal on its bond, on thirty days notice, to furnish a new bond approved by the commissioner. In the event of a failure to do so, such principal shall forfeit its right to continue to issue compensation policies in this State. Substitution of surety

11713. The commissioner may act as trustee for all beneficiaries under workmen's compensation awards rendered by the Industrial Accident Commission. He may take assignments of such awards in his own name as trustee. As such trustee he may commence and maintain actions against such sureties and, upon his collection of any of the awards, he shall pay the proceeds to the parties entitled thereto. Commissioner's powers.

11714. The payment of any of such award by the commissioner shall constitute a satisfaction of the award to the extent of the payment made. In the event any judgment is entered on any such award, the commissioner shall file a proportionate satisfaction thereof in the office of the clerk of the court wherein such judgment is entered. Payment of award

11715. Any workmen's compensation insurer may, in lieu of and subject to the same conditions as the bond required by section 11690, deposit with the commissioner cash or approved Deposit in lieu of bond

interest-bearing securities readily convertible into cash. Such deposit shall be made from time to time as demanded by the commissioner. He shall forthwith redeposit such cash and securities as a separate deposit with the State Treasurer. Such deposit shall be maintained at an amount equal to the required reserves, at the time of deposit or of increase or decrease of deposit, for outstanding losses on the workmen's compensation business of the insurer in this State.

Function of deposit.

11716. Such deposit shall be security for the payment of the insurer's obligations on workmen's compensation insurance transacted in this State. If the insurer maintaining such deposit suspends payment or becomes insolvent or enters receivership, all proper claims against it for workmen's compensation shall be reduced to final awards as soon as practicable, whereupon it shall be the duty of the Industrial Accident Commission to transmit to the commissioner its certificate of final awards, supported by a certified schedule listing the persons to whom such final awards are payable and the amount payable to each. Such deposit shall not be withdrawn except upon the written order of the commissioner in payment of compensation claims, but shall be forthwith payable by the State Treasurer to the commissioner upon such order.

(Amended by Ch. 494, Stats. 1935.)

[ORIGINAL SECTION.]

11716. Such deposit shall be security for the payment of the insurer's obligations on workmen's compensation insurance transacted in this State. It shall not be withdrawn except upon the written order of the commissioner in payment of compensation claims, but shall be forthwith payable by the State Treasurer to the commissioner upon such order.

Repayment of deposit.

11717. Any such deposit, or any remainder thereof, may be repaid to the insurer either upon satisfactory showing to the commissioner that every liability to pay compensation is reinsured with a solvent insurer or fully paid and discharged, or upon filing a bond pursuant to this article.

Use of deposit.

11718. Such deposit shall be used only for the payment of compensation claims so long as there remains unpaid any such claim or any part thereof.

Penalty.

11719. The commissioner may revoke the certificate of authority to transact workmen's compensation insurance in this State of any insurer failing to comply with the requirements of this article.

Article 2. State Rate Supervision.

Merit rating.

11730. The term "merit rating," as used in this article, includes "schedule rating," in which the rate is varied according to physical conditions, and also includes "experience rating," in which the experience of the particular insured is used as a factor in raising or lowering his rate.

Insurer.

11731. As used in this article, the term "insurer" includes the State Compensation Insurance Fund.

11732. The commissioner shall approve or issue, as adequate for all admitted workmen's compensation insurers, a classification of risks and premium rates relating to workmen's compensation insurance. He may also approve or issue a system of merit rating. Such classification and system shall be uniform as to all insurers affected. Filing of rates.

11733. The commissioner shall not approve or issue any rating system or classification of risks and premium rates dealing with workmen's compensation insurance covering mining or mining property unless such system or classification provides for separation of risks and rates as to types of mining employments having different hazards or loss experience in accordance with the hazard or loss experience involved. Such system or classification shall provide for separation at least of rates for office, surface and subsurface employment. Approval.

11734. The commissioner may change any such classification or system previously approved or issued if he first holds a hearing to determine the effect of the proposed change upon the adequacy or inadequacy of rates. Such changes shall also be uniform as to all insurers affected. Changes of rates.

11735. Such classification or system shall take no account of any physical impairment of employees or the extent to which employees may have persons dependent upon them for support. Physical impairments or dependents

11736. An insurer shall not issue, renew or carry beyond next anniversary date any workmen's compensation insurance under a law of this State at premium rates which are less than the rates approved or issued by the commissioner. Conformity to approved rates

11737. If the commissioner approves or issues such a system of merit rating, insurers may apply it to any risks subject thereto, but shall show basis rates no less than the rates under the classification approved or issued by the commissioner. Any reductions from the basis rates on account of the application of such system of merit rating shall be clearly set forth in the insurance contracts or policies or indorsements attached thereto. Use of merit rating.

11738. Nothing in this article shall affect the right of any insurer to issue compensation participating policies. A refund by reason of a participating provision in a compensation policy shall not be made to policyholders by any insurer except from surplus accumulated from premiums on workmen's compensation policies issued pursuant to laws of this State governing workmen's compensation insurance. Participating policies

11739. The statistical and actuarial data compiled by the Industrial Accident Commission and the State Compensation Insurance Fund shall at all times be available to the commissioner for his use in judging the adequacy or inadequacy of rates and schedules filed. The manager of the State Compensation Insurance Fund, or other officers of the fund designated for such duty by the Industrial Accident Commission, shall render all possible assistance to the commissioner in carrying out the provisions of this article. State agencies data

Reports of loss experience.

11740. The commissioner may require every insurer issuing workmen's compensation insurance under the law of this State to file with its annual statement a sworn report of its loss experience, in such detail and form as the commissioner prescribes.

Suspension or revocation of certificate

11741. The commissioner may, after hearing, suspend or revoke any insurer's certificate of authority to write liability, workmen's compensation and common carrier liability insurance for violating any of the provisions of this article.

Penalty.

11742. The violation of this article by any insurance broker, agent or solicitor, or by any insurer's employee is a misdemeanor.

CHAPTER 4. THE STATE COMPENSATION INSURANCE FUND.

Article 1. Organization and Powers.

Continuation.

11770. The State Compensation Insurance Fund is continued in existence, to be administered by the State Industrial Accident Commission for the purpose of transacting workmen's compensation insurance, and insurance against the expense of defending any suit for serious and wilful misconduct against an employer or his agent, and insurance to employees and other persons of the compensation fixed by the workmen's compensation laws for employees and their dependents. Any appropriation made therefrom or thereto before the effective date of this code shall continue to be available for the purposes for which it was made.

Liability of State.

11771. The State shall not be liable beyond the assets of the State Compensation Insurance Fund for any obligations in connection therewith.

Official liability in administration.

11772. There shall not be any liability in a private capacity on the part of the commission nor any member, officer or employee thereof for or on account of any act performed or obligation entered into in an official capacity, when done in good faith, without intent to defraud and in connection with the administration, management or conduct of the fund or affairs relating thereto.

Contents of fund.

11773. The fund shall be a revolving fund. It shall consist of:

(a) Such specific appropriations as the Legislature from time to time makes or sets aside for the use of the fund.

(b) All premiums received and paid into the fund for insurance issued by it.

(c) All property and securities acquired by and through the use of moneys belonging to the fund.

(d) All interest earned upon moneys belonging to the fund and deposited or invested as provided in this chapter.

Assets.

11774. The assets of the fund shall be applicable to the payment of losses sustained on account of insurance and to the payment of the salaries and other expenses charged against it in accordance with the provisions of this chapter.

Self-supporting.

11775. The fund shall, after a reasonable time during which it may establish a business, be fairly competitive with

other insurers, and it is the intent of the Legislature that the fund shall ultimately become neither more nor less than self-supporting. For that purpose loss experience and expense shall be ascertained and dividends or credits may be made as provided in this article.

Dividends.

11776. The actual loss experience and expense of the fund shall be ascertained on or about the first of January in each year for the year preceding. If it is then shown that there exists an excess of assets over liabilities, necessary reserves, and a reasonable surplus for the catastrophe hazard, then a cash dividend may be declared to, or a credit allowed on the renewal premium of, each employer who has been insured with the fund.

Amount of dividend.

11777. Such cash dividend or credit is to be an amount which the commission in its discretion considers to be the employer's proportion of divisible surplus.

Workmen's compensation insurance.

11778. The fund may transact workmen's compensation insurance required or authorized by law of this State to the same extent as any other insurer.

Federal compensation insurance.

11779. The fund may insure employers against their liability for compensation or damages under the United States Longshoremen's and Harbor Workers' Compensation Act, as fully as any private insurer.

General powers in insuring employers.

11780. The fund may also insure an employer against his liability for damages under the laws of the State of California arising out of bodily injury to or death of his employees occurring within the State of California if the fund also issues workmen's compensation insurance to the employer as to his employees.

General powers of commission

11781. The commission is hereby vested with full power, authority and jurisdiction over the State Compensation Insurance Fund. It may perform all acts necessary or convenient in the exercise of any power, authority or jurisdiction over the fund, either in the administration thereof or in connection with the insurance business to be carried on by it under the provisions of this chapter, as fully and completely as the governing body of a private insurance carrier.

Business in name of fund

11782. All business and affairs of the fund shall be conducted in the name of the State Compensation Insurance Fund, and in that name, without any other name or title, the commission may perform the acts authorized by this chapter.

Particular powers of commission

11783. The commission may, on behalf of the fund and in the name of the State Compensation Insurance Fund:

(a) Sue and be sued in all actions arising out of any act or omission in connection with the fund, or in connection with its business or affairs.

(b) Enter into any contracts or obligations relating to the State Compensation Insurance Fund which are authorized or permitted by law.

(c) Invest and reinvest the moneys belonging to the fund as provided by this chapter.

(d) Conduct all business and affairs and perform all acts relating to the fund, whether or not specifically designated in this chapter.

Insurance and claims

11784. In conducting the business and affairs of the fund, the manager of the fund or other officer to whom such power and authority are delegated by the commission may:

(a) Enter into contracts of workmen's compensation insurance.

(b) Sell annuities covering compensation benefits.

(c) Decline to insure any risk in which the minimum requirements of the commission with regard to construction, equipment and operation are not complied with, or which is beyond the safe carrying of the fund. Otherwise he shall not refuse to insure any workmen's compensation risk under State law, tendered with the premium therefor.

(d) Reinsure any risk or any part thereof.

(e) Cause to be inspected and audited the pay rolls of employers applying to the fund for insurance.

(f) Make rules for the settlement of claims against the fund and determine to whom and through whom the payments of compensation are to be made.

(g) Contract with physicians, surgeons and hospitals for medical and surgical treatment and the care and nursing of injured persons entitled to benefits from the fund.

Manager of fund

11785. The commission shall have power to appoint a manager of the fund to hold office at the pleasure of the commission. The manager shall manage and conduct the business and affairs of the fund under the general direction and subject to the approval of the commission, and shall perform such other duties as the commission prescribes.

Bond of manager.

11786. Before entering on the duties of his office, the manager shall qualify by giving an official bond approved by the commission, in the sum of $50,000 and by taking and subscribing to an official oath. The approval of the commission shall be by written endorsement on the bond. The bond shall be filed in the office of the Secretary of State.

Delegation of powers.

11787. The commission may delegate to the manager of the fund, or to any other officer, under such rules and regulations and subject to such conditions as it from time to time prescribes, any power, function or duty conferred by law on the commission in connection with the fund or in connection with the administration, management and conduct of the business and affairs of the fund. The officer to whom such delegation is made may exercise such powers and functions and perform such duties with the same force and effect as the commission, but subject to its approval.

Custody of fund.

11788. The State Treasurer shall be custodian of all moneys and securities belonging to the State Compensation Insurance Fund, except as otherwise provided in this chapter. He shall be liable on his official bond for the safe-keeping thereof.

Delivery of money to fund.

11789. All moneys which belong to the fund and are collected or received under this chapter shall be delivered to

the State Treasurer or deposited to his credit in such bank or banks throughout the State as he designates.

Delivery of securities

11790. All securities belonging to the fund shall be delivered to the Treasurer and held by him until otherwise disposed of as provided in this chapter.

Crediting payments.

11791. Upon such delivery or deposit, such moneys and securities shall be credited by the State Treasurer to the fund. No moneys received or collected on account of the fund shall be expended or paid out without first passing into the State treasury and being drawn therefrom as provided in this chapter.

Revolving fund.

11792. The commission may, with the approval of the State Department of Finance, withdraw from the State Compensation Insurance Fund in the State treasury, without at the time presenting vouchers and itemized statements, a sum not to exceed in the aggregate five hundred thousand dollars, to be used as a cash revolving fund. Such revolving fund shall be deposited in such banks and under such conditions as the commission determines, with the approval of the State Department of Finance. The Controller shall draw his warrants in favor of the commission for the amounts so withdrawn, and the Treasurer shall pay such warrants.

Reimbursement of revolving fund.

11793. Expenditures made from the revolving fund in payments on claims arising out of policies issued by the State Compensation Insurance Fund are exempted from the operation of section 669 of the Political Code. Reimbursement of the revolving fund for such expenditures shall be made upon presentation to the Controller of an abstract or statement of such expenditures. Such abstract shall be in such form as the Controller requires.

General disbursements from fund

11794. Each calendar month the commission shall submit to the Department of Finance an estimate of the amount necessary to meet the current disbursements from the State Compensation Insurance Fund during the succeeding calendar month. When such estimate is approved by the department, the Controller shall draw his warrant on the State Compensation Insurance Fund in favor of the commission for the approved amount, and the Treasurer shall pay the warrant. At the end of each calendar month, the commission shall account to the department and to the State Controller for all moneys so received, furnishing proper vouchers therefor.

Valuation of fund

11795. During the months of January and July of each year the Department of Finance or the Commission shall cause a valuation to be made of the properties and securities acquired and held for the State Compensation Insurance Fund, and shall report the results of the valuation to the State Controller.

Controller's accounts

11796. The State Controller shall keep a special ledger account showing all of the assets pertaining to the State Compensation Insurance Fund. In the State Controller's general ledger this account may appear as a cash account, like other accounts of funds in the State treasury, and only the actual

cash coming into the State Compensation Insurance Fund shall be entered in the account.

Investment of fund.

11797. The commission shall cause all moneys in the State Compensation Insurance Fund which are in excess of current requirements to be invested and reinvested, from time to time, in securities authorized by law for the investment of funds of savings banks.

Estimate or investmen .

11798. The commission shall, from time to time, submit to the Department of Finance an estimate of the amount required by it for investment. Such estimate shall be accompanied by a full description of the kind and character of the investments to be made. When such estimate is approved by the department, the Controller shall draw his warrant for the estimated amounts on the State Compensation Insurance Fund in favor of the commission, and the Treasurer shall pay the warrant.

Accounting on investment expenditures.

11799. At the end of each calendar month the commission shall account to the Department of Finance and the State Controller for all moneys received for investment, furnishing proper vouchers therefor.

Cash surplus

11800. All moneys in the State Compensation Insurance Fund, in excess of current requirements and not otherwise invested, may be deposited by the State Treasurer from time to time in banks authorized by law to receive deposits of public moneys, under the same rules and regulations that govern the deposit of other public funds. The interest accruing thereon shall be credited to the State Compensation Insurance Fund.

Article 2. Rates.

Fixing rates

11820. Subject to the provisions of Article 2, Chapter 3, of this part, the commission shall establish the rates to be charged by the State Compensation Insurance Fund for insurance issued by it. Such rates shall be fixed with due regard to the physical hazards of each industry, occupation or employment.

Fixing within class

11821. Within each class of business insured such rates shall be fixed, so far as practicable, in accordance with the following elements:

(a) Bodily risk or safety, or other hazard of the plant, premises or work of each insured employer.

(b) The manner in which the work is conducted.

(c) A reasonable regard for the accident experience and history of each such insured.

(d) A reasonable regard for the insured's means and methods of caring for injured persons.

Such rates shall take no account of the extent to which the employees in any particular establishment have or have not persons dependent upon them for support.

Basis.

11822. The rates fixed by the commission shall be that percentage of the payroll of any employer which, in the long run and on the average, will produce a sufficient sum, when invested at three and one-half per cent interest:

(a) To carry all claims to maturity. The rates shall be based upon the "reserve" and not upon the "assessment" plan.

(b) To meet the reasonable expenses of conducting the business of the fund.

(c) To produce a reasonable surplus to cover the catastrophe hazard.

Schedules, etc., to certain officers

11823. When the premium rates for insurance in the State Compensation Insurance Fund are fixed, the commission shall furnish schedules of rates and copies of the forms of policy to the Department of Industrial Relations and to the clerk and the treasurer of every county and city in the State.

Every public officer to whom the schedules and copies are furnished shall fill out and transmit to the manager of the fund applications for insurance in the fund. Such officer shall also receive and transmit to the manager all premiums paid on account of any policy issued or applied for. For this service such officers may be allowed such commission or other compensation as the commission directs.

Article 3. Policies.

Policy periods

11840. The insurance contracts or policies of the State Compensation Insurance Fund may be either limited or unlimited. The insurance contracts or policies may be issued for one year or, in the form of stamps or tickets or otherwise, for one month, for any number of months less than one year, for one day, for any number of days less than one month or during the performance of any particular work, job or contract. The rates charged shall be proportionately greater for a shorter than for a longer period and a minimum premium charge shall be fixed in accordance with a reasonable rate for insuring one person for one day.

11841. Nothing in this chapter shall prevent:

Changes in periods of coverage

(a) Any applicant for insurance from being covered temporarily until the application is finally acted upon.

(b) An insured from surrendering any policy at any time and having returned to him the difference between the premium paid and the premium at the customary short term for the shorter period which such policy has already run.

Cancellation by fund.

11842. The fund may at any time, after due notice, cancel any policy upon a pro rata basis of premium repayment.

Employers' compensation provisions.

11843. The State Compensation Insurance Fund may issue policies including, with their employees, employers who perform labor incidental to their occupations, and including also members of the families of such employers engaged in the same occupation.

Insurance of employers, etc.

11844. Such policies covering employers shall insure to such employers and working members of their families the same compensations provided for their employees, and at the same rates.

Pay roll computations on insured employers

11845. The estimations of the wage values, respectively, of such insured employers and members of their families shall

be reasonable and shall be separately stated in and added to the valuation of the pay rolls upon which their premium is computed.

Self-employers and casuals.

11846. Such policies may likewise be sold to self-employing persons and to casual employees. Such insureds, for the purpose of such insurance, shall be deemed to be employees within the meaning of the workmen's compensation laws.

Article 4. Reports and Statements.

Quarterly report of commission.

11860. Each quarter the commission shall make a report to the Governor of the business done by the State Compensation Insurance Fund during the previous quarter and a statement of the fund's resources and liabilities at the close of that previous quarter. The State Department of Finance shall audit such reports and statements and cause an abstract thereof to be published one or more times in at least two newspapers of general circulation in the State. The commission shall likewise make to the commissioner all reports required by law to be made to him by other insurers.

Article 5. Coverage of Public Employers.

Public employers.

11870. The State, any agency, department, division, commission, board, bureau, officer or other authority thereof, and each county, city and county, city, school district, irrigation district, any other district established by law, or other public corporation or quasi public corporation within the State, excluding any public utility operated by a private corporation may insure against its liability for compensation with the State compensation insurance fund and not with any other insurer unless such fund refuses to accept the risk when the application for insurance is made. Where the State or any agency, department, division, commission, board, bureau, officer or authority thereof is the insured, the premium for such insurance shall be a proper charge against any moneys appropriated for the support of or expenditure by the insured, except that in the case of an insured supported by or authorized to expend moneys appropriated out of more than one fund, the insured, with the approval of the Director of Finance, may determine the proportion of such premium to be paid out of each fund. In such case the insured, with the approval of the Director of Finance, may pay the entire premium out of any of such funds and thereafter the funds used for payment shall be reimbursed in proper proportion out of such other funds. In case a county, city and county, city, school district, irrigation district, or other district established by law, or other public corporation or quasi public corporation within the State is the insured, the premium therefor shall be a proper charge against the general fund of such insured.

(Amended by Ch. 202, Stats. 1935.)

[ORIGINAL SECTION.]

11870. The State and each county, city and county, city, school district or other public corporation, or quasi-public corporation within the State, excluding any public utility operated by a private corporation, may insure against its liability for workmen's compensation with the State Compensation Insurance Fund and not with any other insurer unless such fund refuses to accept the risk when the application for insurance is made. The premium therefor shall be a proper charge against the general fund of each such political subdivision of the State.

Article 6. Penalties.

Misrepresentation.

11880. Any person who wilfully misrepresents any fact in order to obtain insurance from the fund at less than the proper rate for such insurance, or in order to obtain any payments out of such fund, is guilty of a misdemeanor.

CHAPTER 5. MUTUAL WORKMEN'S COMPENSATION INSURERS.

Article 1. Definition and Scope of Chapter.

Exclusion.

11910. This chapter shall not apply to unincorporated interindemnity compacts.

"Employer."

11911. The term "employer" as used in this chapter includes every employer subject to the operation of the Workmen's Compensation Laws, except public or municipal corporations, State agencies or political subdivisions.

Article 2. Formation and Organization.

Organizers and purpose

11930. Insurers consisting of a mutual association of any number of employers, not less than five, may, subject to the approval of the commissioner, be formed by incorporating under the laws of this State, for the purpose of issuing workmen's compensation insurance to their members.

Membership limit.

11931. The commissioner may limit the membership of any such association to those employers engaged in the same general character of industry or to employers within a limited part of the State, whenever in his judgment such limitation is required for the protection of the members of such association or their employees.

Submission of articles for approval.

11932. The articles of incorporation shall not be filed, until a copy is submitted to and approved by the commissioner.

11933. The articles of incorporation shall set forth:

Content of articles

(a) First—The names of the employers entering into such association, their places of residence, the nature of the business in which they are engaged and the number of persons employed by each.

(b) Second—The name by which such association is to be known.

(c) Third—The period for which such association is incorporated.

(d) Fourth—The number of directors and the names and residences of the directors for the first year.

(e) Fifth—The location of the principal place of business.

Execution, etc., of articles.

11934. Such articles shall be executed, acknowledged, and filed as provided by law for the formation of other corporations.

Name of association

11935. The name of the association shall include the word "mutual" or, if the liability of members is limited, the words "limited mutual."

Directors.

11936. There shall not be less than five nor more than eleven directors of the association.

Location of office.

11937. The location of the principal place of business of the association shall be in this State.

By-laws.

11938. The members of any such association shall have power to make such by-laws, not inconsistent with law as are deemed necessary:

(a) For the government of its officers and members.

(b) For the admission of new members.

(c) For the assessment and collection of premiums and assessments.

(d) In general, for the proper conduct of its affairs.

Such by-laws shall become effective upon approval by the commissioner of a copy filed with him.

Amendments.

11939. Any association organized under this chapter may amend its articles of incorporation and by-laws at its regular annual meeting or at special meetings called and held as provided in its by-laws. Such amendments shall not become operative until approved and filed in the same manner as the original articles and by-laws.

Article 3 Acquisition and Withdrawal of Members.

Initial membership.

11950. A policy shall not be issued by any association organized under this chapter until applications for insurance have been received from at least one hundred employers with an aggregate annual pay roll of at least $500,000 or employing an aggregate of at least one thousand employees, nor until the amount in cash in hand, over and above all liabilities other than unearned premiums, is not less than $15,000 and not less than one full annual premium upon each risk.

Whenever either the number of employers insured falls below one hundred, or both their aggregate annual pay roll falls below $500,000 and the aggregate number of employees covered falls below one thousand, then no further policies shall be issued until there are received applications sufficient to avoid the operation of this section.

Membership.

11951. Every employer accepting a policy in any insurer organized under this chapter shall thereby become a member of such insurer and shall become liable for his proportionate share of losses and operating expenses.

Withdrawal.

11952. Any member of any insurer organized under this chapter may withdraw at any time after giving thirty days' written notice of his intention to withdraw, surrendering his policy and discharging all his obligations to the insurer existing at the time of his withdrawal.

11953. The termination of the insurance shall not release the withdrawing member from liability for the payment of his share of all assessments made to make up deficiencies due to injuries happening while he was insured by the association. Liability of withdrawing member.

11954. Upon the member's withdrawal, there shall be returned to him the excess of the premium for his surrendered policy over the customary short term premium for the time during which the policy was in force. Return premium.

11955. The association may cancel any policy after giving the insured five days' written notice to that effect and returning to the insured his proportionate part of the premium. Such proportionate part shall be the ratio which the time the policy was in force bears to the total period covered by the premium. Cancellation.

Article 4. Assessments.

11970. Every insurer organized under this chapter shall in its by-laws and policies fix the contingent liability of its members for the payment of losses in excess of its available cash funds. Such contingent liability shall not be less than an amount equal to one annual premium and shall be in addition to the annual premium charged. Contingent liability of members.

11971. Whenever any insurer organized under this chapter is not possessed of cash funds sufficiently in excess of the total of its unearned premiums, reserve for claims and liabilities, so that such excess will pay incurred losses and expenses, such association shall assess the amount needed to pay such losses and expenses upon its members in proportion to their several liabilities therefor. Assessment

11972. Such insurer shall cause to be recorded in a book kept for that purpose: Assessment record.

(a) The order for such assessment.

(b) The amount of the assessment called for.

(c) A statement setting forth the condition of the insurer at the date of the order, including the amount of its cash assets and contingent funds.

11973. Such record of assessment order and supporting data shall be signed by the directors who vote for the order. Approval of the record by the commissioner shall be procured before any part of the assessment is collected. Any person liable to assessment may inspect and take a copy of the record. Signing and approval

Article 5. Annual Statement and Finances.

11990. Every insurer organized under this chapter shall file its financial statement with the commissioner on or before the first day of March of each year. Such statement shall exhibit the condition of the insurer on the preceding December thirty-first. Such statement shall be made as provided in the blanks furnished by the commissioner. Filing of statement

11991. The administrative expenses for any calendar year of any insurer organized under this chapter, including com- Limit on administrative expenses

missions and fees to agents and officers but not including expenses incurred for the prevention of injuries, shall be limited to thirty per cent of the aggregate amount of gross premiums actually received during that year. The liability prescribed in section 11992 accrues when expenditures are made in excess of this amount.

Penalty.

11992. Expenditures in violation of section 11991 render the officers, directors and all persons having similar powers in relation to the insurer jointly and severally liable to it for the amount of any such excess. In the event that such insurer fails or refuses to recover such excess of expenditures, the commissioner may sue for and recover the excess from any person liable, for the benefit of the insurer's members.

Compensation of certain officers

11993. In the case of a person whose duty it is to determine the character of the risks and to decide what applications shall be accepted and what applications shall be rejected by such insurer, such person shall not receive a commission upon premiums as any part of his compensation. Such person's compensation shall be a fixed salary and such share of the net profits as the directors or trustees determine.

Surplus fund.

11994. The directors of every such insurer shall create a surplus fund. Each year an amount equal to at least twenty-five per cent of all available profits shall be added to the surplus fund until such fund is at least equal to the remainder of the amount of all premiums charged upon all insurance in force, after deducting therefrom the amount of premiums charged for risks reinsured in other insurers.

Dividends

11995. After setting aside the required amount of profits to the surplus fund, if such fund is then not less than $15,000 and also amounts to at least twenty-five per cent of all premiums charged over and above the premiums received on reinsured risks, the directors of such insurer, at such times as their by-laws provide, shall make, declare and pay dividends to their members. So much of the additional available profits accrued from the business of the association and interest on moneys invested may be thus paid in dividends as appears advisable to the directors.

Approval of dividend

11996. A dividend shall not be declared without previous approval by the commissioner.

Investments.

11997. The funds of any insurer organized under this chapter shall be invested in the manner allowed for the investment of the funds of other insurers.

Article 6. Insolvency.

Insolvency.

12010. Whenever the liabilities of any such insurer for losses reported, expenses and taxes, together with its unearned premiums and claims reserve aggregate a greater amount than its admitted cash assets, such insurer is insolvent.

Article 7. General Powers.

Safety rules.

12020. The directors of any such insurer shall make and enforce reasonable rules and regulations for the prevention of

injuries on the premises of members. For this purpose the inspectors of the insurer shall have free access to all such premises during regular working hours. Any employer or employee aggrieved by any such rule or regulation may petition the Industrial Accident Commission for a review, and it may affirm, amend or annul the rule or regulation.

Property of insurers.

12021. Any insurer organized under this chapter may own, hold and acquire such property as is necessary for the transaction of its business.

Incidental powers.

12022. Any such insurer may sue and be sued, with the same rights and obligations as a natural person. In addition to the powers otherwise enumerated, it shall exercise all such rights and powers as are necessarily incidental to the exercise of the powers expressly granted to it.

Checking accounts, pay rolls, etc.

12023. Auditors, inspectors and other agents of the insurer shall, for the purpose of verifying pay rolls, have free access to the wages, accounts and pay rolls of members.

PART 4. MISCELLANEOUS CASUALTY INSURANCES.

CHAPTER 1. SURETY INSURERS ON RESERVE BASIS; CAPITAL REQUIREMENTS AND PERMITTED INSURANCES.

Article 1. Capital and Scope of Business.

Required capital.

12050. An incorporated insurer issuing surety policies on the reserve basis shall not transact surety insurance in this State unless it has a paid-in capital of at least $250,000.

Form of required capital.

12051. During the first three years following its admission, the insurer's assets in an amount equal to its required paid-in capital shall be in cash or in the value of obligations, purchase of which is approved by the commissioner, of the United States government, any State, or any county in this State.

End of restrictions.

12052. After such three-year period, investments of such insurers are subject only to the provisions of this code regulating generally the investments of other incorporated insurers issuing policies on a reserve basis.

Other permitted insurances

12053. An incorporated insurer issuing surety policies on the reserve basis may transact the following insurances if its paid-in capital, including the capital required to transact surety insurance, is equal to the sum of the amounts set forth opposite the classes transacted:

Number and name of class transacted	Capital required
6. Disability	$50,000
7. Plate glass	50,000
11. Boiler and machinery	50,000
12. Burglary	50,000
13. Credit	50,000
14. Sprinkler	50,000
15. Team and vehicle	50,000
16. Automobile	50,000
18. Aircraft	50,000
20. Miscellaneous	50,000

Transacting liability, etc., insurance

12054. A surety insurer specified in section 11604 or excepted by section 11603 may also transact liability, workmen's compensation and common carrier liability insurance if its paid-in capital is not less than $300,000 nor less than $50,000 in excess of the amount required for the transaction of other insurances which it is permitted to and does transact.

Article 2. Administrative Control.

List of insurers

12070. The commissioner shall make up and certify to the county clerk of each county of the State a complete list of all admitted surety insurers. Such list shall set forth:

(a) The full corporate name of such insurer.

(b) The name of the State or country under whose laws such insurer is organized.

(c) The date of the certificate of authority issued to such insurer to transact surety insurance in this State.

Supplemental list.

12071. From and after the date when such list is certified, the commissioner shall likewise certify to the county clerk of every county of this State, the same facts concerning any other surety insurer thereafter admitted.

Changes in list.

12072. Whenever such insurer's certificate of authority is surrendered, revoked, canceled, annulled or suspended or whenever any such insurer, after such abrogation of its certificate again is admitted, the commissioner shall forthwith certify to the county clerk of every county of this State the name of such insurer and the date of such abrogation of, or of renewal of, such certificate.

Article 3. Special Restrictions on Business.

Limit on single undertaking.

12090. An admitted surety insurer shall not become surety on any one undertaking, or accept reinsurance on such undertaking, when its liability thereon, in excess of the amount reinsured by it in an admitted insurer, amounts to more than ten per cent of its capital and surplus as shown by its last statement on file in the office of the commissioner.

Required financial condition.

12091. Whenever a surety insurer fails to maintain such a financial condition that assets allowed under subdivision (a) are equal in value to the aggregate of the charges prescribed under subdivision (b), the commissioner shall act as prescribed in section 12092.

(a) In estimating its condition the commissioner shall allow as assets only such as are allowed under law in force at the time of the estimate.

(b) The charges to be aggregated shall be:

(1) Eighty per cent of the paid-in capital.

(2) All outstanding indebtedness.

(3) A premium reserve equal to fifty per cent of the premiums charged by the insurer upon all policies then in force.

Penalty

12092. Whenever such an insurer fails to maintain the financial condition required by section 12091, the commissioner shall require the deficiency to be made up in sixty days. If

it is not made up as required, he shall issue a certificate showing the extent of such deficiency. He shall publish the certificate once a week for three weeks, in a daily San Francisco paper. From the time of first publication until such deficiency is made up, the insurer shall not do business in this State.

CHAPTER 2. OTHER CASUALTY INSURERS ON RESERVE BASIS; CAPITAL REQUIREMENTS AND PERMITTED INSURANCES.

Scope of chapter

12110. If an insurer transacts any insurance specified in section 12111 and also is admitted to transact insurance not so specified and which is regulated as to permitted insurances and capital requirements by provisions in another chapter of this code, such insurer is governed, as to such insurances and requirements, by such other provisions and is not governed by the provisions of section 12111.

Requirements and insurances.

12111. Except as provided in section 12110, an incorporated insurer may issue policies on a reserve basis of any of the following insurances if it has a paid-in capital of $50,000 in excess of the sum of the amounts set forth opposite the insurances transacted:

Number and name of class	Additional required capital
6. Disability	$50,000
7. Plate glass	50,000
11. Boiler and machinery	50,000
12. Burglary	50,000
13. Credit	50,000
14. Sprinkler	50,000
15. Team and vehicle	50,000
16. Automobile	50,000
18. Aircraft	50,000
20. Miscellaneous	50,000

PART 5. MOTOR CLUBS.

CHAPTER 1. DEFINITIONS AND EXEMPTIONS.

Exemptions

12140. This part shall not apply to a duly authorized attorney at law acting in the usual course of his profession, nor to any admitted insurer.

Definitions limited.

12141. Except where the context otherwise requires, the terms used in this part shall be given the meanings set forth in this chapter, but such meaning shall not, merely by reason of enactment in this chapter, govern the interpretation of any other provision of this code.

Motor club

12142. A motor club is a person, directly or indirectly engaged, either as principal or agent, in selling or offering for sale, furnishing or procuring motor club service.

Club agent.

12143. A club agent is a person other than the motor club itself, who acts or aids in any manner in the solicitation, delivery or negotiation of any service contract, or of the renewal or continuance thereof.

Motor club service.

12144. Motor club service is the rendering or procuring of any of the services defined in this chapter to any person in connection with the ownership, operation, use or maintenance of a motor vehicle by such person upon any of the following considerations:

(a) Such person is or will become a member of the club rendering or furnishing the service.

(b) Such person is or will become in any manner affiliated with such club.

(c) Such person is or will become entitled to receive membership or other motor club service from the club by virtue of any agreement or understanding with any such club.

Towing service.

12145. Towing service is the drafting or moving by a motor club of a motor vehicle from one place to another under other power than its own.

Emergency road service

12146. Emergency road service is the adjustment, repair or replacement by a motor club of the equipment, tires or mechanical parts of a motor vehicle so as to permit it to be operated under its own power.

Bail bond service.

12147. Bail bond service is the furnishing or procuring by a motor club of a cash deposit or undertaking required by law in order that a person accused of violation of any law may enjoy personal freedom pending trial.

Discount service.

12148. Discount service is an arrangement by a motor club resulting in giving special discounts, rebates or reductions of price on gasoline, oil, repairs, insurance, parts, accessories or service for motor vehicles to holders of service contracts with any such club.

Financial service.

12149. Financial service is an arrangement by a motor club whereby loans or other advances of money are made to holders of service contracts with any such club.

Buying and selling service.

12150. Buying and selling service is an arrangement by a motor club whereby the holder of a service contract with any such club is aided in any way in the purchase or sale of an automobile.

Theft service.

12151. Theft service is an act by a motor club for the purpose of locating, identifying or recovering a stolen or missing motor vehicle owned or controlled by the holder of a service contract with any such club or for the purpose of detecting or apprehending the person guilty of the theft.

Map service.

12152. Map service is the furnishing by a motor club of road maps without cost to holders of service contracts with any such club.

Touring service

12153. Touring service is the furnishing by a motor club of touring information without cost to holders of service contracts with any such club.

Claim adjustment service.

12154. Claim adjustment service is an act by a motor club for the purpose of adjusting claims on behalf of the holder of a service contract with any such club, when such claim results from injury or damage to person or property arising out of an accident, in connection with the ownership, maintenance, operation and use of a motor vehicle.

12155. License service is the rendering of assistance by a motor club to any person in obtaining: License service.

(a) Registration of a motor vehicle with the State.

(b) An operator's license.

(c) A chauffeur's license.

(d) A transfer of legal or registered ownership upon the records of the State Department of Motor Vehicles.

12156. Insurance service is the selling or giving with a service contract or as a result of membership in or affiliation with a motor club, of a policy of insurance covering liability or loss by the holder resulting from injury or damage to person or property arising out of an accident, such liability or loss being the consequence of the ownership, maintenance, operation or use of a motor vehicle. Insurance service.

12157. Any act by a motor club for the purpose of rendering a service defined in this chapter constitutes such service, whether or not the service as defined is completed. Acts in rendition of service.

12158. A service contract is a written agreement whereby any person promises for a consideration to render, furnish or procure motor club service for any other person. Service contract

CHAPTER 2. CONDITIONS OF DOING BUSINESS.

12190. A person shall not render or agree to render motor club service without first depositing and thereafter continuously maintaining security in one of the following forms with the commissioner: Security required

(a) The sum of $100,000 in cash.

(b) Securities approved by the commissioner, having a market value of $100,000 and being of a type approved by the commissioner and legal for investment by admitted insurers issuing nonassessable policies on a reserve basis.

(c) A surety bond in the principal sum of $100,000 with an admitted surety insurer as surety.

12191. Such security shall be for the protection, use and benefit of all persons whose applications for membership in a motor club have been accepted by such club or its representative. Such security shall be subject to the following conditions and, if a bond, shall be so expressly conditioned: Conditions of security

(a) The club will faithfully furnish and render to such persons any and all of the motor club services sold or offered for sale by it.

(b) The club will pay any fines, fees or penalties imposed upon it under or pursuant to this part.

12192. If such bond is filed, any person defrauded or injured by any wrongful act, misrepresentation or failure on the part of a motor club with respect to the selling or rendering of any of its services may bring suit on such bond in his own name. Suit on bond.

12193. A deposit of cash or securities, in lieu of such bond, shall be subject to the conditions applying to the bond and is also subject to execution on judgments against the club. Execution on deposit.

Name of club.

12194. The name of a motor club shall be submitted to the commissioner for approval pursuant to section 12221, before the commencement of business under the provisions of this part. The commissioner may reject any name so submitted when the proposed name would interfere with the transactions of a motor club already doing business in this State or is so similar to one already appropriated as to confuse or is likely to mislead the public in any respect. In such case a name not liable to such objections shall be chosen.

CHAPTER 3. CERTIFICATE OF AUTHORITY.

Certificate of authority

12220. A person shall not render or agree to render motor club service in this State without first procuring from the commissioner a certificate of authority so to act.

Requisites of issue.

12221. The commissioner shall not issue a certificate of authority to any motor club until:

(a) It files with him the following:

(1) A formal application for the certificate in such form and detail as the commissioner requires, executed under oath by its president or other principal officer.

(2) A certified copy of its charter or articles of incorporation and its by-laws, if any.

(3) If it is not subject to the Corporate Securities Act, a certificate from the Secretary of State that it has complied with the corporation laws of this State.

(4) If it is subject to the Corporate Securities Act, a certificate from the corporation commissioner that it has complied with the requirements of that act.

(b) It pays to the commissioner an annual license fee of ten dollars.

(c) It deposits the required cash, securities, or bond with the commissioner.

(d) Its name is approved by the commissioner under the provisions of section 12194.

Expiration

12222. Every certificate of authority issued to a motor club shall expire annually on July 1, of each year, unless sooner revoked or suspended.

Suspension or revocation

12223. The commissioner shall revoke or suspend the certificate of authority of a motor club whenever, after a hearing, he finds any of the following circumstances exist:

(a) The club has violated any provision of this part.

(b) It is insolvent.

(c) Its assets are less than its liabilities.

(d) It or its officers, refuse to submit to an examination.

(e) It is transacting business fraudulently.

The commissioner shall give notice of such revocation or suspension to the public in such manner as he deems proper.

Examination of club

12224. The commissioner, on receipt of a verified complaint reciting facts indicating that a motor club is insolvent or is transacting its business in a fraudulent manner, may demand from the club a statement under oath setting forth its assets and liabilities. He may, for the purpose of verifying the

correctness of such statement, examine the books of the club from which such statement purports to have been prepared.

Expense of examination

12225. If such statement is not furnished within twenty days from the time of such demand by the commissioner or if, upon the examination of such records the statement furnished or any record examined is found to contain any wilful misstatement of fact, the expense of the examination shall be paid by the motor club.

CHAPTER 4. THE SERVICE CONTRACT.

Approval of service contract.

12250. A service contract shall not be executed, issued or delivered in this State until the form thereof is approved in writing by the commissioner.

Manner of issue.

12251. Every service contract executed, issued or delivered in this State shall be made in duplicate and shall be dated and signed by the motor club issuing it. Such contract shall be countersigned by a duly authorized agent of the club, and by the party purchasing the contract. One copy of the contract shall be kept by the club and the other copy shall be delivered to the purchasing party.

Contents.

12252. A service contract shall not be executed, issued or delivered in this State unless it contains the following:

(a) The exact corporate or other name of the club.

(b) The exact location of its home office and of its usual place of business in this State, giving street number and city.

(c) A provision that the contract may be canceled at any time by either the club or the holder, and that the holder will, if he has actually paid the consideration, thereupon be entitled to the unused portion of the consideration paid for such contract, calculated on a pro rata basis over the period of the contract, without any deductions.

(d) A provision plainly specifying:

(1) The services promised.

(2) That the holder will not be required to pay any sum, in addition to the amount specified in the contract, for any services thus specified.

(3) The territory wherein such services are to be rendered.

(4) The date when such service will commence.

(e) A statement in not less than fourteen point modern type at the head of said contract stating, "This is not an insurance contract."

Solicitation for unlicensed club

12253. A person shall not solicit or aid in the solicitation of another person to purchase a service contract issued by a club not having a certificate of authority procured pursuant to this part.

Misrepresentation.

12254. A club or an officer or agent thereof shall not in any manner misrepresent the terms, benefits or privileges of any service contract issued or to be issued by it.

Validity of contract.

12255. Any service contract made, issued or delivered contrary to any provision of this part shall nevertheless be valid and binding on the club.

CHAPTER 5. AGENTS.

Agent's license.

12280. A club agent doing business in this State shall not execute, issue or deliver any service contract to any person owning or operating motor vehicles without first obtaining a license from the commissioner.

Collection of money.

12281. Without first obtaining such license, a club agent shall not collect or receive from any person, in advance of the execution, issuance or delivery of any such service contract, any money or other thing of value upon any promise or agreement to execute, issue or deliver any such service contract.

Revocation or suspension of license.

12282. Such license may, upon reasonable notice and hearing by the commissioner, be suspended or revoked by the commissioner for misrepresentation, fraud or any other violation of this part.

CHAPTER 6. PENALTIES.

Violation of bond requirements.

12310. Any person violating the provisions of sections 12190 to 12193 is guilty of a misdemeanor and punishable by a fine not less than $250 nor more than $1,000, or by imprisonment in the county jail for not less than thirty days nor more than twelve months, or by both.

Violation of other provisions.

12311. Any person violating any other provisions of this part other than sections 12190 to 12193 is guilty of a misdemeanor.

PART 6. INSURANCE COVERING LAND.

CHAPTER 1. TITLE INSURANCE.

Article 1. The Contract.

Definition.

12340. Any written instrument purporting to show the title to real or personal property or any interest therein or encumbrance thereon, or to furnish such information relative to real property, which in express terms purports to insure or guarantee such title or the correctness of such information, is a title policy.

Article 2. Title Insurers; Capital and Guarantee Fund Requirements.

Guarantee fund.

12350. Every title insurer, before issuing any policy, shall deposit $100,000 with the Insurance Commissioner or other designated official of its home State as a "guarantee fund" for the security and protection of the holders of, or beneficiaries under, its title policies.

(Amended by Ch. 292, Stats. 1935.)

[ORIGINAL SECTION.]

12350. Every title insurer, before issuing any policy, shall deposit $100,000 with the State Treasurer, pursuant to section 12352, as a "guarantee fund" for the security and protection of the holders of, or beneficiaries under, its title policies.

12351. Any such deposit may be made either in lawful money of the United States or in any of the securities, other than collateral trust bonds or notes, authorized for investment, other than excess funds investments, of all the assets of domestic incorporated insurers. Assets in fund.

12352. If the deposit is made in this State, it shall first be approved by the commissioner, who shall forthwith make a special deposit thereof in the State treasury, for the purpose specified in section 12350. The Treasurer shall give his receipt therefor, to the commissioner. Approval.

(Amended by Ch. 292, Stats. 1935.)

[ORIGINAL SECTION.]

12352. The money or securities shall not be deposited until approved by the commissioner. Upon his written order such assets shall be deposited with the State Treasurer for the purpose specified in section 12350. The Treasurer shall give his receipt therefor, and thereafter, subject to the provisions of this chapter shall hold such deposits and the State shall be responsible for the custody and safe return of the assets in such deposit.

12353. Except as provided in section 12355, assets in such deposits in this State may, with the approval of the commissioner, be withdrawn or exchanged from time to time for other assets of like character and value. Substitution.

(Amended by Ch. 292, Stats. 1935.)

[ORIGINAL SECTION.]

12353. Except as provided in section 12355, assets in such deposits may, with the approval of the commissioner, be withdrawn or exchanged from time to time for other assets of like character.

12354. As long as the depositing insurer continues solvent, it shall receive the interest and dividends on any assets in the deposit. Interest and dividends.

12355. Except on withdrawal of the insurer from this State, or substitution pursuant to section 12353, assets in the deposit in this State shall be subject to final sale, transfer, and disposal of the proceeds thereof by the commissioner only on the order of a court of competent jurisdiction and for the security and protection of the holders of, or beneficiaries under, the depositing insurers title insurance policies. Final disposition of assets in deposit.

(Amended by Ch. 292, Stats. 1935.)

[ORIGINAL SECTION.]

12355 Except on withdrawal of the insurer from this State or substitution pursuant to section 12353, assets in the deposit shall be subject to final sale, transfer, and disposal of the proceeds thereof by the State Treasurer only on the order of a court of competent jurisdiction and for the security and protection of the holders of, or beneficiaries under, the depositing insurer's policies.

12356. When any part of the assets to be deposited in this State constitutes of mortgage-secured notes or bonds, or loans upon real property secured by mortgage, such mortgages shall be accompanied by a policy of mortgage insurance issued under the provisions of this code, or by evidence of title issued by a person designated or approved by the commissioner and Mortgages, etc., as assets.

either authorized by law or found by the commissioner to be competent to issue such evidence. Such evidence of title shall consist either of a full abstract of title, a full certificate of title, or a policy of title insurance, and shall be assigned and approved by, or under the direction of, the commissioner.

(Amended by Ch. 292, Stats. 1935.)

[ORIGINAL SECTION.]

12356. When any part of the assets to be deposited consists of mortgage-secured notes or bonds, or loans upon real property secured by mortgage, such mortgages shall be accompanied by a policy of mortgage insurance issued under the provisions of this code, or by evidence of title issued by a person designated or approved by the commissioner and either authorized by law or found by the commissioner to be competent to issue such evidence. Such evidence of title shall consist either of a title policy, certificate of title or a full abstract of title, and shall be examined and approved by, or under the direction of, the commissioner.

Appraisal of mortgages

12357. Unless the mortgage is covered by mortgage insurance, the value of the property covered by each such mortgage constituting all or part of such deposit in this State shall be appraised by one or more appraisers selected or approved by the commissioner. The appraisers shall be residents of the county in which the property or some part thereof is situated.

(Amended by Ch. 292, Stats. 1935.)

[ORIGINAL SECTION.]

12357. The value of the property covered by each such mortgage, unless the mortgage is covered by mortgage insurance, shall be appraised by one or more appraisers selected or approved by the commissioner. The appraisers shall be residents of the county in which the property or some part thereof is situated.

Expenses of appraisal.

12358. The reasonable cost of examining such evidence of title and of making such appraisement, shall be paid by the title insurer making the deposit. Such cost shall not exceed twenty dollars for examining the title to the property covered by each mortgage, nor five dollars for each appraiser, not exceeding two, besides the necessary expenses of such appraisers.

Capital requirement.

12359. A title insurer shall not transact any insurance in this State unless it has a paid in capital represented by shares of stock of at least $100,000.

Restrictions on business.

12360. A title insurer shall not transact any other class of insurance.

Article 3. Title Insurers: Finances and Investments.

Surplus fund

12370. Every title insurer shall annually set apart a sum equal to ten per cent of its premiums collected during the year. Such sums shall be allowed to accumulate until a fund is created equal in amount to twenty-five per cent of the aggregate of the subscribed capital stock of the insurer. Such fund shall be known as the "Title insurance surplus fund."

Purpose of fund

12371. The title insurance surplus fund shall be maintained as a further security to holders and beneficiaries of the title policies issued by the insurer. If at any time the fund

is impaired by reason of a loss, the amount by which it is impaired shall be restored in the manner provided for its accumulation. The reporting of a loss is an impairment of such fund for the purposes of this section.

Purchase of materials and plant; valuation.

12372. Any such domestic insurer, after having its required capital paid in and depositing its required guarantee fund with the State Treasurer, may invest an amount not exceeding fifty per cent of its subscribed capital stock in the preparation and purchase of materials and plant necessary to enable it to engage in the title insurance business. In all statements and proceedings required by law for the ascertainment and determination of the condition of such insurer, such materials and plant shall be treated in one of the following ways:

(a) They may be treated as an asset, valued at actual cost to the insurer.

(b) They may be treated as an asset, at such lesser value than cost as the insurer estimates.

(c) They may be omitted entirely from the statement or proceeding.

Dividends.

12373. A title insurer shall not make any dividends except from profits remaining on hand after retaining unimpaired assets aggregating in value an amount equal to the sum of the following:

(a) The entire subscribed capital stock.

(b) The amount set apart as the title insurance surplus fund.

(c) A sum sufficient to pay all liabilities for expenses and taxes, and all losses reported or in course of settlement, without impairment of the amount required to be set apart as the title insurance surplus fund.

Loans to officers, etc

12374. A title insurer shall not directly or indirectly make a loan from its assets to any of its officers, directors or employees, or to any member of the family of any officer or director. Any officer, director, agent, or employee of any such insurer who knowingly consents to any violation of this section is guilty of a misdemeanor.

Reinsurance upon withdrawing from State.

12375. Whenever a title insurer, upon withdrawing from insurance business in this State, desires to reinsure its policies with a title insurer whose "title insurance surplus fund" is not fully made up, the commissioner may require the reinsurer to increase its "title insurance surplus fund." The amount of increase shall not be greater than the amount in the withdrawing insurer's "title insurance surplus fund" nor greater than will fully make up the reinsurer's title insurance surplus fund. Such increase may be made a condition of the commissioner's approval of the reinsurance plan.

Article 4. General Powers.

Insurance.

12390. Every domestic title insurer may issue title policies and may also insure:

(a) The identity, due execution, and validity of any note or bond secured by mortgage.

(b) The identity, due execution, validity and recording of any such mortgage.

(c) The identity, due execution and validity of evidences of indebtedness issued by this State, or by any political subdivision or district therein, or by any private or public corporation.

Additional powers.

12391. Such insurer also may:

(a) Act as registrar or transfer agent of this State, or of any political subdivision or district therein, or of any private or public corporation.

(b) Transfer or countersign any evidences of indebtedness which it may insure.

(c) Transfer or countersign certificates of stock of any private or public corporation.

Trust business.

12392. If a domestic incorporated title insurer is authorized by its articles of incorporation to act as executor, administrator, guardian, assignee, receiver, depositary, agent or trustee, or to do a general trust business, and if such insurer has a capital paid in of not less than $300,000 it may also do business as a trust company, and maintain a trust department as well as a title insurance department, on compliance with the conditions set forth in this article.

Apportionment of assets to departments.

12393. When such title insurer desires to do such a departmental business, it shall first obtain the consent of both the Superintendent of Banks and of the commissioner. In its application for such consent, it shall include a statement making a segregation of its capital and surplus for each such department. At least $200,000 of its capital shall be apportioned by such statement to its trust department. When such apportionment is approved by the Superintendent of Banks and by the commissioner, the part of such capital and surplus apportioned to each department shall be treated as the separate capital and surplus of each such department, as if each such department was a separate business.

Laws governing title insurance department.

12394. Such insurer, as to its title insurance department, shall be subject to and shall comply with all the requirements of the insurance laws and the rules and regulations of the commissioner. It may invest its assets apportioned to its title insurance department, and the accumulations therefrom, in the manner in which the assets of title insurers are allowed by the laws of this State to be invested.

Laws governing trust department.

12395. Such insurer, as to its trust department, shall be subject to and shall comply with all the requirements of the banking laws and rules and regulations of the Superintendent of Banks of this State, and may invest its assets apportioned to its trust department, the accumulations therefrom, and trust funds received by it, in accordance with the laws of this State relative to the investment of funds of trust companies.

Article 5. Exemptions.

12400. The provisions of subdivision (f) of section 381, and the provisions of sections 382, 383, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 761, 762, 763, 764, 765, 766, 800, 801, 802, 803, 804, 805, 806, 807, 808 and 809 shall not apply to title insurers. Provisions not applicable.

Chapter 2. Mortgage Insurance.

Article 1. Definitions.

12420. The definitions set forth in this article shall govern the construction of the terms used in this chapter but shall not affect any other provisions of this code. Scope of article.

12421. Unless the context indicates a different construction the following definitions and restrictions govern the interpretation of the terms specified: Definitions

(a) "Note" includes "bond."

(b) "Real estate" includes real estate with the improvements thereon, including improvements in process of construction under a building loan.

(c) "Building loan" means a loan made for the purpose of providing funds for the construction of improvements upon real estate.

(d) "Public bond" includes only bonds issued pursuant to statutory authority by the officials of a county, city, town, municipality or district where each bond constitutes a lien upon specified land described therein or represents a special assessment theretofore levied which is a lien upon specified land described in the bond.

(e) "Assessment" includes only special assessments levied pursuant to charter or statutory authority by a county, city, municipality or district.

(f) "Security" means a note evidencing a debt secured by a mortgage constituting a lien or charge on real estate.

12422. "Authorized real estate security" means security which complies with all the following conditions: "Authorized real estate security" defined.

(a) The securing mortgage is a first mortgage upon the title in fee to real estate situated in this State, such real estate being improved or productive or a building being in process of construction thereon by means of a building loan.

(b) The aggregate unpaid principal of all public bonds and assessments existing and outstanding against such real estate does not exceed ten per cent of the fair market value of the real estate.

(c) The principal loaned on such security or if a number of securities are secured by a single mortgage, the aggregate principal so secured conforms to the restriction set forth in either paragraph (1) or (2):

(1) Such principal does not exceed fifty per cent of the fair market value of the real estate.

(2) Such principal does not exceed sixty per cent of the

fair market value of the real estate and the security complies with all the following additional conditions:

(I) The real estate is improved by, or the loan is for the purpose of constructing a single-family dwelling.

(II) The aggregate principal amount of the loan does not exceed $15,000.

(III) The note is to be repaid in full in not less than eight nor more than fifteen years from the date thereof.

(IV) Monthly, quarterly or semiannual payments are to be made directly in reduction of the debt and such payments are to commence not more than two years after the date of the note.

(V) The aggregate of the installments required to be paid upon the principal in each year amounts to at least five per cent of the principal of the note.

(Amended by Ch. 559, Stats. 1935.)

[ORIGINAL SECTION.]

12422. "Authorized real estate security" means security which complies with all the following conditions:

(a) The securing mortgage is a first mortgage upon the title in fee to real estate situated in this State, such real estate being improved or productive or a building being in process of construction thereon by means of a building loan.

(b) The aggregate unpaid principal of all public bonds and assessments existing and outstanding against such real estate does not exceed ten per cent of the fair market value of the real estate.

(c) The principal loaned on such security or, if a number of securities are secured by a single mortgage, the aggregate principal so secured conforms to the restriction set forth in either paragraph (1) or (2):

(1) Such principal does not exceed fifty per cent of the fair market value of the real estate.

(2) Such principal does not exceed sixty per cent of the fair market value of the real estate and the security complies with all the following additional conditions:

(I) The real estate is improved by, or the loan is for the purpose of constructing a single-family dwelling.

(II) The aggregate principal amount of the loan does not exceed $15,000.

(III) The note is to be repaid in full in not less than eight nor more than fifteen years from the date thereof.

(IV) Regular and equal monthly, quarterly or semiannual payments are to be made directly in reduction of the debt and such payments are to commence not more than two years after the date of the note.

(V) The aggregate of the installments required to be paid upon the principal in each year amounts to at least six per cent of the principal of the note.

First mortgage.

12423. "First mortgage" means a mortgage constituting a lien or charge on the title in fee to real estate, such lien or charge being prior and superior to all other liens or charges on the real estate except:

(a) The lien of any public bond, assessment or tax, when no installment, call or payment of or under such bond, assessment or tax is delinquent.

(b) Outstanding mineral, oil or timber rights, rights of way, easements or rights of wall or support, building restrictions or other restrictions or covenants, or outstanding leases upon such real property under which rents or profits are reserved to the owner thereof.

(Amended by Ch. 559, Stats. 1935.)

[ORIGINAL SECTION.]

12423. "First mortgage" means a mortgage constituting a lien or charge on the title in fee to real estate, such lien or charge being prior and superior to all other liens or charges on the real estate except:

(a) The lien of any public bond, assessment or tax, when no installment, call or payment of or under such bond, assessment or tax is delinquent.

(b) Outstanding mineral, oil or timber rights, rights of way, easements or rights of wall or support, building restrictions or other restrictions or covenants, or outstanding leases upon such real property under which rents or profits are reserved to the owner thereof if there is no condition or right of reentry or forfeiture under which such first mortgage can be cut off or subordinated.

Mortgage participation certificate

12424. "Mortgage participation certificate" means an instrument, issued by a mortgage insurer, which constitutes an assignment of or which evidences the ownership by the assignee, of either an undivided share or interest, legal or equitable or both, or the right to participate to a specified extent in a group of securities in a mortgage participation trust.

Group of securities.

12425. Group of securities means one or more securities, together with the proceeds thereof, segregated from the assets and securities of a mortgage insurer and assigned in a mortgage participation trust.

Group value.

12426. (a) "Group value" means the aggregate value of the following assets held by a trustee in a single mortgage participation trust:

(1) Securities.

(2) Real estate acquired through foreclosure of defaulted securities, or through conveyances made in lieu of such foreclosure.

(3) Cash, other than cash received as interest on securities.

(b) For the purpose of determining such group value:

(1) The securities in such trust are valued at the unpaid principal thereof.

(2) Real estate acquired by foreclosure of any defaulted security, or by conveyance in lieu of such foreclosure, is valued at the unpaid principal of such defaulted security as of the date of such conveyance or of the date of the sale under which such property is acquired by the trustee.

Mortgage participation trust.

12427. A "mortgage participation trust" means a trust established by the assignment and transfer to a trustee of a group of securities the payment of all of which securities is insured, either singly or as a group, by a policy or policies of mortgage insurance, in which undivided shares or interests or rights to participate may be or have been assigned by means of mortgage participation certificates.

(Amended by Ch. 559, Stats. 1935.)

[ORIGINAL SECTION.]

12427. "Mortgage participation trust" means a trust established by the assignment and transfer to a trustee of a group of securities in which undivided shares, or interest or rights to participate may be or have been assigned by means of mortgage participation certificates.

Trustee.

12428. The term "trustee" means a trust company as defined in the Bank Act and includes a national bank having a trust department and doing business within this State.

Article 2. Capital Requirements and Permitted Insurances.

Required capital.

12440. An insurer shall not transact mortgage insurance unless it has a paid-in capital of at least $250,000 represented by shares of stock.

Transacting other business.

12441. A mortgage insurer shall not do any other class of insurance.

Limit on capital reduction.

12442. A mortgage insurer shall not reduce the aggregate par value of the shares of stock representing its outstanding paid-in capital, nor such paid-in capital, to an aggregate value less than is required to be maintained by it; provided, in the event any insurer shall give notice in writing to the commissioner that it has ceased to issue policies of mortgage insurance and mortgage participation certificates, the provision of this code requiring a minimum of $250,000 paid-in capital shall not be applicable, but such insurer shall at all times maintain its unimpaired paid-in capital up to an amount equal to at least one-twentieth of the aggregate amount of unpaid principal of securities guaranteed or insured by it, and such insurer shall not issue any new policies of mortgage insurance or any mortgage participation certificates so long as its fully paid-in and unimpaired capital is less than $250,000. A mortgage insurer shall not be deemed insolvent under the provisions of section 984 of this code or under any other law of this State, because of the fact that it has reduced its outstanding capital stock to an aggregate par value less than $250,000 pursuant to the provisions of this section. Changes in the assets of any trust under which mortgage participation certificates have been issued, which certificates at the date of issuance fully conformed to and complied with the law then in force, which changes are effected in the administration of and pursuant to the provisions of such trust, shall not be deemed the issuance of policies of mortgage insurance or mortgage participation certificates.

(Amended by Ch. 559, Stats. 1935.)

[ORIGINAL SECTION.]

12442. A mortgage insurer shall not reduce the aggregate par value of the shares of stock representing its outstanding paid-in capital, nor such paid-in capital, to an aggregate value less than is required to be maintained by it or less than its indebtedness or liabilities other than contingent liabilities on existing mortgage policies or mortgage participation certificates.

Article 3. Profits, Surplus and Dividends.

Good faith of director.

12460. When a director of a mortgage insurer relies in good faith on a balance sheet or profit and loss statement of the insurer, his acts done in good faith are deemed to conform to the provisions of this article if both the following conditions are present:

(a) On the basis of such balance sheet or statement such acts so conform.

(b) The correctness of the balance sheet or statement is established by one of the following:

(1) It is represented to him to be correct by the president of the insurer or the insurer's officer having charge of, or supervision of, the insurer's accounts.

(2) It is certified to be correct and according to the books of the insurer by a public accountant or firm of public accountants who were selected with reasonable care.

Insurance surplus.

12461. Every mortgage insurer shall create and maintain an insurance surplus which, when fully made up, is equal in amount to twenty-five per cent of the then existing capital paid in.

Contributions to surplus.

12462. All or any of the insurance surplus may be paid in by contributions from stockholders.

Segregation of profits to surplus.

12463. Whenever its insurance surplus is not fully made up, every mortgage insurer shall annually transfer to that surplus either at least ten per cent of its net profits for the preceding year or such lesser sum as will result in fully paying up that surplus.

Impairment of surplus

12464. The insurance surplus must be maintained as a further security to the holders of mortgage policies issued by the insurer. If at any time such surplus is impaired by reason of a loss, the amount of the impairment shall be restored in the manner provided for its accumulation.

Dividends.

12465. A mortgage insurer shall not declare any dividends except from undivided profits remaining on hand over and above its paid-in capital and the amount required to be maintained as its insurance surplus.

Article 4. Investments and Loans.

Restrictions on investments and loans.

12480. A mortgage insurer shall not make or purchase any investments or loans except as authorized by this chapter unless:

(a) The loan or investment was legally made or purchased by the insurer before August 21, 1933.

(b) The loan is a renewal or extension of any loan legally made before August 21, 1933.

Loans to officers, etc

12481. A mortgage insurer shall not, directly or indirectly, make any loan to any of its officers, directors or other employees.

Corporate stock.

12482. A mortgage insurer shall invest in, hold or own any of the capital stock of any other corporation or make any loan, in whole or in part, on security of such stock only as expressly permitted by this article.

Pledge of corporate stock.

12483. In connection with its investment in an authorized real estate security, a mortgage insurer may, in its own name as pledgee, take stock, in a water or power corporation, where such stock represents the right to receive or obtain water or power for beneficial use on the real estate securing its investment, whether or not such right is appurtenant to the invest-

ment. The insurer may hold, use, or dispose of any such stock for the benefit and protection of such investment.

Security on investments.

12484. A mortgage insurer may invest in, hold, buy and sell, and may make collateral loans secured by:

(a) The securities specified in sections 1170 to 1175, inclusive.

(b) Authorized real estate securities, but not in excess of fifteen per cent of the insurer's paid-in capital in any one security.

(c) Securities, the payment of which is insured by itself or another domestic admitted mortgage insurer, and mortgage participation certificates issued by itself or another insurer pursuant to this chapter.

(d) Collateral trust bonds or notes secured by deposit with a trustee of securities authorized for investment by this article if such securities have a market value at least equal to one hundred fifteen per cent of the par value of the collateral trust bonds or notes then outstanding.

(e) The stock issued by any Federal Home Loan Bank or other similar Federal agency of which such mortgage insurer is eligible to become a member, and the bonds, debentures and notes issued by any Federal Home Loan Bank or other similar Federal agency.

(f) Bonds of a metropolitan water district.

(g) Stock of any corporation organized under the laws of California to transact the business of insurance agent or insurance broker; but a mortgage insurer shall not invest in the stock of such corporation unless it acquires at least fifty-one per cent of the voting stock thereof; provided, further, no insurer shall acquire, or purchase any stock pursuant to the provisions of this paragraph without having first obtained the approval in writing of the commissioner.

(h) Stocks, bonds, debentures, or other securities of any corporation where the same or any thereof are acquired by a mortgage insurer in full or partial satisfaction of a debt previously contracted or an obligation previously acquired in good faith and owned or insured by such insurer, or in exchange for any such debt or obligation; also stocks, bonds, debentures, or other securities of any corporation where the same or any thereof are acquired in connection with the sale or liquidation of any real estate owned by such insurer or held in any mortgage participation trust of such insurer, also stocks, bonds, debentures, or other securities of any corporation where the same or any thereof are acquired in connection with or as a part of any plan or agreement of reorganization, readjustment or rehabilitation of such insurer which plan or agreement has been approved in the manner required by any present or future law or in connection with the amendment, modification or termination in a manner provided by any present or future law of any or all mortgage participation certificates issued by such insurer or of all or any part of the mortgage participation trusts created by such insurer; also

stocks, bonds, debentures, or other securities of any corporation organized to take over and acquire all or any part of the assets of such mortgage insurer and all or any part of the assets of any existing mortgage participation trust or trusts created by such insurer; provided, however, no mortgage insurer shall acquire or invest in stocks, bonds, debentures, or other securities of any corporation in an amount greater than ten per cent of the then authorized, issued and outstanding capital stock of such mortgage insurer or in an amount greater than $25,000, without having first obtained the written consent of the commissioner.

(i) Any note or notes secured by a second mortgage or second deed of trust where such note is acquired in full or partial satisfaction of a debt, or in the sale or liquidation of any asset acquired in connection with the full or partial satisfaction of any debt.

A mortgage insurer may renew or extend any loan heretofore legally made or purchased or accept and hold any purchase money mortgage or deed of trust in connection with the liquidation of any real estate.

(Amended by Ch. 559, Stats. 1935.)

[ORIGINAL SECTION.]

12484. A mortgage insurer may invest in, hold, buy and sell, and may make collateral loans secured by:

(a) The securities specified in sections 1170 to 1175, inclusive.

(b) Authorized real estate securities, but not in excess of fifteen per cent of the insurer's paid-in capital in any one security.

(c) Securities, the payment of which is insured by itself or another domestic admitted mortgage insurer, and mortgage participation certificates issued by itself or another insurer pursuant to this chapter.

(d) Collateral trust bonds or notes secured by deposit with a trustee of securities authorized for investment by this article if such securities have a market value at least equal to one hundred fifteen per cent of the par value of the collateral trust bonds or notes then outstanding.

(e) The stock issued by any Federal Home Loan Bank or other similar Federal agency of which such mortgage insurer is eligible to become a member, and the bonds, debentures and notes issued by any Federal Home Loan Bank or other similar Federal agency.

(f) Bonds of a metropolitan water district.

12485. Mortgage insurers may make deposits with any bank. The making and maintenance of such deposits is not subject to restrictions relating to investments. **Bank deposits.**

12486. Any mortgage insurer may purchase and hold or convey real estate of the following character only: **Real estate**

(a) Subject to the limit on aggregate cost contained in subdivision (b), the land, with improvements thereon, on which its office is located, if the cost of the land together with improvements does not exceed twenty-five per cent of its paid-in capital.

(b) Such as is requisite for its accommodation in the convenient transaction of its business. The aggregate cost of real estate with improvements acquired under the authority granted in subdivisions (a) and (b) shall not exceed twenty-five per cent of its paid-in capital.

(c) Such as is conveyed to it or to any person for it to secure or provide for the payment of loans contracted or moneys due.

(d) Subject to the provisions of section 12488, such as is purchased at sales under mortgages or judgments for such loans or moneys.

(e) Subject to the provisions of section 12488, such as is conveyed to it in full or partial satisfaction of any debts previously contracted in the course of its dealings.

(f) Subject to the provisions of section 12488, such as is acquired by it by virtue of the provisions of any mortgage policy issued by it or for its protection from loss under such policy.

(g) Subject to the provisions of section 12488 such as is conveyed to it by a trustee under the provisions of a mortgage participation trust created by it.

(h) Subject to the provisions of section 12488, all such other real estate as in the opinion of the board of directors of the insurer may be necessary or desirable for the protection or enhancement of the value of any property owned by such insurer or held in any mortgage participation trust, if the acquisition thereof is first approved in writing by the commissioner.

(Amended by Ch. 559, Stats. 1935.)

[ORIGINAL SECTION.]

12486. Any mortgage insurer may purchase and hold or convey real estate of the following character only:

(a) Subject to the limit on aggregate cost contained in subdivision (b), the land, with improvements thereon, on which its office is located, if the costs of the land together with improvements does not exceed twenty-five per cent of its paid-in capital.

(b) Such as is requisite for its accommodation in the convenient transaction of its business. The aggregate cost of real estate with improvements acquired under the authority granted in subdivisions (a) and (b) shall not exceed twenty-five per cent of its paid-in capital.

(c) Such as is conveyed to it or to any person for it to secure or provide for the payment of loans contracted or moneys due.

(d) Subject to the provisions of section 12488, such as is purchased at sales under mortgages or judgments for such loans or moneys.

(e) Subject to the provisions of section 12488, such as is conveyed to it in full or partial satisfaction of any debts previously contracted in the course of its dealings.

(f) Subject to the provisions of section 12488, such as is acquired by it by virtue of the provisions of any mortgage policy issued by it or for its protection from loss under such policy.

(g) Subject to the provisions of section 12488 such as is conveyed to it by a trustee under the provisions of a mortgage participation trust created by it.

Transfer of real estate.

12487. All real estate held by a mortgage insurer may be sold, conveyed or exchanged by it. Property received by it upon such sale or exchange need not be of the classes permitted for investment by this article, but, except with the consent of the commissioner, an exchange shall not be made which results in increasing the total amount of all encumbrances then outstanding against the assets of the insurer.

Reserve account for

12488. After five years have elapsed from the date of the

the provisions of subdivisions (d), (e), (f), (g) and (h) of section 12486 and as well any real estate obtained on the sale or exchange thereof, the commissioner may, in his discretion, require such insurer to set up on its books a reserve account for such real estate in such an amount as he may designate, but not in excess of the cost value at which such assets are carried on the books.

(Amended by Ch. 559, Stats. 1935.)

[ORIGINAL SECTION.]

12488. After five years from the date of acquisition of any real estate acquired under the provisions of subdivisions (d), (e), (f) or (g) of section 12486, unless the commissioner, in his discretion and upon such conditions as he prescribes, permits otherwise, a reserve account shall be established on the books of the insurer in an amount equal to the cost value at which such real estate, or other real estate obtained on the sale or exchange thereof, is carried on the books. Such reserve account shall be separate from and in addition to all other reserves.

Personal property and repairs.

12489. A mortgage insurer may purchase furniture or other personal property in order to operate or sell any real estate, if such purchase is advisable in the opinion of the officers of such insurer. A mortgage insurer may make such expenditure as its officers deem advisable in the repair, maintenance or improvement of any real estate acquired by it.

Investments, etc., generally.

12490. Irrespective of any other provision of this code, a mortgage insurer may invest in, hold, buy and sell and make collateral loans secured by shares of stock, bonds, notes, debentures or other obligations of any National mortgage association or other similar credit institution now or hereafter organized under the National Housing Act; also the stock, bonds, debentures, notes and other securities or instruments issued by any Federal agency or corporation organized under Federal authority whose powers include loaning money on real estate or guaranteeing or insuring loans on real estate or otherwise dealing in such loans.

Irrespective of any other provision of this code, a mortgage insurer (a) either with or without security, may make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing alterations, repairs, and improvements pursuant to the National Housing Act upon real property securing a loan then held by or insured by such mortgage insurer, if the Federal Housing Administrator shall insure such mortgage insurer against losses which it may sustain as a result of such loans, advances of credit and purchases made by such mortgage insurer for such purpose, to the extent provided in Title I of the National Housing Act; (b) may make loans upon the security of real property pursuant to the Federal Housing Act, if, prior to July 1, 1937, the Federal Housing Administrator pursuant to said act shall have insured, or shall have made a commitment to insure, such mortgage insurer against losses of principal which it may sustain as a result of such loans; and (c) may secure insurance pursuant to said National Housing Act. No law of this State prescribing the nature,

amount or form of security or requiring security upon which loans or advances of credit may be made or prescribing or limiting the period for which loans or advances of credit may be made, and no provision of this code prescribing or limiting interest rates upon loans or advances of credit, shall apply to loans, advances of credit or purchases made pursuant to this section.

(Added by Ch. 559, Stats. 1935.)

Article 5. Restrictions on Policies.

Payment of authorized real estate securities.

12500. An admitted mortgage insurer may insure the payment of authorized real estate securities subject to the restrictions in this article. A mortgage insurer shall not insure the payment of any form of security other than an authorized real estate security.

Amount of single mortgage.

12501. A mortgage insurer shall not insure the payment of any security secured by a single mortgage in any case where the aggregate principal of the security is in excess of fifteen per cent of the insurer's then paid-in capital.

Amount of securities insured.

12502. An insurer shall not at any time have outstanding mortgage policies insuring the payment of securities having an aggregate unpaid principal exceeding twenty times the amount of the insurer's paid in capital.

Article 6. Mortgage Participation Certificates and Trusts.

Issuance of certificates.

12520. A mortgage insurer may issue mortgage participation certificates pursuant to this chapter. Such certificates and any trust agreement under which the certificates are issued may also contain such provisions, not inconsistent with this chapter, as are agreed upon between the insurer issuing such mortgage participation certificates, the purchasers thereof, and the trustee.

Restrictions on issue.

12521. A mortgage insurer shall not issue mortgage participation certificates unless:

(a) The securities, the right of participation in which is evidenced by such certificates, are insured, either singly or as a group, by a mortgage policy issued by it or by another mortgage insurer.

(b) Such securities are segregated and assigned and transferred to a trustee, to be held as a mortgage participation trust for the common and equal benefit of the issuing insurer and the holders of all mortgage participation certificates evidencing participation in such particular segregated group.

Provisions of certificate.

12522. Every mortgage participation certificate issued by such mortgage insurer shall bear the certificate of the trustee to the effect that the aggregate face amount of mortgage participation certificates then outstanding, including both the one being certified and all others evidencing participation in the same group of securities, does not exceed the amount authorized by the agreement under which such certificate is issued.

12523. Each security set apart and assigned to a trustee to be held in a mortgage participation trust shall be accompanied by: Documents attached to security in trust.

(a) A copy of the appraisement of the property securing the same made in accordance with the provisions of this chapter.

(b) A copy of the certificate required by the provisions of section 12602.

12524. Upon the segregation and assignment of each such security, copies of the appraisement and certificate shall be transmitted promptly to the commissioner and to the Superintendent of Banks. Each such copy of appraisement so transmitted shall bear an endorsement or certificate executed by the trustee of the trust in which each such security is held. Such certificate or endorsement shall set forth the unpaid amount of the unpaid principal named in the security which covers the property described in such appraisement. Certificate showing unpaid principal.

12525. A mortgage insurer which issued mortgage participation certificates may at any time and may from time to time withdraw from any mortgage participation trust any asset held therein, upon the substitution therefor of other securities insured by any mortgage policy or of cash or of both, except that the group value of all the assets held in any such trust shall not be less than the aggregate face amount of mortgage participation certificates issued and outstanding under such trust. Substitution of securities in trust.

12526. Upon the substitution of any securities in a mortgage participation trust the substituting insurer shall report the same with a full description of each security so substituted, together with an appraisement of each separate parcel of property securing each security made in accordance with the provisions of this chapter and together with the certificate required by the provisions of section 12602, to the commissioner in its monthly report next following such substitution. Report of substitution.

12527. Every mortgage participation trust and the administration thereof shall at all times be and hereby is expressly made subject to the inspection, supervision and control of the Superintendent of Banks as fully and completely as if the same constituted a court trust under the provisions of the Bank Act. Trust subject to control of Superintendent of Banks

12528. Mortgage participation certificates and securities guaranteed by mortgage policies issued in conformity with the provisions of this chapter shall be legal investments for all trust funds held by any executor, administrator, guardian, trustee or other person holding trust funds, and for the funds of insurers, banks, banking institutions and trust companies. Mortgage participation certificates

12529. Such certificates and securities shall be accepted by this State and its officers and officials, as securities comprising any part of any fund or deposit required by law to be made with this State, or with any officer or official thereof, by an admitted insurer or a trust company doing business in this State. Public deposits.

12530. All premiums required to be paid according to the terms of any mortgage policy, may be charged to or paid out of the income from the security covered thereby. Premiums.

Effect of substitution

12531. The right of substitution hereinbefore provided and the exercise thereof shall not alter or affect the status of any mortgage participation certificates as legal investments or as securities acceptable by the State of California, its officers and officials, as comprising or constituting any such fund or deposit.

Pre-existing policies.

12532. The legality or validity of mortgage policies, securities guaranteed thereby and of mortgage participation certificates heretofore issued which at the date of issuance fully conformed to and complied with the law then in force shall not be affected or impaired by the provisions of this chapter. Such securities guaranteed by mortgage policies and such mortgage participation certificates shall continue to be legal investments and to be acceptable by the State of California, its officers and officials, as deposits, to the extent and in the manner provided by the law in force at date of such issuance.

Article 7. Amendment, Cancellation and Exchange of Mortgage Participation Certificates and Securities.

Power to amend, cancel, and exchange.

12540. Any mortgage insurer which has heretofore issued mortgage participation certificates in accordance with the provisions of the law of this State in force at the time of such issuance may, with the consent of the commissioner:

(a) Amend such certificates and any mortgage policy issued in connection therewith.

(b) Cancel and retire all or any part of such certificates presently outstanding and issue in exchange therefor other new certificates representing a similar proportionate interest in the group of assets held in trust for the benefit of the holders of such presently outstanding mortgage participation certificates.

Approval by commissioner.

12541. The plan under which such amended certificates or such other new certificates are to be issued, and the form of such amended certificates and such other new certificates, shall be submitted to the Insurance Commissioner for his approval. All such amended or new certificates and any agreement under which the same may be issued and any mortgage policy issued in connection therewith shall contain, notwithstanding anything in this code to the contrary, such terms and provisions as are approved or required by the commissioner.

Fiduciary certificate holder's consent.

12542. Any executor, administrator, guardian, trustee, insurer, bank, banking institution or trust company, and any officer of this State, now holding one or more mortgage participation certificates as a legal investment or as a fund or deposit required by law to be made with this State, may consent to the amendment of such certificates or may exchange such certificates for other new certificates issued as herein provided, and may hold such amended certificates or such other new certificates as legal investments or as securities eligible for deposit with this State or with its officers or officials in the same manner and to the same extent as the particular mortgage participation certificates so amended, or the particular

certificates in exchange for which such other new certificates are issued, are now held.

12543. At any time during the emergency period as hereinafter defined any amendments or modifications of any trust agreement under which mortgage participation certificates are issued or of such certificates or of any mortgage policy issued in connection therewith, or of any term, covenant, condition or provision of such agreement, certificates or policy, shall, if made as hereinabove provided, become fully effective and binding upon all of the holders of such certificates outstanding under such trust agreement when consented to in writing by the holders of seventy-five per cent in interest of all certificates outstanding under such trust agreement. Emergency period.

The term "emergency period" as used in this section shall mean the period commencing May 15, 1933, and ending September 1, 1936; except that said emergency period may be terminated at any time prior to September 1, 1936, by order of the commissioner.

(Amended by Ch. 559, Stats. 1935.)

[ORIGINAL SECTION.]

12543. At any time during the emergency period as hereinafter defined any amendments or modifications of any trust agreement under which mortgage participation certificates are issued or of such certificates or of any mortgage policy issued in connection therewith, or of any term, covenant, condition or provision of such agreement, certificates or policy, shall, if made as hereinabove provided, become fully effective and binding upon all of the holders of such certificates outstanding under such trust agreement when consented to in writing by the holders of seventy-five per cent in interest of all certificates outstanding under such trust agreement.

The term "emergency period" as used in this section shall mean the period commencing with the effective date of this section and ending September 1, 1935; except that said emergency period may be terminated at any time prior to September 1, 1935, by order of the commissioner.

Article 8. Conservatorship.

12550. In all cases where a mortgage insurer has issued mortgage participation certificates evidencing a share or interest or right to participate in a security or group of securities deposited with a depositary or trustee, the commissioner may, by verified petition, apply to the superior court of the county in which the principal office of the mortgage insurer affected by such petition is located, for an order requiring the depositary or trustee to show cause why a conservator should not be appointed to take possession of all the property and assets held in such trust and to conserve, operate, manage, control or liquidate the same and distribute the avails thereof to the holders of the mortgage participation certificates which evidence an interest in such assets. Application by commissioner.

12551. A similar petition may be made by any mortgage insurer if the holders of a majority in interest of the mortgage participation certificates issued under any trust affected by such petition have consented in writing to the filing of such petition and such consent is filed with such mortgage insurer. Application by insurer.

Nominat on of con-servator.

12552. In the petition for the appointment of such conservator the petitioner may nominate or recommend any person believed by such petitioner to be competent to act as such conservator, but such nomination or recommendation shall not be controlling on the court.

Notice of proceeding.

12553. A copy of the petition and of the order to show cause shall be served on the depositary or the trustee in the same manner as a summons is served in civil actions. Such other notice of the pendency of the proceedings shall be given as the court prescribes.

Jurisdiction.

12554. Said superior court shall have jurisdiction of said petition and of the proceedings thereon and may make all such orders as justice and equity require, including orders:

(a) Requiring the depositary or trustee to account.

(b) For the discharge of the depositary or trustee.

(c) For the appointment of a conservator.

(d) For the winding up of the trust and the distribution of the trust property.

(e) For the presentation of claims and demands against the trust estate and the barring from participation of creditors and claimants failing to make claims and present proofs as required.

Notices.

12555. Any notice required, other than notice to the depositary or trustee, may be given in such manner as the court directs.

Hearing and order.

12556. On the return day of such order to show cause, or on any day to which the hearing is continued, the court shall either deny the petition or appoint a competent person to act as conservator.

Powers of conservator.

12557. If the court appoints a conservator, it shall direct the conservator forthwith to take possession of all the assets in the trust. Thereupon the conservator shall be vested by operation of law with the title to all such assets, including all the securities, contracts and rights of action of the depositary or trustee and of said mortgage insurer pertaining to the trust property, as of the date of the order so appointing the conservator.

Filing account.

12558. The court shall further order that the depositary or trustee file its account and shall fix the date for the hearing of said account.

Injunctive relief.

12559. On the filing of such petition, or at any time thereafter, the court may in its discretion issue an injunction restraining the depositary or trustee, the mortgage insurer, the holders of participation certificates, and all other persons having or asserting claims or demands against the depositary or trustee or the trust property from taking any action or proceeding with respect to the assets in the trust without leave of court first had and obtained.

General powers of conservator.

12560. In all cases arising under the provisions of this article the conservator shall have and possess full power and right to deal with the property and assets held in such trust

in his own name, as conservator, or in the name of the insurer or of the depositary or trustee, as the court directs.

Conservator as receiver.

12561. In addition to all powers and duties herein mentioned the conservator shall have and possess all the powers and duties of a receiver appointed upon the dissolution of a corporation.

Duties of conservator.

12562. In the conservation, operation, management, control or liquidation of the affairs of any trust hereunder the conservator, subject to the approval of the court and notwithstanding anything to the contrary contained in the trust indenture under which the trust is established, may sell, mortgage, or otherwise encumber or exchange any of the property or assets held in such trust upon such terms as he deems advisable and in the best interests of the certificate holders thereunder, and may accept a deed in lieu of foreclosure. The conservator may also do any act or execute any instrument not expressly authorized by this article upon an order of the court made after a hearing on such notice as the court shall prescribe.

(Amended by Ch. 761, Stats. 1935.)

[ORIGINAL SECTION.]

12562. In the conservation, operation, management, control or liquidation of the affairs of any trust hereunder the conservator, subject to the approval of the court and notwithstanding anything to the contrary contained in the trust indenture under which the trust is established, may sell, mortgage, or otherwise encumber or exchange any of the property or assets held in such trust upon such terms as he deems advisable and in the best interests of the certificate holders thereunder.

Sales of real property.

12563. Sales of real property may be made by the conservator for cash, or for cash and/or notes secured by mortgage on the property sold. Such sales may be made to the mortgage insurer or to any other purchaser.

Conduct of trust.

12564. Such conservator may, subject to the approval of the court, determine and prescribe the amount of interest and principal which may be paid out of the assets of such trust and the times of payment thereof, and may make, rescind or amend all such further rules, regulations and conditions relative to the conservation, management, control or liquidation of such trust as he deems advisable and in the best interests of the certificate holders.

Application for termination.

12565. If the conservator becomes satisfied that it may safely be done and that it would be in the interest of the certificate holders and the insurer, he may apply to the court for an order terminating the conservatorship. Upon the making of his account and its approval by the court, such conservatorship shall be terminated and the property and assets of the trust shall be returned to the depositary or trustee.

Petition for winding up

12566. If the conservator at any time determines that such trust should be wound up and the avails thereof distributed, he shall petition the court for an order for final winding up of the trust and distribution of the trust assets.

Order.

12567. After notice is served upon the depositary or trustee and the insurer, and upon such other parties as the court

directs, the court may order such final winding up of the trust and distribution of the trust assets.

Exchange of interests or stock or new certificates.

12568. In winding up the affairs of any trust the conservator, subject to the approval of the court, may sell, exchange or dispose of all or any part of the assets in the trust to a corporation organized under the laws of this state for a consideration which may include shares of stock or other securities in such corporation, or participation certificates issued by a domestic mortgage insurer, if such sale, exchange or other disposition has been approved by the consent in writing of the holders of participation certificates representing more than fifty per cent in interest of all mortgage participation certificates issued and outstanding under such trust.

Proportions on final distribution

12569. The conservator may distribute such shares of stock, participation certificates or other consideration, or the proceeds thereof among the holders of participation certificates in the trust under liquidation in proportion to their several interests therein, as directed or confirmed by the court.

Article 9. Appraisers and Appraisements.

Appraisement of security.

12580. Before investing in any security or making or issuing any mortgage policy thereon or participation certificate therein, every mortgage insurer shall cause an appraisement of the real property with improvements thereon securing the same to be made by a competent person appointed as appraiser by resolution of the board of directors of the insurer.

Appointment of appraiser.

12581. Such appointment of appraiser shall not be valid or effective unless and until approved by both the commissioner and the Superintendent of Banks. Such appointment shall be revocable at any time by either the commissioner or the Superintendent of Banks should they or either of them consider said appointee incompetent or any appraisals made by said appointee improper, after a hearing upon due notice thereof first given to the appraiser and the appointing insurer.

Appraisal and report.

12582. Such approved appraiser shall examine and appraise the property and determine its fair market value without deducting therefrom the amount of any outstanding and unpaid taxes, bonds or assessments. He shall thereafter make his verified report to the mortgage insurer.

Contents of report.

12583. Such appraiser's report shall state whether such property is improved or productive and shall contain a general statement showing:

(a) The character of the property appraised.

(b) The purposes for which it is being used.

(c) The kind and condition of the improvements.

(d) The fair market value of each parcel of land and of the improvements thereon.

(e) Such other information as is ordered by the commissioner or the Superintendent of Banks.

Effect of report.

12584. Reports of appraisals thus made by an approved appraiser shall, in the absence of any negligence, gross error, fraud or collusion, be conclusive as to the facts therein stated.

Article 10. Reports and Statements.

12600. Every mortgage insurer shall make a report in writing to the commissioner. Such report shall be made monthly and shall be verified by the oath of the insurer's president or vice president and its secretary or treasurer. Such report shall be in such form and contain such information as the commissioner requires. **Monthly report.**

12601. There shall be filed with such report an appraisement made by an approved appraiser, in accordance with the provisions of article 9 of this chapter, of each separate parcel of property securing any security which has been guaranteed or insured during the month covered by the report, and which is not covered by such an appraisement theretofore filed in accordance with the provisions of this section or of section 12524. **Appraisements filed with report.**

12602. Each appraisement shall be signed and verified by the approved appraiser making the same. It shall be accompanied by a certificate, signed and verified by an officer of the mortgage insurer, to the effect that the insurer has in its possession and control evidences of title consisting of a full abstract of title, a full certificate or guarantee of title, or a policy of title insurance, showing that the mortgage securing such loan is a first mortgage upon the appraised real estate and the improvements thereon, if any. **Execution of appraisement and certificate.**

12603. Concurrently with the filing of the monthly report to the commissioner, a verified copy of such report, together with a copy of all appraisements filed therewith, shall be sent by the insurer to the superintendent of banks. **Report to Superintendent of Banks.**

12604. In addition to the above monthly report every mortgage insurer shall make and file with the commissioner an annual report covering the calendar year, in such form and containing such information as the commissioner requires. **Annual report.**

12605. In case of the neglect or failure of any such mortgage insurer to make and file such monthly reports in the office of the commissioner before the twentieth day of the next succeeding month, or to file such annual report covering any calendar year on or before the first day of March next following the close of such calendar year as herein provided, such insurer shall forfeit to this State ten dollars per day for every day after those dates during which said neglect or failure continues; except that the insurance commissioner may extend the time within which any report shall be filed. **Penalty.**

Article 11. Moratoria on Securities.

12620. In the event actions for the foreclosure of real estate mortgages, or sales on execution or under power of sale contained in any mortgage or by direction of court in an action for the recovery of a debt or for the enforcement of a right secured by a mortgage or other lien shall be extended or postponed pursuant to or by any law of this State or of the United States, or by any order or ruling of any officer of this State or **Effect of moratoria.**

of the United States, or in the event the date when payment of either principal or interest shall become due under any note secured by a mortgage on real estate shall be extended or postponed pursuant to or by any law of this State or of the United States, or by any order or ruling of any officer of this State or of the United States, then and in each of such cases there shall be an extension for a like period of time of the date or dates upon which mortgage insurers are required to make any and all payments under and by reason of any and all policies of mortgage insurance or mortgage participation certificates then issued and outstanding.

Application of section

12629. (a) The provisions of this section shall apply to any mortgage insurer (1) the property, business and assets of which are in possession of the commissioner; (2) which is no longer able to conduct the normal business of a mortgage insurer; (3) which is unable to discharge its debts or other obligations as they become due; (4) which is in such condition that unless such insurer is liquidated or a plan of reorganization consummated a preference is likely to be obtained by some holders of mortgage participation certificates over other such holders, or by some creditors over other creditors of the same class; (5) which is in such condition that it will probably be necessary, unless a plan of reorganization is consummated, to liquidate such insurer or to sell or otherwise dispose of a substantial part of its assets at substantially less than the amount which might reasonably be expected to be realized therefrom in the ordinary and proper conduct of a going business. The determination of the commissioner that a mortgage insurer is included in one or more of the foregoing classifications shall be prima facie evidence of such fact.

In the case of a mortgage insurer which has issued mortgage participation certificates under mortgage participation trusts pursuant to the provisions of Chapter VIII, Title II, Part IV, Division First of the Civil Code, such mortgage participation trusts, the mortgage participation certificates issued thereunder and any policies of mortgage insurance issued in connection therewith shall be subject also to the provisions of this section whenever a revision, modification or termination of such trusts, certificates or policies is found by the court to be necessary or advantageous in connection with any plan submitted to it as hereinafter provided.

"Plan" defined

(b) The term "plan" as used in this section means any plan for the rehabilitation, readjustment or reorganization of any mortgage insurer or of all or any part of the business, properties and assets of such insurer, or for the readjustment, modification or reorganization of the rights or interests of any or all of the holders of mortgage participation certificates or other certificates or securities or policies of mortgage insurance of such insurer, or of any creditors of such insurer and other persons, if any, interested therein. Without limiting the generality of the foregoing, a plan may provide for any one or more of the following: (1) For the delivery of

all or any part of the business, properties, or assets of such insurer to the commissioner and the return thereof to such insurer after the plan is fully consummated; (2) for the transfer of all or any part of the business, properties, or assets of such insurer to another corporation or to two or more other corporations, which corporation or corporations, or any of them, may, but need not be, a mortgage insurer or a National mortgage association; (3) for the modification, revision or termination of any mortgage participation trusts which have been created by such insurer; (4) for the issuance of new mortgage participation certificates or amended mortgage participation certificates or stock, bonds, debentures or other securities of such insurer or of any other corporation or corporations, to which the business, properties or assets, or any part thereof, of such insurer have been transferred, and for the exchange thereof to the holders of mortgage participation certificates issued by such insurer or to other creditors of such insurer for the outstanding mortgage participation certificates or other obligations of such insurer or for the sale or other disposition of such new certificates, stock, bonds, debentures or other securities. Any new mortgage insurer formed pursuant to a plan to continue the business of an existing insurer may adopt and continue to use the name of such existing insurer or any part of such name.

Proposal of plan.

(c) A plan (1) may be proposed by the commissioner or (2) may be proposed subject to the approval of the commissioner by any mortgage insurer through action of its board of directors. No plan shall be proposed or approved by the commissioner unless the commissioner is satisfied that the plan is fair and equitable and does not discriminate in favor of any class of certificate holders, investors, creditors or other persons affected thereby, and is feasible. A plan, if proposed or approved by the commissioner, shall be presented by the proposer to the superior court of the county in which the principal office of such insurer is located, with a petition that the court determine the fairness of such plan and the approvals requisite to such plan becoming operative, which petition shall set forth such plan and the fact that it has been proposed or approved by the commissioner and any other facts which such proposer shall deem material to a consideration of the fairness of the plan. Thereupon the court shall fix the time and place for the hearing of such petition and shall direct that notice thereof shall be mailed to each of the known certificate holders, investors and creditors of such insurer affected by such plan and to the trustee or depositary under all mortgage participation trusts created by such insurer and then in existence, together with either a copy of such plan or a summary thereof, which summary shall be either prepared or approved by the commissioner. If the commissioner shall be the proposer of such plan the court shall direct such insurer to deliver to the commissioner a list of the names and addresses of all certificate holders, creditors, investors and other known persons affected by

such plan. Said notices shall be mailed, postage prepaid, to the respective addresses as shown on such list, or if no address be there shown, to the last known address. In addition the proposer of such plan shall cause notice of the time and place fixed for such hearing to be posted in three public places in said county not less than twenty days before the day fixed for such hearing and to be published at least once, not less than twenty days nor more than thirty days before the day fixed for such hearing, in a newspaper of general circulation published in said county.

Hearing and order.

(d) At the time and place fixed for such hearing or at the time and place to which such hearing may be continued by the court, the court shall hear the parties interested therein and if it deem it necessary may take testimony relative thereto and may accept proof in affidavit form as to any fact or circumstance material thereto. Such hearing shall be, among other things, upon the fairness of the terms and conditions of the issuance of all new or amended mortgage participation certificates, stock, bonds, debentures or other securities to be issued pursuant to such plan and of the exchange thereof for outstanding mortgage participation certificates, claims or property interests, or partly for such exchange and partly for cash, and all persons to whom it is proposed to issue such certificates, stock, bonds, debentures or other securities in such exchange shall have the right to appear and be heard at such hearing. No plan shall be approved by the court unless the court is satisfied that the plan is fair and equitable and does not discriminate in favor of any class of investors, creditors, certificate holders or other persons affected thereby and is feasible. In case an insurer has outstanding mortgage participation certificates issued under one or more than one mortgage participation trust, the holders of mortgage participation certificates in each of such trusts may be considered as one class. After the completion of such hearing the court shall approve, modify or disapprove such plan.

Requirements for approval.

No such plan shall become operative unless and until it shall have been approved in its original form or, if modified, in its modified form, by such court and the commissioner, nor unless and until such plan shall have been consented to either in person or by a duly appointed agent, attorney or committee by the following persons: (a) If the plan affects the stockholders of such insurer, then by the holders of a majority in amount of the outstanding stock of such insurer; (b) if the plan affects mortgage participation trusts or the holders of mortgage participation certificates issued thereunder, then by the holders of two-thirds in interest of all mortgage participation certificates outstanding under each or all, as the court may determine, of the mortgage participation trusts which may be so affected; (c) if such insurer shall have creditors, then by two-thirds of each class of creditors of such insurer; and (d) by two-thirds in amount of each class of other known persons, if any, affected by the plan; pro-

vided, however, that such consent shall not be required in the case of any stockholder, mortgage participation certificate holder, creditor or other person, or any class thereof, if (1) the rights of such person or class shall not be materially affected by such plan, or (2) such plan shall provide for the payment in cash of the value of the right or interest of such person or class; and provided, further, that such consents shall not be required from stockholders of any insurer if the value of the assets of such insurer shall be less than the liabilities thereof (mortgage participation certificates and policies of mortgage insurance not being included as liabilities), or if the business, properties and assets of such insurer be then in the possession of the commissioner. For the purpose of this section real property, contracts for the sale of real property, loans and all other assets (whether like or unlike the foregoing) shall be valued at what may reasonably be expected to be realized therefrom in the ordinary and proper conduct of a going business. The consents required by this section may be given before the plan is presented to the court or after such presentation and before the court has approved it or after such approval. If at such time as the plan is approved by the court the proportions above required of the stockholders, certificate holders, creditors and other persons, if any, affected thereby shall not have consented to the plan, the order of court may provide that upon satisfactory proof of the fact that such consents have been given a further order may be entered ex parte providing that such plan shall become operative, which further order shall be binding upon the commissioner, the insurer and all such stockholders, certificate holders, creditors and other persons, if any, affected thereby.

Jurisdiction.

The superior court in which such petition is pending is hereby given jurisdiction to determine all questions required to be determined pursuant to this section including, without limiting the generality of the foregoing, the following: Whether the insurer subject to such plan is included in one or more of the classes specified in paragraph (a) hereof; whether any such plan, either in its original or modified form is fair and equitable; whether it discriminates in favor of any class of certificate holders, creditors or other persons affected thereby; whether it is feasible; whether the terms and conditions of any proposed issuance and exchange of stock, mortgage participation certificates, bonds, notes, debentures or other securities thereunder are fair, and to approve or disapprove such terms and conditions; the total liabilities and total assets of such insurer; the approvals requisite under this section to such plan becoming operative, including jurisdiction to determine, for the purposes of the plan and the consents, the division of the creditors and other known persons, if any, affected by the plan into classes according to the nature of their respective claims and interests.

Effect of approval.

(e) When the plan shall have been approved by the court and the commissioner, as hereinbefore provided, and shall have

been consented to by or on behalf of the respective proportions herein required of stockholders, certificate holders, creditors and other persons, if any, affected thereby, such plan shall be binding upon the commissioner, the mortgage insurer affected thereby, all the stockholders, certificate holders and creditors of such insurer, and all other persons, if any, affected thereby; and such insurer, the trustees and depositaries under all mortgage participation trusts affected thereby and all stockholders, certificate holders, creditors and other persons shall be conclusively deemed to have consented to all the terms and conditions of such plan whether or not all of such persons shall actually have consented thereto and whether or not all of them shall have received notice of such plan or of such hearing, as hereinbefore provided. Thereupon such steps shall be taken by the commissioner, the insurer and all persons affected by the plan, and all acts shall be done, or instruments executed and all new or amended certificates, stock, bonds, debentures, notes or other securities issued as may be required by such plan so approved and as may be necessary or desirable for the consummation of such plan. In all cases where the plan involves the revision, modification or termination of mortgage participation trusts and as an incident thereto the transfer of the title to trust assets, the title to and management of such trust assets pending the hearing on such plan and its approval by the court and the commissioner and for such further period as the court may prescribe and subject to such reserve powers as may be granted by the trust agreement to the insurer, or conferred by the court, shall continue in the trustee or depositary under the respective mortgage participation trusts affected. Upon the approval of such plan by the court and the commissioner the trust assets of all such trusts shall be transferred, conveyed, assigned, delivered, or otherwise dealt with, conformably to such plan, as the court may order and direct, upon application of the proposer of such plan.

Proceedings under plan.

Powers of court

The superior court shall retain jurisdiction of all parties to said proceeding until the plan approved is fully carried out and consummated and the carrying out and consummation of such plan shall be subject to the supervision and control of such court. In connection therewith the court may make all orders and decrees by way of injunction or otherwise as may be necessary, proper and equitable in order to carry out and consummate said plan and make the same fully effective.

Appeals.

(f) No appeal from an order of the superior court approving or modifying a plan shall be effectual for any purpose unless within thirty days after the entry of such order the appellant or appellants shall file with the clerk of such court a bond executed on the part of the appellant or appellants by at least two sureties to the effect that the appellant or appellants, in the event such order is affirmed on appeal, will pay all of respondent's costs, expenses and reasonable attorney's fees arising from such appeal, and also all losses and damages to the certificate holders, creditors and other persons, if any

affected by such plan, arising from any delay in consummating such plan during the pendency of such appeal. The form of such bond shall be approved and the amount thereof fixed by the superior court but in no case shall such bond be for an amount greater than one per cent of the total liabilities of such insurer, provided that if mortgage participation certificates are affected by such plan such bond shall be for an amount not more than one per cent of the total liabilities of the insurer plus one per cent of the aggregate face amount of all mortgage participation certificates of such insurer outstanding. Appeals from orders approving plans shall be given preference in the hearing on appeal over all other appeals, except contested election cases and cases in which the people of the State are parties.

"Securities defined.

(g) The term "securities" as used in this section shall include not only stock of one or more classes issuable by corporations generally but also shares of national mortgage associations or other Federal agencies or corporations organized under Federal authority, whose purposes include the loaning of money on real estate, and also mortgage participation certificates, bonds, notes, debentures, warrants or evidences of indebtedness or of beneficial interests or of any other classes or rights. A mortgage insurer may issue and may invest in, hold, own, sell, exchange or otherwise dispose of, pursuant to a plan approved under this section, any one or more of the above mentioned kinds of securities, regardless of any provisions of the laws of this State to the contrary. None of the provisions of the Corporate Securities Act shall apply to any securities issued pursuant to a plan approved under this section, whether or not such securities are issued by a mortgage insurer, except that brokers, as defined in said act, shall be subject to the provisions of said act with respect to all transactions involving such securities.

Consent by fiduciaries, etc.

(h) Any executor, administrator, guardian or receiver, and any trustee of any kind or nature, and any insurer, bank, banking institution or trust company, and any officer of the State of California, holding any securities or certificates of a mortgage insurer as a legal investment or as a fund or deposit required by law to be made by the State of California, may, without the necessity of obtaining any specific court approval (a) consent to any plan which has been approved by the court pursuant to paragraph (d) of this section; (b) exchange any mortgage participation certificates or other securities or rights or claims for certificates, amended certificates or securities issued pursuant to such plan; and (c) may continue to hold as a legal investment or as a fund or deposit required by law to be made with the State of California any certificates, amended certificates or securities so received.

Emergency period.

(i) No plan shall be operative pursuant to this section unless approved by the court and consented to as required by this section during the emergency period, which period, for the purposes of this section, shall commence with the

effective date of this section and shall expire April 1, 1937, or at such earlier date as the commissioner shall find and declare that such emergency period has terminated; provided, however, that if, prior to the expiration or termination of said emergency period, such plan shall have been approved by the superior court and shall have been consented to as required by this section, such plan shall become operative, unless such approval be set aside on appeal, notwithstanding the fact that such approval of the superior court was not final at the expiration or termination of such emergency period.

(Added by Ch. 394, Stats. 1935.)

Article 12. Penalties.

Violating restrictions

12630. A violation of any of those terms or provisions of this chapter which forbid a particular insurance or investment by a mortgage insurer shall not affect the force or validity of any certificate, security or mortgage policy of a mortgage insurer, but any officer, director, agent or other employee of any such insurer who knowingly consents to any such violation is guilty of a misdemeanor.

Failure to comply with provisions of chapter.

12631. Any person who commits any of the following acts without complying with the provisions of this chapter, is guilty of a misdemeanor.

(a) Engaging as a business in the making or issuing in this State of mortgage policies or mortgage participation certificates.

(b) Advertising in this State the making or issuing of such policies or certificates.

(c) Publicly offering in this State to make or issue such policies or such certificates.

Any officer, director, agent or other employee of any such person, who knowingly consents, permits or commits any violation of any of the terms or provisions of this section is guilty of a misdemeanor.

Chapter 3. Land Value Insurance.

Article 1. The Policy.

Approval by commissioner.

12660. The forms of all agreements for, or policies of, land value insurance shall, before execution, be submitted to the commissioner. Such agreements or policies shall not be executed unless the forms are approved by the commissioner.

Restrictions on policy.

12661. All land value policies shall be limited to the insuring of the value of lots and parcels of land, exclusive of any improvements thereon other than grading, street work, sidewalks and sewers. Such policy shall not provide for any liability in excess of the actual purchase price, paid or agreed to be paid in a bona fide sale or agreement of sale of such lots or parcels next immediately preceding the issuance of the policy. The total liability on any such policy shall not exceed $10,000.

12662. Such agreement or policy shall not be issued until: Requisites to issue

(a) The land to be insured is appraised by some appraiser designated, appointed or approved by the commissioner.

(b) There is filed with the commissioner a duplicate original of such appraisement together with the certificate of the appraiser, certifying that in his opinion the amount of land value insurance to be placed thereon is safe and proper.

Article 2. Capital and Reserve Requirements.

12680. An insurer shall not transact land value insurance in this State unless it has a paid-in capital, represented by shares of stock, of at least $500,000. Required capital.

12681. A land value insurer shall not transact any other class of insurance. Other insurance

12682. Unless such deposit is waived by the commissioner pursuant to this section, assets equal in value to the initial paid-in capital of every land value insurer shall be deposited with the commissioner. The commissioner may, in the case of a foreign insurer actually transacting a land value insurance business in another State, waive this deposit upon satisfactory evidence that such assets are deposited with the insurance authority of the insurer's home State for the benefit of all of its policyholders. Deposit of capital assets.

Any such deposit may be made in lawful money of the United States or any of the securities specified in Article 3, Chapter 2, Part 2, Division 1.

12683. The assets deposited shall be held in trust by the commissioner for the security and protection of the holders of, or beneficiaries under, any policy issued by the insurer. The State shall be responsible for the custody and safe return of any assets so deposited. Assets so deposited may be withdrawn or exchanged from time to time for other like assets, receivable for such deposit. Substitution of assets

12684. So long as the depositing insurer continues solvent, it shall be permitted to receive the interest and dividends on assets so deposited. The assets shall be subject to sale, transfer and disposal of the proceeds by the commissioner only on the order of a court of competent jurisdiction and for the security and protection of the holders of the insurer's policies. Income on deposit.

12685. Every admitted land value insurer shall create and maintain a reserve fund of at least thirty-three and one-third per cent of all premiums collected by it on insurance then in force. Such reserve fund shall be invested in such securities as are specified in Articles 3, 4 and 6 of Chapter 2, Part 2, Division 1. The commissioner may require the assets constituting the reserve fund to be deposited with him on the same terms and conditions as in the case of assets representing initial paid-in capital. Reserve fund.

12686. During the first three years of operation of the insurer, there shall be maintained a supplemental reserve amounting to sixteen and two-thirds per cent of all premiums collected. Such supplemental reserve shall be invested in such Supplemental reserve.

securities as are specified in Article 3, Chapter 2, Part 2, Division 1. After the lapse of the three-year period, upon proper showing by the insurer that the thirty-three and one-third per cent reserve fund is sufficient to amply protect all policyholders of the insurer, the commissioner may in his discretion release any or all of the supplemental reserve.

Capital surplus fund.

12687. Ten per cent of the net earnings of the insurer shall be set aside annually as a capital surplus fund until the capital paid in together with such capital surplus fund amounts in the aggregate to $1,000,000.

Article 3. Actuarial Basis of Business.

Certificate of sufficiency of premiums.

12700. Before any certificate of authority to do land value insurance is issued, there shall be filed in the office of the commissioner the certificate of an actuary or statistician that he has examined the actuarial tables of the applicant and that in his opinion the premiums to be charged are adequate to create the proper reserve. Such premiums shall not be decreased without the permission of the commissioner.

Article 4. Reports and Statements.

Time and contents

12710. Every land value insurer shall semiannually make a report in writing to the commissioner. Such report shall be verified by the oath of the insurer's president or vice president and its secretary or treasurer, or any two of its principal officers. Such report shall contain a statement of each new policy issued since the last report, setting forth in detail a description of the property covered by such policy, the appraised value of the property, the amount of insurance and the premium rate charged.

Article 5. Restrictions on Loans and Insurance.

Loans to interested parties.

12720. Loans shall not be made by any land value insurer directly or indirectly to any of its officers, directors or employees, or to any member of the family of any of its officers or directors.

Insurance of property of interested parties.

12721. An officer or director of such an insurer shall not be interested in any policy issued by the insurer whereby there is insured the value of any land or property in which such officer or director is, or becomes, interested.

Article 6. Penalties.

Direct violations.

12740. Any person violating any of the terms or conditions of this chapter is guilty of a felony and punishable by fine not exceeding $5,000 or imprisonment not exceeding five years, or both.

Consent to violation.

12741. Any officer, director, agent or employee of any such insurer who knowingly consents to any violation of the provisions of this chapter is guilty of a misdemeanor.

DIVISION 3. THE INSURANCE COMMISSIONER.

CHAPTER 1. APPOINTMENT, QUALIFICATION, AND OFFICES.

Appointment

12900. The commissioner shall be appointed by the Governor, with the consent of the Senate and shall hold office for the term of four years.

Eligibility.

12901. An officer, agent, or employee of an insurer is not eligible to the office of commissioner.

Salary.

12902. The annual salary of the commissioner is $6,000. The annual salary of the deputies of the commissioner shall be fixed by him with the approval of the Department of Finance and shall not exceed $4,500 for any such deputy.

Office and expenses.

12903. The commissioner may procure suitable offices in San Francisco for conducting the business of the division. He may appoint such deputies and assistants and other employees as may be necessary for the transaction of the business of the division. He may incur such traveling and other expenses as are necessary for the proper performance of his duties. All moneys expended by him shall be expended in accordance with law.

Actuary.

12904. The commissioner may employ an actuary to make the valuation of life policies. The actuary's compensation shall not exceed one cent for each $1,000 of insurance and shall be paid by the insurer for which the valuation is made.

Location of offices

12905. The commissioner shall keep his office in the city of San Francisco and shall also keep an office in the city of Sacramento and an office in the city of Los Angeles.

(Amended by Ch. 493, Stats. 1935.)

[ORIGINAL SECTION.]

12905. The commissioner shall keep his office in the city of San Francisco and shall also keep an office in the city of Sacramento.

Division of Insurance

12906. The offices of the commissioner shall constitute the Division of Insurance of the Department of Investment of this State and the commissioner shall be the chief of that division.

Official bond

12907. The commissioner shall execute an official bond in the sum of $20,000.

CHAPTER 2. POWERS AND DUTIES.

Article 1. Generally.

Approval of securities

12920. The commissioner shall determine the sufficiency and validity of all securities required to be given by persons engaged, or to be engaged, in insurance business, and shall cause such security to be supplemented or renewed in case of the insufficiency or invalidity thereof.

Enforcement of laws

12921. The commissioner shall perform all duties imposed upon him by provisions of this code and other laws regulating the business of insurance in this State, and shall enforce the execution of such provisions and laws.

Annual report

12922. The commissioner shall, on or before the first day of August in each year, make a report to the Governor, con-

taining a tabular statement and synopsis of the reports which have been filed in his office and showing, generally, the condition of the insurance business and interests in this State, and other matters concerning insurance. Such report shall also contain a detailed verified statement, of the moneys and fees of office received by him, and for what purpose. The printing of said report and all other printing required by the Division of Insurance shall be exempt from the provisions of Article 12, Chapter 3, Title 1, Part 3 of the Political Code.

Submission of papers to Attorney General

12923. Except in the cases of bonds of brokers and statements as to condition and affairs of insurers, before the commissioner issues any certificate or license based upon an original or a copy of a writing required by law, he shall submit such document to the Attorney General. The Attorney General shall examine the document and return it with his certificate or opinion as to whether the document is in accordance with the requirements of law.

Witnesses

12924. The commissioner may issue subpenas for witnesses to attend and testify before him on any subject touching insurance business, or in aid of his duties. Such process may be served, obeyed, and enforced as provided in the Code of Civil Procedure for civil cases. A defaulting witness may be punished as provided in the Penal Code.

Records

12925. The commissioner shall keep and preserve in a permanent form a full record of his proceedings, including a concise statement of the condition of each insurer, surplus line broker or motor club examined as to condition and affairs by by him.

Compliance with laws

12926. The commissioner shall require from every insurer a full compliance with all the provisions of this code.

Monetary basis for computations

12927. All statements, estimates, percentages, payments, and calculations, required by this code to be made, either by the commissioner or insurers, shall be made on the basis of lawful money of the United States.

Prosecuting violations of code

12928. Whenever the commissioner ascertains that any insurer or any of its agents, officers or employees or any other person is guilty of violating any of the penal provisions of this code or of other laws he shall certify the facts of the violation to the district attorney of the county in which such offense was committed.

Data for tax assessors

12929. The commissioner shall, before the commencement of each fiscal year of the State, furnish the assessor of the county in which the principal office of any insurer is situated, all the data concerning premiums collected by the insurer, and all other necessary information in relation to the business of such insurer that will assist the assessor in the performance of his duties.

Prosecutions

12930. Offenses under this code, or under other laws relating to insurers, shall be prosecuted and tried in all respects as provided in the Penal Code for public offenses. For the purpose of evidence the commissioner shall furnish to any district attorney, without cost to the county, certified copies of any papers or records of the office of the commissioner.

Article 2. Review of Commissioner's Acts.

12940. The acts and orders of the commissioner are subject to such review, or other action by a court of competent jurisdiction, as is permitted or authorized by law. Review

Article 3. Procuring Information on Policies.

12950. Any person interested as owner, assignee, pledgee or payee, of any policy and desiring any information about such policy, may apply to the commissioner for a certificate of the facts or information desired. Such application shall be accompanied by an affidavit showing his interest in the policy. Application for information

12951. If the records of his office show the facts or information desired, the commissioner shall prepare his certificate reciting such facts or information. If his records do not show the facts or information desired. he may deliver an order to the insurer, directing it to state such information or facts in an affidavit and deliver such affidavit to him. If such insurer is a foreign insurer, the commissioner may deliver such order to its agent for service of process. Order to insurer for information

12952. In such affidavit the insurer shall make a full, true and correct statement of all the desired facts and information in its possession, regardless of the location of its record of such information. Affidavit of insurer.

12953. If such insurer neglects or refuses to make and deliver such affidavit to the commissioner within ninety days from the date of the delivery of the order by the commissioner to it or its agent for service of process, the commissioner shall revoke the certificate of authority of the insurer. Penalty

12954. Immediately after receiving such affidavit from an insurer the commissioner shall certify such affidavit to the applicant. Such affidavit so certified by the commissioner shall be delivered to the applicant personally or by depositing it in the United States post office, addressed to the applicant, with postage prepaid thereon. Delivery to applicant

12955. If a loss is sustained under a policy of insurance and such policy has been lost or destroyed, all rights of every kind and nature, the time for the presentation of notice of loss, and the time for the presentation of proof of loss are stayed from the date such applicant delivers to the commissioner the affidavit showing his interest until and after five days after the date of the delivery by the commissioner to the applicant of the affidavit furnished by the insurer. Date of fixing rights

Article 4. Fees.

12970. The commissioner shall require in advance, in lawful money of the United States as a fee for furnishing copies of papers filed in his office, twenty cents per folio. Copies of papers.

12971. The commissioner shall require in advance, in lawful money of the United States as a fee for certifying copies, one dollar each. Certifying copies

Attaching seal

12972. The commissioner shall require in advance, in lawful money of the United States as a fee for attaching his seal of office to any paper or document not specified in this code, one dollar.

Other certificates.

12973. The commissioner shall require in advance, in lawful money of the United States as a fee for issuing any certificate when not otherwise specified, two dollars.

Disposal of fees

12974. All moneys received by the commissioner for fees, fines, penalties, taxes, or from similar sources, and belonging to the State, shall be accounted for and reported monthly by the commissioner to the State Controller. At the same time such moneys shall be remitted to the State Treasurer to the credit of the insurance fund, which fund is continued in existence.

Reversion of balance.

12975. The unencumbered balance in the insurance fund on June thirtieth of each year shall revert to and become a part of the general fund of the State.

Collections by commissioner.

12976. All fines, forfeitures, taxes, assessments, and penalties provided for in this code shall be due and payable on the demand of the commissioner. If payment is not made within ten days after such demand, then the commissioner shall institute an action in the name of the people of the State of California for the purpose of recovering such moneys due. All such actions shall be subject to all the provisions of the Code of Civil Procedure which may be applicable thereto.

DIVISION 4. REPEALS.

Repeals.

13000. The following sections of the following acts, together with all acts amendatory thereof and supplementary thereto are hereby repealed:

Year	Chapter	Page	Sections
1850	128	347	33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53
1851	138	523	all
1862	227	243	all
1863–4	142	131	all
1863–4	349	394	all
1865–6	37	23	all
1865–6	546	752	all
1867–8	296	323	all
1867–8	300	336	all
1869–70	221	321	all
1873–4	510	745	all
1873–4	540	777	all
1875–6	472	689	all
1880	125	229	all
1885	131	114	all
1891	116	126	all
1897	271	439	all

Year	Chapter	Page	Sections
Ex. Sess. 1906	:27	:30	all
1907	: 518	: 952	all
1909	: 267	: 404	all
1911	: 22	: 111	all
1911	: 399	: 796	24, 25
1911	: 669	:1279	all
1911	: 682	:1320	all
1911	: 689	:1342	all
1913	: 176	: 279	36 to 50
1913	: 177	: 321	all
1913	: 218	: 372	all
1913	: 266	: 468	all
1913	: 330	: 674	all
1915	: 644	:1272	all
1917	: 104	: 144	all
1917	: 200	: 292	all
1917	: 586	: 831	31, 36½
1917	: 614	: 957	all
1917	: 666	:1170	all
1917	: 716	:1378	all
1919	: 178	: 265	all
1919	: 180	: 270	1
1919	: 363	: 759	all
1919	: 367	: 776	all
1919	: 549	:1199	all
1921	: 834	:1599	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15
1921	: 835	:1605	all
1925	: 195	: 349	all
1929	: 818	:1728	all

13001. The following sections of the Civil Code are hereby repealed: Repeals.

414	441	453e
415	442	453f
416	443	453g
417	445	453h
418	446	453h1
421	450	453h2
421a	452	453h3
422	452a	453h4
424	452b	453j
425	452c	453k
426	452d	453*l*
428	452e	453m
429	452f	453n
430	453	453o
437	453a	453p
438	453b	453q
439	453c	453s
440	453d	453t

Repeals.

453u
453v
453w
453x
453y
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453ee½
453hh
453.1
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453.10
453.11 as added by Chapter 97 of the Statutes of 1933
453.11 as added by Chapter 360 of the Statutes of 1933
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2725	2742	2765
2726	2743	2766
2727	2744	2767
2728	2745	2768
2729	2746	2769
2730		

13002. Sections 506b and 549 of the Penal Code are hereby repealed. Repeals.

13003. The following sections of the Political Code are hereby repealed:

588	607	633
589	608	633a
591	609	633a1
592	610	633a2
593	611	633a3
594	612	633a4
594a	613	633a5
594b	614	633a6
594c	615	633a7
594½	616	633a8
595	617	633a9
595a	618	633a10
595b	619	633a11
596a	620	633a12
596b	620b	633a13
596c	621	633a14
597	622	633a15
597a	623	633a16
598	624	633a17
599	625	633a18
600	625a	633a19
601	625b	633a20
602	626	633a21
602a	627	633a22
602b	628	633a23
603	629	633a24
603a	629a	633a25
604	629b	633a26
604a	630	633a27
605	631	633a28
606	631a	633a29
606a	632	633a30

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633a32
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633c
633d
633aa
633bb
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634b

CHAPTER 146.

Stats. 1933, p 60.

An act to amend section 104 of the Agricultural Code, relating to quarantine.

[Approved by the Governor May 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 75.

SECTION 1. Section 104 of the Agricultural Code is hereby amended to read as follows:

Cooperation in quarantine enforcement.

104. Whenever quarantine regulations are established under this chapter, if there are any authorities or officers of the United States having authority to act in such matter, or any part thereof, the director shall notify such authorities or officers and seek their cooperation as far as possible. When any article is found to have been transported into this State from any other State, Territory, or district of the United States, in violation of the provisions of a quarantine established by the Secretary of Agriculture of the United States, such article shall be subject to seizure, destruction or other disposition to the same extent and in the same manner as if such article had originated in this State and was in violation of a provision of this chapter.

CHAPTER 147.

Stats 1915, p 698, amended.

An act to amend section 13 of an act entitled "An act to insure the better education of dental surgeons and to regulate the practice of dentistry in the State of California, providing penalties for the violation hereof," as amended, relating to revocation or suspension of licenses.

[Approved by the Governor May 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 529

SECTION 1. Section 13 of the act cited in the title hereof is hereby amended to read as follows:

Causes for revocation or suspension of license

Sec. 13. Any dentist may have his license revoked or suspended by the Board of Dental Examiners for any of the following causes:

(1) His conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction or a certified copy thereof, certified by the clerk of the court,

or by the judge in whose court the conviction is had, shall be conclusive evidence;

(2) The rendition of a final judgment against any such dentist in a court of competent jurisdiction upon a cause of action alleging grossly unskillful or negligent dental practice;

(3) For unprofessional conduct or for gross ignorance or inefficiency in his profession. Unprofessional conduct is hereby defined to be: The employment of persons known as cappers or steerers, to obtain business; the obtaining of any fee by fraud or misrepresentation; the wilful betrayal of professional secrets; the employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this act; the aiding or abetting of any unlicensed person to practice dentistry; the aiding or abetting of a licensed person to practice dentistry unlawfully; habitual intemperance; gross immorality; the use of any false, assumed or fictitious name, either as an individual, firm, corporation or otherwise, or any name other than the name under which he is licensed, practice, advertise or in any other manner indicate that he is practicing or will practice dentistry; practicing or accepting or receiving any commission or rebating in any form or manner on fees for professional services, radiograms, prescriptions or other services or articles supplied to patients; making use of any advertising statements of a character tending to deceive or mislead the public; advertising professional superiority or the performance of professional services in a superior manner; advertising definite or fixed prices for professional service; the use of advertising containing as a part thereof the representation of a tooth, teeth, bridge work or any portion of the human head; employing or making use of solicitors; or advertising any free dental work, or free examination; or advertising to guarantee any dental service, or to perform any dental operation painlessly.

CHAPTER 148.

An act to amend the division heading of Division V of the Agricultural Code, relating to standardization. Stats 1933 p 60.

[Approved by the Governor May 7, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. The division heading of Division V of the Agricultural Code is hereby amended to read as follows: Stats 1933, p 168

DIVISION V.

STANDARDIZATION.

CHAPTER 149.

Stats 1933, p. 60. *An act to amend section 1036 of the Agricultural Code, relating to fertilizing materials.*

[Approved by the Governor May 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 234.

SECTION 1. Section 1036 of the Agricultural Code is hereby amended to read as follows:

Tests of samples

1036. The director shall, upon the receipt of a sample of any substance or mixture of substances to which this article applies accompanied by the required fee, cause such analysis, examination or test to be made thereof, as will establish the conformity or nonconformity of said sample to the guarantee under which it is sold or to be sold, and shall inform the sender thereof the results of all such analyses, examinations or tests. The schedule of all fees required for such analyses, examinations or tests shall be determined by the director. This section shall apply only to a sample received from a person who is actually using or who intends to use such material for fertilizing purposes.

Fees

CHAPTER 150.

Stats 1933, p. 60. *An act to amend section 809 of the Agricultural Code, relating to walnuts.*

[Approved by the Governor May 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 187.

SECTION 1. Section 809 of the Agricultural Code is hereby amended to read as follows:

Walnuts

809. Walnuts shall be free from blanks, insect larvae, insect injury which has penetrated or damaged the kernel, or any evidence of insect excreta or webbing, free from kernels which are rancid or affected by green or yellow mold; and free from serious damage due to white mold, gray mold, shriveling, or other causes. Damage to the kernel of any one walnut, when resulting from white mold, gray mold, or other causes except shriveling, is not serious unless such defects cover more than twenty-five per cent of the surface of either half of the kernel of a particular nut. Damage caused to the kernel of any walnut by shriveling is not serious unless more than twenty-five per cent of the kernel of the nut is shriveled so that the kernel is leathery, tough, unpalatable or decidedly shrunken, or if the entire kernel of the nut is shrunken so as to fill less than one-half of the nut cavity.

Not more than ten per cent by count, of the walnuts in any one container or bulk lot may be below these requirements. However, when determining the percentage of walnuts seriously damaged by shriveling in any one container or bulk lot, two walnuts in which the kernels are each more than twenty-five per cent shriveled shall be counted as one seriously damaged walnut.

All containers of walnuts shall bear upon them in plain sight and in plain letters, not less than one and one-half inches in height on the outside thereof, the name of the State or of the foreign country where the nuts were produced. Containers

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CHAPTER 151.

An act requiring the treasurer of any municipality, county, or city and county to maintain a record of the names and addresses of holders of ad valorem special assessment district bonds when so directed by the legislative body of said municipality, county, or city and county.

[Approved by the Governor May 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Whenever the legislative body of any municipality, county or city and county so directs, the treasurer of said municipality, county, or city and county upon whom is imposed by law the duty of payment of interest on any issue of ad valorem special assessment district improvement bonds, shall maintain a register, in which, upon presentation of any interest coupon of such bond, he shall enter, so far as he can determine, the name and address of the owner or holder of such bond and the number and amount of such bond. Record of ad valorem bondholders

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CHAPTER 152.

An act to amend sections 8, 10, 40, 42, 47, 75 and 108 of an act entitled "An act to provide for the creation, establishment and adjustment with other such systems, of a retirement system for employees of the State of California, and make an appropriation therefor," approved June 9, 1931, relating to the State Employees' Retirement System. Stats 1931, p. 1442, amended

[Approved by the Governor May 7, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 8 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1931, p. 1442.

State service

Sec. 8. "State service" shall mean service rendered as an employee or officer, appointed or elected, of the State for compensation, and, for the purposes of this act, a member shall be considered as being in the "State service" only while he is receiving compensation from the State for such service, except as provided in section 47 hereof;

Stats 1931, p 1443

SEC. 2. Section 10 of said act is hereby amended to read as follows:

Continuous service

Sec. 10. "Continuous service" as applied to "prior service" shall mean all prior service, regardless of interruptions in such service, and as applied to service as a member shall mean uninterrupted employment by the State, except as provided in section 47 hereof, and, except that when for any cause whatever, a member discontinues State service but subsequently reenters such service within three years from the date of the discontinuance, such interruption shall not be deemed to break the continuity of service;

Stats. 1931, p 1445.

SEC. 3. Section 42 of said act is hereby amended to read as follows:

Board of administration.

Sec. 42. A board of administration of said retirement system is hereby created, consisting of one member of the State Personnel Board other than the Director of Finance, to be selected by and to serve at the pleasure of the State Personnel Board, the Director of Finance, three members elected, under the supervision of the board of administration, from the active members of the retirement system, which shall not include retired members, an official of a life insurance company and an officer of a bank who shall be appointed by the Governor within thirty days of the taking effect of this act. In the election of the three members from the active members of the system, the ballots cast shall be delivered to and canvassed by the Secretary of State. The term of office of the five members, other than ex officio members, shall be four years expiring on January fifteenth, and the present terms of said five members, regardless of whether said terms be filled, shall be unchanged by this section. Vacancies shall be filled by appointment by the Governor, from the class in which the vacancy occurs and for the unexpired term or until the election, prior to the expiration of the term, of an active member of the retirement system to fill the vacancy, if it shall have occurred in that class.

Terms

Stats 1933, p 1240

SEC. 4. Section 40 of said act is hereby amended to read as follows:

Cessation of membership

Sec. 40. Each member and each person retired shall be subject to all the provisions of this act and to the rules and regulations adopted by the Board of Administration. Any person who is retired and any person who is credited with less than twenty years of State service and who renders less than five years of service in any period of ten consecutive years, or withdraws more than one-fourth of his normal contributions, ceases to be a member.

SEC. 5. Section 47 of said act is hereby amended to read as follows: Stats 1931, p. 1446.

Sec. 47. Time during which a member is absent from State service without compensation shall not be allowed in computing service; except that time during which a member is absent from State service by reason of service in the military or naval forces of the United States in any war involving the United States as a belligerent, or in other National emergency, shall be considered as time spent in State service, for the sole purpose of qualification for retirement, but not calculation of benefits, under the Retirement System. Any member so absent shall have the right to contribute to said system, at times and in a manner fixed by the board of administration, amounts equal to the contributions which would have been made to the system by both him and the State on the basis of his compensation earnable during the time he is so absent. If he does so contribute, he shall receive credit for State service for such time in the same manner as if he had not been absent from State service. Absentees Exception

SEC. 6 Section 75 of said act is hereby amended to read as follows: Stats 1931, p 1451

Sec. 75. Should the State service of a member be discontinued otherwise than by death or retirement, he shall, six months after the date of discontinuance, be paid such part of his accumulated contributions as he demands, except that if the member is credited with less than twenty years of State service and, in the opinion of the Board of Administration, is permanently separated from State service by reason of such discontinuance, he shall be paid forthwith all of his accumulated contributions. The board may, in its discretion, withhold for not more than one year after a member last rendered State service all or part of his accumulated normal contributions if after a previous discontinuance of State service he withdrew all or a part of his accumulated normal contributions and failed to redeposit such withdrawn amount in the retirement fund as provided in section 76. Refund on leaving State service

SEC. 7. Section 108 of said act is hereby amended to read as follows: Stats 1933, p 1244

Sec. 108. From and after the date the system created by this act takes effect, out of any moneys in the State treasury not otherwise appropriated, there shall be paid monthly into the "State employees' retirement fund" a sum equal to three and twenty-five one-hundredths per centum of the total compensation paid members of the retirement system whose compensation is paid from the general fund of the State. The Board of Administration shall certify to the State Controller at the end of each month the total amount of compensation paid such members of the retirement system, and the State Controller shall thereupon transfer three and twenty-five one-hundredths per centum of this amount from the general fund of the State to the "State employees' retirement fund." For the purposes of this section and section 109, compensation Appropriation from general fund

paid from the vocational education fund to members of the retirement system as employees of the Department of Education, shall be considered as paid from the general fund. Contributions made to the retirement system under this section and the section next following shall be applied by the board of administration to meet the State's obligations under the system in the order and amounts as follows: first, in an amount equal during each fiscal year to the liability accruing because of State service rendered during such year and on account of pensions provided for in section 82 and sections 86 to 89, inclusive, such amount to be determined by the actuarial valuation provided for in section 51, as interpreted by the actuary of said board; second, in an amount equal during each fiscal year to the payments made, from contributions by the State, during such year as provided in section 100; third, in an amount equal to the balance of such contributions, on the liabilities accrued on account of prior service benefits granted under sections 83 and 84, and sections 86 to 89, inclusive.

CHAPTER 153.

Stats. 1933, p. 60.

An act to amend section 794 of the Agricultural Code, relating to cherries.

[Approved by the Governor May 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 175.

SECTION 1. Section 794 of the Agricultural Code is hereby amended to read as follows:

Cherries

794. Cherries shall be mature but not overripe, free from insect injury or bird pecks which have penetrated or damaged the flesh, unsealed skin breaks, mold, brown rot, decay, and serious damage due to sunburn, growth cracks or splits, wrinkling, shriveling, sponginess, abnormal softening, rain, or other causes. Damage to any one cherry is not serious unless it causes a waste of ten per cent by weight of the individual cherry.

Not more than ten per cent, by count, of the cherries in any one container or bulk lot, may be below these requirements, but not to exceed one-half of this tolerance shall be allowed for any one cause.

Packed cherries shall be virtually uniform in size, which means that the average size of the cherries used in the fill shall not be smaller than would pack one row more in each direction than the cherries in the packed face. Bunched faced or drop faced cherries shall not be considered packed.

All red and black varieties of cherries shall not be considered mature unless at the time of picking the entire surface has attained at least a solid light red color.

All containers of cherries shall bear upon them in plain sight and in plain letters on one outside end: the name of the person who first authorized the packing of the cherries or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer; the name of the variety, if known, and when not known the words "unknown variety." When two or more varieties are placed in the same container they shall be marked "mixed varieties." All containers of row packed cherries, excepting bunched faced or drop faced cherries, shall be marked with the number of rows of cherries packed laterally across the end of the container, directly followed by the word "row" or "rows" or the letter "R." Containers

Cherries shall be in standard containers numbers 4, 10, 11, 12A, 15, 22C, 23 or 27.

Other size containers may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such container, in letters not less than one-half inch in height, "irregular container."

CHAPTER 154.

An act to amend the Vehicle Code by amending sections 195, 196, 197, 198, and 380, relating to vehicles.

[Approved by the Governor May 7, 1935. In effect September 15, 1935.]

NOTE—See Stats. 1935, Ch. 27.

CHAPTER 155.

An act to amend the Vehicle Code by amending sections 320 and 488, relating to vehicles and records to be kept by the Department of Motor Vehicles.

[Approved by the Governor May 7, 1935 In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 156.

An act to amend the Vehicle Code by amending section 134; by adding sections 131, 136, and 681, relating to vehicles.

[Approved by the Governor May 7, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 157

Stats 1923, p. 1067, amended

An act to amend the Palo Verde Irrigation District Act, approved June 21, 1923, as amended, by amending section 28o of said act, as amended, relating to redemptions and leasing of property, and by adding to said act, as amended, new sections to be numbered and providing as follows, to wit: Section 28¼o, relating to disposal of tax-deeded and tax-delinquent lands; section 65, relating to proceedings in bankruptcy; section 66, relating to contracts with the United States or any agency thereof under an act approved May 5, 1917, as amended, and validating such contracts; section 67, validating bonds of the district; section 68, validating rehabilitation plans; and section 69, incorporating in the district lands which were formerly public lands; and declaring the legislative intent as to unconstitutionality.

[Approved by the Governor May 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 1966

SECTION 1. Section 28o of the Palo Verde Irrigation District Act, as amended, is hereby amended to read as follows:

Redemption

Sec. 28o. A redemption of the property sold may be made by the owner, or any party in interest, within four years from the date of the sale. Redemption must be made in lawful money of the United States; provided, however, that when redemption of such property shall be made more than one year after the sale provided for in section 28*l* of this act, an owner of such land, who is the holder of any bond or accrued interest coupon or warrant or other evidence of indebtedness issued by or assumed or agreed to be paid by said district, is authorized to apply the credit represented by such bond, accrued interest coupon, warrant or other evidence of indebtedness, together with the accrued interest on any such obligations, as a medium of exchange in the redemption of such property in the manner and to the extent hereinafter specified.

Payment with bonds and coupons

Upon presentation and surrender to the treasurer of Riverside County of any such bond or accrued interest coupon or warrant or other evidence of indebtedness, or any of them, the treasurer shall issue to the holder a memorandum in writing in duplicate indicating the amount of credit represented by such bonds or accrued interest coupons or warrants or other evidences of indebtedness, or any of them, and the accrued interest thereon, which such holder is entitled to apply on such redemption.

"Redemption credit memorandum"

The credit memorandum herein provided for shall be designated "Redemption Credit Memorandum." and each such memorandum shall have printed clearly on the face thereof the words "Redemption Credit Memorandum."

Collector.

The collector shall accept such redemption credit memorandum in lieu of lawful money for the redemption of such prop-

erty in the manner and to the extent herein provided; provided, however, that such redemption credit memorandum shall be accepted for redemption as herein provided only for such portion of the amount required to redeem as shall be equal to or represented by the amount of taxes and assessments, together with penalties and interest thereon, levied or assessed at least eighteen months prior to the date of such redemption. Any balance due on such redemption may be paid in whole or in part in lawful money, or by the credit memorandum provided for in section 28½h of this act. The collector shall indorse upon such Redemption Credit Memorandum the amount of credit applied on such redemption and the balance, if any, not so applied, and retain one copy of said memorandum to be used in settling his accounts with the secretary and said treasurer.

Treasurer.

The said treasurer shall accept such Redemption Credit Memorandum to the extent that the same has been applied upon such redemption in accordance with the provisions of this section, as the equivalent of money. Said treasurer shall thereupon cancel the bonds and coupons, warrants and other evidences of indebtedness for which such credit was given if the entire amount of the Redemption Credit Memorandum has been applied to such redemption, and in the event that only a portion of the credit has been applied, then said treasurer shall indorse upon the face of such bonds, or coupons or warrants or other evidences of indebtedness, the fact that the same and/or the accrued interest thereon have been paid to the extent of the credit so applied and return the bond, coupon, warrant, or other evidence of indebtedness so indorsed to the holder. If no part of the credit represented by such memorandum is applied to the redemption of property as herein provided, the treasurer shall, upon surrender of such credit memorandum, cancel the same, and deliver the bonds or coupons or warrants or evidences of indebtedness to the owner.

Certificate of sale

On receiving the certificate of sale, the county recorder must file it and make an entry in a book similar to that required of the collector. On presentation of the receipt of the collector of the total amount of the redemption money, the recorder must mark the word "redeemed," the date and by whom redeemed on the certificate and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within the time herein provided, the collector, or his successor, must make to the district a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The title acquired by the district may be conveyed by deed, executed and acknowledged by the president and secretary of the board of trustees, or said property may be sold on contract, with deferred payments, similarly executed and acknowledged; provided, that authority so to convey or contract must be conferred by resolution of the board, entered in its minutes,

Deed to district

fixing the price and terms at which such sale or contract may be made, and for the purpose of making such sales or contracts the district may employ an agent or agents; and provided, further, that property sold to the district for delinquent taxes may be redeemed as herein provided at any time before the district has disposed of the same.

Plan for compromise, etc.

When any plan for compromise, payment or satisfaction or funding or refunding of any bonds, warrants or other evidences of indebtedness of said district shall have been approved at an election as provided in section 23 of this act, and such plan shall provide therefor, property deeded to the district for delinquent taxes may be leased for a term not exceeding ten years and the district as a part of such lease, or otherwise, may give options to purchase such property. The rentals under any lease, and the purchase price in any such option agreement or in any contract of sale, may be made payable in bonds and/or coupons of the Palo Verde Drainage District, Palo Verde Irrigation District, Palo Verde Joint Levee District of Riverside and Imperial counties, California, and/or bonds and coupons heretofore issued by Palo Verde Mutual Water Company. If any sentence, clause or phrase of this section is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this section.

New section

SEC. 2. A new section is hereby added to said Palo Verde Irrigation District Act, as amended, to be numbered 28¼o and to read as follows:

Disposition of delinquent land.

Sec. 28¼o. The board of trustees shall have authority to convey or sell on contract with deferred payments, or lease with option to purchase, or otherwise dispose of any land deeded to the district for delinquent taxes, to the owner of said land at the time said land was deeded to the district or to the assigns of such owner by transfer executed before or after the date of such tax deed, or to any other person, all at such price and upon such terms and conditions as may be determined by said board to be reasonable and just, by resolution relating to each such transaction specifically or by resolution adopting a general plan for the making of such transactions. Said board shall also have authority, when district taxes upon any land have become delinquent, to contract to convey said land to such former owner or assigns, or other person, if and when the district shall secure tax deed to said land, at such price and upon such terms and conditions as may be fixed by resolution relating to the specific case or by resolution adopting such general plan. In any transaction authorized by this section the district may convey or agree to convey any title theretofore or thereafter acquired by the district under the provisions of section 3897d of the Political Code as now existing or hereafter amended. In any transaction authorized by this section the board may require to be incorporated in any deed, contract or other instrument, conditions subsequent for reversion of title to the district upon failure to

pay, within such time or times as may be fixed by the board, district taxes, county taxes, or such other sums as may be required by the board, and said board may require the payment of penalties on any default in paying contract installments or other sums so required to be paid. Such conditions subsequent may be waived or subordinated by the board under such circumstances as it may find to the best interests of the district.

New section

SEC. 3. A new section is hereby added to said Palo Verde Irrigation District Act, as amended, to be numbered 65, and to read as follows:

National Bankruptcy Act.

Sec. 65. The district is hereby authorized to file and prosecute any proceedings authorized by Chapter IX of the act of the Congress of the United States, entitled: "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended, as such Chapter IX now exists or may hereafter be amended, and shall have all rights and privileges and may do all things authorized or permitted by said Chapter IX.

New section

SEC. 4. A new section is hereby added to said Palo Verde Irrigation District Act, as amended, to be numbered 66, and to read as follows:

Powers of district.

Stats 1897, p. 254.

Stats 1917 p. 243.

Sec. 66. The district shall have all powers, rights and privileges possessed by irrigation districts organized under the California Irrigation District Act and may exercise such powers, rights and privileges in the same manner as such irrigation districts, all as provided and authorized in that certain act of the Legislature of the State of California, entitled: "An act to authorize irrigation districts to cooperate and contract with the United States under the provisions of the Federal reclamation laws for a water supply, or the construction, operation or maintenance of works, including drainage works, or for the assumption by the district of indebtedness to the United States on account of district lands; and to provide the manner and method of payments to the United States under such contract, and for the apportionment of assessments, and the levy thereof, upon the lands of the district to secure revenue for such payments, and to provide for the judicial revenue and determination of the validity of the proceedings in connection with such contract, and to provide for construction of works by the district; to provide for the borrowing or procuring of money from the United States or any agency thereof and the entering into contracts, and/or the issuance of bonds, warrants or other evidence of indebtedness for the repayment thereof." approved May 5, 1917, as amended; provided, that if any section, subsection, sentence, clause or phrase of said act of May 5, 1917, is for any reason held to be unconstitutional, such decision shall not affect the validity of the adoption by reference herein of the remaining portions of said act of May 5, 1917, and the Legislature hereby declares that it would have referred to and incorporated by reference in this act the provisions of said act of May 5, 1917, and each section, subsection, sentence, clause or phrase

thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases of said act of May 5, 1917, may be declared unconstitutional; and provided further, that qualifications for voting at any election in the district upon any proposal to enter into contract with the United States or any agency thereof under said act of May 5, 1917, shall be such as are prescribed by this act. Whenever the board of trustees of the district has heretofore by resolution authorized the execution of any contract with the United States, or any agency thereof, for sale or exchange of bonds, including refunding bonds, of the district for the purpose of refinancing any obligations of the district, or funding or refunding any bonds of the district, or for any other purposes of the district authorized by this act, or by said act of May 5, 1917, such contract or contracts and all acts and proceedings of said board of trustees and all acts of public officers in connection therewith, leading up to and including the execution of such contract or contracts, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and the power of such district to authorize and execute such contract or contracts and to carry out and perform the same is hereby ratified, confirmed and declared, and such contract is or such contracts are declared to be legal and binding obligations of, against and in favor of the district.

Validation of contracts

New section

SEC. 5. A new section is added to said Palo Verde Irrigation District Act, as amended, to be numbered 67, and to read as follows:

Validation of bonds

SEC. 67. Whenever proceedings have heretofore been taken by the district for the issuance and sale or exchange of bonds, including refunding bonds, of such district for any purpose or purposes and the issuance of such bonds has been authorized by the qualified electors of said district by majority vote at an election, all acts and proceedings of the board of trustees of the district and all acts of public officers in connection therewith leading up to and including any contract or contracts for the issuance, sale or exchange of such bonds, including refunding bonds, heretofore taken, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes and the power of such district to issue such bonds, including refunding bonds, is hereby ratified, confirmed and declared, and such bonds and refunding bonds heretofore authorized or agreed to be issued, sold or exchanged are hereby declared to be the legal and binding obligations of and against the district, whether said bonds or refunding bonds have heretofore been issued or have been heretofore authorized to be issued and are hereafter issued, and the full faith and credit of the district is hereby pledged for the prompt payment and redemption of the principal and interest of such bonds and refunding bonds.

New section

SEC. 6. A new section is hereby added to said Palo Verde Irrigation District Act, as amended, to be numbered 68, and to read as follows:

Sec. 68. Whenever the board of trustees of the district, by resolution, has approved any rehabilitation plan for the district and such plan has been approved by the board of supervisors of any county in which lie the majority in acreage of the lands of the district, and such rehabilitation plan generally provides for the handling, sale, conveyance and disposal of lands heretofore or hereafter deeded to the district for delinquent taxes, to the end that such lands may be promptly returned to private ownership and to the district and county tax rolls, any such rehabilitation plan and such acts and proceedings of the board of trustees of the district and all acts of boards of supervisors approving such rehabilitation plan and all acts of public officers in connection therewith heretofore taken are hereby legalized, ratified, confirmed and declared valid to all intents and purposes and the power of the district and of such boards of supervisors to approve, carry out and perform such rehabilitation plan is hereby in all respects ratified, confirmed and declared. Rehabilitation plans

SEC. 7. A new section is hereby added to said Palo Verde Irrigation District Act, as amended, to be numbered 69, and to read as follows: New section

Sec. 69. All lands which are now privately owned and situate within the exterior boundaries of the district but which were public lands of the United States or lands of this State at the time of the organization of said district and have not heretofore been included within said district are hereby incorporated within and made a part of said district for all purposes. The Legislature hereby finds and determines that all such lands are and will be benefited by the accomplishment of the purposes of this act and should now be and become a part of said district. Incorporation of lands once publicly owned

SEC. 8. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act, and the Legislature hereby declares that it would have adopted this act, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases of this act may be declared unconstitutional. Constitutionality.

CHAPTER 158.

An act to amend section 1 of an act entitled "An act granting certain tidelands and submerged lands of the State of California to the city of Long Beach upon certain trusts and conditions," approved April 28, 1925, relating to the use of such tidelands and submerged lands. Stats 1925, p 235, amended

[Approved by the Governor May 7, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

Stats. 1925, p. 235.

SECTION 1. Section 1 of the act cited in the title hereof, is hereby amended to read as follows:

Lands granted to Long Beach.

Section 1. There is hereby granted to the city of Long Beach, a municipal corporation of the State of California, and to its successors, all of the right, title and interest of the State of California, held by said State by virtue of its sovereignty, in and to all of the tidelands and submerged lands, whether filled or unfilled, bordering upon, under and situated below the mean high tide line of the Pacific Ocean, or of any harbor, estuary, bay or inlet, which are within the corporate limits of said city, to be forever held by said city, and by its successors, in trust for the uses and purposes and upon the express conditions following, to wit:

Use of lands.

(a) That none of said lands shall be used or devoted to any purposes other than public park, parkway, highway, playground, the establishment, improvement and conduct of a harbor and the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation; and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatsoever; provided, however, that nothing herein contained shall be so construed as to prevent the granting or use of easements, franchises or leases for limited periods, or rights of way in, under, over or across said tidelands or submerged lands for power, telephone, telegraph or cable lines or landings, sewage disposal conduits, wharves and other public uses and purposes consistent with the trusts upon which said lands are held, or the leasing or use of such tidelands or submerged lands for limited periods for the construction, maintenance, and operation of nonprofit benevolent and charitable institutions organized and conducted for the promotion of the moral and social welfare of seamen, naval officers and enlisted men, and other persons engaged in and about the harbor and commerce, fishery, and navigation.

Public harbor.

(b) That said lands devoted to the conduct of a harbor shall be improved by said city without expense to the State and such harbor shall always remain a public harbor for all purposes of commerce and navigation, and the State of California shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the State of California.

No discrimination.

(c) That in the management, conduct, or operation of said harbor, or any of the utilities, structures or appliances mentioned in paragraph (a), no discrimination in rates, tolls or charges, or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city or by its successors.

(d) The absolute right to fish in the waters of the Pacific Ocean over said tidelands and submerged lands, with the right of convenient access to said waters over said lands for said purpose is hereby expressly reserved to the people of the State of California. Right to fish

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CHAPTER 159.

An act making an appropriation to meet a deficiency in the appropriation for support of the Bureau of Criminal Identification and Investigation, and providing that this act shall take effect immediately.

[Approved by the Governor May 9, 1935 In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The sum of forty-two thousand dollars ($42,000) is hereby appropriated out of any moneys in the State treasury not otherwise appropriated to meet a deficiency in the appropriation for support of the Bureau of Criminal Identification and Investigation for the eighty-fifth and eighty-sixth fiscal years. Appropriation. Bureau of Criminal Identification and Investgation.

SEC. 2. This act, inasmuch as it provides an appropriation for the usual current expenses of the State, under the provisions of section 1 of Article IV of the Constitution, shall take effect immediately. Current expenses

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CHAPTER 160.

An act to add section 3900a to the Political Code, relating to taxation, including motor vehicle fuel license tax delinquencies penalties and costs, payment thereof in installments and declaring the urgency thereof, to take effect immediately.

[Approved by the Governor May 9, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. A new section to be numbered 3900a is hereby added to the Political Code, to read as follows: New section

3900a. When any license tax imposed by the Motor Vehicle Fuel License Tax Act, approved May 30, 1923 (being Chapter 267 of the Statutes of the forty-fifth session of the Legislature of this State), as amended, which tax accrued and became payable prior to January 1, 1935, remains unpaid, such delinquent license tax may be made payable in installments, and the collection thereof postponed accordingly, by the filing with Installment payment of delinquent motor vehicle fuel license taxes.

Same

the State Controller prior to January 1, 1936, of a written instrument (hereinafter referred to as an "obligation") executed by such distributor (hereinafter referred to as "original distributor"), or by the trustee in bankruptcy of such distributor, or a receiver of such distributor appointed by any court of this State or the United States, or by another distributor or a broker, duly licensed as such distributor or broker under said act, who has succeeded to the ownership of all or any of the property used in the distribution of motor vehicle fuel in respect to which such delinquent license tax accrued, and undertaking to make payment of the amount of all delinquent motor vehicle fuel license taxes becoming payable prior to January 1, 1935, by the original distributor, and of all penalties accrued thereon by reason of the nonpayment thereof as provided in said act, in equal monthly installments not exceeding one hundred eighty in all and payable on or before the first day of the calendar month next after the filing of said obligation and of each month thereafter until full payment of said delinquent taxes and penalties, together with interest on each such monthly installment from January 1, 1935, to, and payable at, the time of payment of such installment, at the rate of four per cent per annum for a period of ten years after filing of the obligation and at the rate of seven per cent per annum thereafter, provided any distributor executing said obligation shall not then be delinquent in the payment of any license tax imposed by said act and becoming due and payable on or subsequent to January 1, 1935; and provided further, that if default shall be made in the payment of any monthly installment, or the interest thereon, provided for in said obligation, and such default shall continue for a period of ninety days, or if default shall be made in the payment of any license tax imposed by said act and becoming due and payable by any distributor executing said obligation, subsequent to the filing thereof, the State Controller shall proceed to collect all installments provided for in said obligation and then unpaid, whether due or not due, with interest thereon at the rate aforesaid from January 1, 1935, to the date of such collection, in any manner provided in said act in respect to other license taxes becoming delinquent thereunder, and the total amount so to be collected by reason of default as aforesaid shall be a lien upon all property of any distributor executing the obligation hereinbefore provided for, with the same force and effect as if said amount had accrued as a license tax upon motor vehicle fuel distributed in the month preceding such default under the terms and provisions of said act, but nothing herein contained shall be construed or shall operate to release any property from any lien created by said act for or in respect to any license tax the collection of which is postponed or authorized to be postponed hereunder, and in the event of default as hereinbefore stated the remedies herein provided shall be cumulative and in addition to any

other remedies which may be provided by law for the collection of such delinquent license tax. Whenever used in this section, unless the context otherwise indicates, the word "tax" shall include any penalties, interest, or both accruing or accrued in respect thereto, and the word "distributor" shall include any receiver, or trustee in bankruptcy, executing the obligation herein provided for.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution and shall therefore go into immediate effect. The facts constituting the necessity are as follows: Urgency

The Federal court has held that certain receiver certificates are prior to the lien of the State for certain delinquent gasoline taxes due prior to January 1, 1935. This bill provides for the payment of the delinquent tax in installments with interest, and will permit the reorganization of certain of the delinquent companies, the taking up of such receiver certificates and the restoration of the priority of the lien of the State. In the case of certain delinquent companies reorganization plans must, by court order, be completed prior to May 1, 1935, and unless such plans may be completed by that date the State will be faced with a controversy as to the priority of its lien. In order to avoid this it is necessary that this act take immediate effect.

CHAPTER 161.

An act to add Chapter 10a, comprising sections 11400 to 11407, to Part 2 of Division 2 of the Insurance Code, relating to life, disability, and life and disability insurance by, and the organization of, firemen's, policemen's or peace officers' benefit and relief associations.

[Approved by the Governor May 9, 1935 In effect September 15, 1935]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 162

An act to amend an "Act granting certain tide lands and submerged lands of the State of California to the City and County of San Francisco for development and use as a public airport, regulating the management, use, lease and control thereof, authorizing the reclamation and certain improvements of said lands and the construction and maintenance of a bridge or causeway connecting said lands with Yerba Buena Island," approved June 13, 1933, to add Stats 1933, p. 2366, amended

a new section to be numbered section 4 permitting the use of said lands for exposition purposes.

[Approved by the Governor May 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the act cited in the title hereof, to be numbered section 4 and to read as follows:

Use for fair

Sec. 4. The City and County of San Francisco is hereby granted the right to permit the use of the land conveyed by this act for exposition or fair purposes, upon such terms, and by such persons, firms or corporations as it may determine.

CHAPTER 163.

Stats 1931, p. 483, amended.

An act to amend the act entitled "An act to define building and loan associations and to regulate them and their organization, business, operation, merger, consolidation and liquidation, and (without limiting the generality of the foregoing) also to do the following: to define and regulate the agents, salesmen and collectors of such associations, and to regulate their officers, directors and employees; to define, authorize, and regulate the issuance of, shares, stock and investment certificates of such associations, and to prescribe the rights, remedies and liabilities of holders thereof, and to make such investment certificates legal investments for certain purposes; to prescribe the rights, powers, remedies, duties and liabilities of such associations and the rights and remedies of their creditors; to regulate the investments, loans and borrowings of such associations, and their accounts, reports, audits, statements and advertising; to create and continue the office of Building and Loan Commissioner, provide for and define the rights, powers, remedies and duties of the commissioner and his assistants and employees; to provide penalties for offenses by such associations, their directors, officers, agents, salesmen, collectors and employees and by other persons and corporations; and to repeal title sixteen of part four of division one of the Civil Code, Chapter 354 of the Statutes of 1911 and acts amendatory thereof and supplemental thereto; Chapter 133 of the Statutes of 1927, and all other acts and parts of acts inconsistent herewith," approved May 5, 1931, as amended, by amending sections numbered 4.01 relating to guarantee stock, 6.02 relating to withdrawals, 6.07 relating to investment certificates and shares, 8.09 relating to interest and dividends, 9.02 relating to investments and 9.04 relating to purchases, sales, transfers and pledges of loans, 15.16 relating to borrowers' mutual building and loan associations; postponing the effective

date of the amendment of section 6.02 of said act as set forth in section 5a of Chapter 431 of the Statutes of 1933; adding to said act new sections to be numbered 6.09 relating to delay in paying, 8.10 relating to rate of return on shares and investment certificates, 9.18 relating to insurance, loans, advances of credit and purchases of obligations pursuant to the National Housing Act, 10.03a relating to reserve or surplus accounts, 10 09 relating to reports, statements and analyses by the Building and Loan Commissioner and 12.11 relating to conversion of a building and loan association into a Federal savings and loan association and authorizing executors, administrators, guardians, receivers, trustees, insurance companies and cemetery associations to vote for or approve such conversion, to exchange shares, stock, investment certificates or other rights or claims for shares issued by such Federal savings and loan association, and to continue to hold as a legal investment any shares so received: adding a new article to be numbered XVI to said act relating to the rehabilitation, readjustment, consolidation, merger or reorganization of one or more building and loan associations of the classes specified in such Article XVI, or of all or of any part of the business, properties and assets of such association or associations, or the readjustment, modification or reorganization of the rights or interests of any or all of the investors and creditors of and other persons interested in such association or associations, providing for the kinds of securities issuable in connection therewith and exempting such securities from certain provisions of the Corporate Securities Act, and authorizing executors, administrators, guardians, receivers, trustees, insurance companies and cemetery associations to consent to a plan as defined in said Article XVI, to exchange shares, stock investment certificates or other rights or claims for securities issued pursuant to such plan and to continue to hold as a legal investment any securities so received; and declaring the urgency of this act and providing that it shall take effect immediately.

[Approved by the Governor May 13, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 4.01 of the act cited in the title hereof, as amended, is hereby amended to read as follows: Stats 1931, p. 494

Sec. 4.01. Description of Guarantee Stock. Guarantee stock shall be of one class, shall have a par value, and the proceeds thereof to the extent of such par value shall be set apart and, except to the extent that stock shall be reduced as hereinafter provided in this section 4.01, shall be maintained as a fixed and permanent capital of the association. No stock shall be issued for a consideration other than cash or for a price less than the par value thereof, and when fully paid shall be kept unimpaired to the extent of its par value; provided, however, Description of guarantee stock Mode of issuance

that an association with the consent of the commissioner may declare and distribute a stock dividend, and may issue stock for a consideration other than cash in connection with mergers, consolidations or transfers pursuant to section 2.06 of this act; and provided further, that with the prior consent of the commissioner the stock of an association may be reduced by resolution of the board of directors approved by the vote or written consent of the holders of a majority in amount of the outstanding stock of such association to such amount as the commissioner shall approve; provided that in no case shall the stock of an association issuing investment certificates be reduced to an amount which (exclusive of surplus, undivided profits and loan reserve) shall be less than the amount of the investment certificate reserve required for such association pursuant to section 5.03 of this act. Surplus resulting from reduction of stock, however, shall not be available for dividends or other distribution to stockholders or shareholders except upon liquidation. An association may, by action of its board of directors, with the prior approval of the commissioner, apply any part or all of any paid-in or contributed surplus, or any surplus created by reduction of stock to the reduction or writing off of any deficit arising from losses or diminution in value of its assets. The commissioner may require that the consideration for the issuance of stock be sufficient to create a paid-in surplus in an amount satisfactory to the commissioner. No association shall pay any commission or other compensation for or on account of any subscription to or sale of its stock.

Stats 1933, p 1101.

SEC. 2. Sec. 6.02 of the act cited in the title hereof, as amended, is hereby amended to read as follows:

Limitation on withdrawals.

Sec. 6.02. Limitation on Withdrawals. The term "matured withdrawal claims," as used in this article, shall include each and all of the following, to wit: (1) the value of all shares or investment certificates or parts thereof, in respect of which valid notices of intention to withdraw shall be on file, matured and unpaid, including notices of intention to withdraw by defaulting shareholders pursuant to section 3.05 of this act, as well as notices of withdrawal generally pursuant to section 6.01 of this act; (2) the value of all shares which shall have matured pursuant to section 3.03 of this act and which shall be unpaid; (3) the value of all investment certificates in respect of which the holders, pursuant to section 5.07 of this act but subject to section 6.02 of this act, shall be entitled to receive the redemption price, but which shall be unpaid; and (4) the value of all definite term investment certificates which shall have reached the expressed date of their maturity but which shall be unpaid.

Preferred claims.

Regardless of whether or not an association is on notice or on a pro rata basis, its obligation to pay matured withdrawal claims, and the right of shareholders and certificate holders to receive payment of matured withdrawal claims, shall be secondary and subsequent to the right of such association to pay,

and to provide reasonable reserves for the payment of, the following: taxes, assessments, insurance, repairs, alterations and other sums necessary to protect and preserve or to furnish or equip its properties and its interest in properties (including those on the security of which it holds loans); principal and interest on borrowings by such association, otherwise than through the issuance of investment certificates; interest on investment certificates and dividends on shares; rent, compensation of officers, agents, salesmen and other employees, and other usual and ordinary operating expenses of such association; and commitments on its incomplete loans or investments; provided, however, that an association on notice or on a pro rata basis shall not pay any dividends on its stock or distribute any profits to its stockholders or make any loans or investments, except loans or investments pursuant to its obligations incurred before it became an association on notice, and except loans expressly permitted by section 9.01 of this act; provided further, that an association on notice and not on a pro rata basis may with the prior consent of the commissioner, and an association not on notice and not on a pro rata basis may without the necessity of obtaining the consent of the commissioner, in lieu of paying matured withdrawal claims, make or purchase loans or investments not exceeding the principal amount of moneys borrowed by such association from a Federal home loan bank, or other similar Federal agency, and not theretofore repaid; and provided further, that an association which is either on notice or on a pro rata basis may with the prior consent of the commissioner, and an association which is neither on notice nor on a pro rata basis may without the necessity of obtaining the consent of the commissioner, in lieu of paying matured withdrawal claims, invest in stock issued by any Federal home loan bank or other Federal agency of which such association may be eligible to be a member. Moreover, regardless of whether or not an association is on notice or on a pro rata basis, its obligation to pay matured withdrawal claims, and the right of shareholders and certificate holders to receive payment of matured withdrawal claims, shall be limited to payments from its cash on hand or in bank, proceeds from sale of investments and loans and other cash receipts of such association; and shall be further limited to payments pursuant to the subsequent provisions of this section. The cash, proceeds and other receipts aforesaid which shall remain after deducting therefrom all payments, reserves, loans and investments above mentioned in this paragraph, are hereafter in this section 6.02 called the "available funds."

Exceptions

Limitations on obligation to pay

The term "free money" as hereafter used in this section 6.02, is hereby defined as that part of the available funds which may be used at the option of the association to pay any or all withdrawals without requiring notice of intention to withdraw or before the maturity of a notice of intention to withdraw and regardless of the nonpayment of any or all matured withdrawal claims, or to pay any or all definite term

"Free money."

investment certificates before the expressed date of maturity subject to such adjustment of interest, if any, as may be provided in such certificates, or for the purpose of making loans or investments, or for any other purpose not prohibited by law.

If the association is neither on notice nor on a pro rata basis, and if there are no matured withdrawal claims (excepting claims for the payment of which funds have been set aside by the association), then all of the available funds shall be free money.

If there are matured withdrawal claims (for the payment of any of which funds have not been set aside by the association), then not to exceed twenty-five per cent of the available funds shall be free money (but in such case no part of such free money shall be used to pay dividends on stock or be distributed as profits to stockholders, or, without the prior approval of the commissioner, for any purpose other than the payment of withdrawals), and all the remainder shall be applied to the payment of withdrawals. The commissioner is hereby authorized, in the case of any or all associations, to reduce the amount of such free money from twenty-five per cent of the available funds to such smaller per cent of the available funds as he may from time to time prescribe, and in such case all the remainder shall be applied to the payment of withdrawals. Whether or not the commissioner shall have reduced such amount of free money such remainder of the available funds shall be applied (regardless of whether or not the association is on notice or on a pro rata basis) at such times as the commissioner shall prescribe to the payment of matured withdrawal claims as follows:

Order of payments.

First: To all matured withdrawal claims in respect of investment certificates until all sums payable thereon are paid, and, as between several holders thereof, pro rata according to the unpaid principal thereof at the time of each such payment.

Second: To all matured withdrawal claims in respect of shares until all sums payable thereon are paid, and, as between the several holders thereof, pro rata according to the unpaid value thereof at the time of each such payment.

Exceptions: Certain payments authorized

Every association (whether or not it is on notice or on a pro rata basis) shall, from available funds exclusive of free money, and subject to such rules and regulations as the commissioner may prescribe, pay in each month, with or without requiring notice of intention to withdraw, and regardless of the nonpayment of any or all matured withdrawal claims, to any one or more of its shareholders or certificate holders, who shall request such payment, not to exceed whichever of the two following amounts shall be the greater (1) twenty-five dollars per person, or (2) one per cent of the value of such person's shares or investment certificates (in addition to any free money which may be applied to the payment of withdrawals); and withdrawals may be made at any time from pledged shares and investment certificates, whether or not the association is

on notice or on a pro rata basis, and without notice; provided, the full amounts of such withdrawals shall be used to pay the indebtedness for which such shares or investment certificates are pledged, or any part thereof; and provided further, that in the case of loans upon the mutual plan, such withdrawals without notice shall be permitted only at the option of the association unless the entire indebtedness shall be simultaneously paid.

Payment to those in financial distress

Subject to such rules and regulations as the commissioner may prescribe, and notwithstanding anything to the contrary in this act, every association (whether or not it is on notice or on a pro rata basis) may, from any funds on hand (whether or not such funds are "available funds" as defined in this section), and shall, if ordered so to do by the commissioner out of available funds, pay, in each month, with or without requiring notice of intention to withdraw, and regardless of the nonpayment of any or all matured withdrawal claims, to any one or more of its shareholders or certificate holders who shall request such payment and who shall show, by affidavit and other evidence satisfactory to such association, that they are in financial distress by reason of old age, illness, unemployment or otherwise, not to exceed sixty dollars, including any other money received by such shareholders or certificate holders from such association during such month. All funds paid by any association pursuant to this paragraph shall be deemed to be paid out of available funds exclusive of free money. Any person who, in any affidavit filed with an association for the purpose of obtaining a withdrawal pursuant to this paragraph, states as true any material fact which he knows to be false, shall be guilty of a misdemeanor. No provisions of this act imposing any liability, either civil or criminal, shall apply to any association or to any of its directors, officers or employees by reason of any payment made or any act done or omitted in good faith pursuant to the provisions of this paragraph.

Use of free money.

If in any accounting period an association has not used as free money the full amounts which such association is permitted by this section 6.02 to use for such purposes, then (unless the commissioner shall otherwise order in the case of such association) the amounts not so used shall be available to the association in any subsequent period for such purpose until such amounts shall have been so used, in addition to the amounts which would otherwise be available for such purpose in such subsequent period.

Void contracts

No association shall make any contract waiving in any manner any of the provisions of this section and, if any such contract shall be so made, such contract shall be void.

Effect.

The provisions of this section shall govern, during the existence of the emergency period as hereinafter defined and only during such period, the withdrawal and other rights of the holders of all shares and investment certificates whether heretofore or hereafter issued, and whether or not withdrawal

claims shall have heretofore been filed or shall have heretofore matured.

"Emergency period"

The term "emergency period" as used in this section 6.02 shall mean the period commencing March 10, 1933, and ending February 1, 1937; provided, however, that said emergency period may be terminated at any time prior to February 1, 1937, by order of the commissioner.

Permit to operate under section

No association shall operate under the provisions of this section after September 1, 1935, unless it shall first have made application for and obtained from the commissioner a permit then in effect authorizing it so to do. No such permit shall be granted except upon a public hearing held by the commissioner pursuant to notice thereof given for such time and in such manner as the commissioner shall prescribe. No such permit shall be granted unless the commissioner shall determine that the same is reasonably required for the protection of the association and its shareholders and certificate holders as a class, or is in the public interest. If at any time the commissioner shall find, having due regard to the earnings of any particular association, the nature and amount of its assets and liabilities, the amount of its undivided profits, reserves, surplus and capital, and the protection of its certificate holders and shareholders as a class, that it would be contrary to the interests of the holders of its outstanding investment certificates or shares for such association to continue to pay withdrawals in accordance with the provisions of this section, he shall have the power to order such association to discontinue paying withdrawals pursuant to the provisions of this section.

Application and effect of section 6.02

SEC. 3. The amendment to section 6.02 of the act cited in the title hereof, set forth in and provided by section 5a of Chapter 431 of the Statutes of 1933, approved May 16, 1933, shall take effect, as to each association, at, but not until, the time when such particular association shall cease to operate under section 6.02 of said act as amended by this act, by reason of whichever of the following conditions shall occur first in the case of such particular association: (1) an order of the commissioner to such association to discontinue paying withdrawals pursuant to the provisions of said section 6.02 as amended by this act; (2) the failure of such association to apply for or to obtain a permit authorizing such association to operate after September 1, 1935, under the provisions of said section 6.02 as amended by this act; or (3) the expiration or termination of the emergency period as defined in said section 6.02 of said act as amended by this act. If any association which shall have ceased to operate under section 6.02 of said act as amended by this act, shall thereafter obtain a permit or permits from the commissioner authorizing it to operate under the provisions of said section 6.02 as amended by this act, then, throughout the period or periods during which such permit or permits shall be in effect and only during such period or periods, the provisions of section 6.02 as amended by this act shall be applicable to such association in

lieu of the provisions of said section 6.02 as amended by said Chapter 431 of the Statutes of 1933.

SEC. 4. Section 6 07 of said act, as amended, is hereby amended to read as follows: Stats 1933, p 314

Sec. 6.07. Acceptance of Investment Certificates or Shares in Payment for Loans or Property. Any association may at its option, with the prior approval of the commissioner and subject to such rules and regulations as he may from time to time prescribe, but no association shall be obligated to, accept its own outstanding investment certificates, and any association not issuing investment certificates may at its option, with the prior approval of the commissioner and subject to such rules and regulations as he may from time to time prescribe, but no association shall be obligated to, accept its own outstanding shares, in partial or full payment for property sold by such association or in partial or full payment of loans; provided, however, that after September 1, 1935, no association shall accept its own outstanding investment certificates or shares in partial or full payment for property sold by such association or in partial or full payment of loans, unless such association shall first have applied for and obtained from the commissioner a permit then in effect authorizing it so to do. No such permit shall be granted except upon a public hearing held by the commissioner pursuant to notice thereof given for such time and in such manner as the commissioner shall prescribe. No such permit shall be granted unless the commissioner shall determine that the same is reasonably required for the protection of the association and its certificate holders and shareholders as a class, or is in the public interest. If at any time the commissioner, having due regard to the earnings of any particular association, the nature and amount of its assets and liabilities, the amount of its undivided profits, reserves, surplus and capital, and the protection of its certificate holders and shareholders as a class, shall find that it would be contrary to the interests of the holders of its outstanding investment certificates or shares for such association to continue to accept its outstanding investment certificates or shares on the terms upon which the same are being accepted in payment for property or loans pursuant to this section, he shall have the power to order such association to discontinue accepting its outstanding investment certificates or shares in payment for property or loans except upon strict compliance with such terms and conditions as he may specify in such order, or to order such association forthwith to entirely cease and desist from accepting investment certificates or shares in payment for property or loans pursuant to this section. Notwithstanding anything to the contrary herein contained but subject to such reasonable rules and regulations as the commissioner may from time to time prescribe, any person who, on March 10, 1933, was the record owner of any outstanding investment certificate of any association may, at his option, apply or set off the value of such investment certificate or any

Acceptance of investment certificates or shares in payment for loans or property

After Sept. 1, 1935.

Permit

Set off

part thereof to the payment, in whole or in part, of any loan held by the association issuing such investment certificate, if such loan was originally made to, or prior to March 10, 1933, was indorsed or guaranteed by, such certificate holder or is secured by property, record or registered title to which was, on March 10, 1933, vested in such certificate holder. It shall be unlawful for any officer, director or employee of any association, or for any officer, director or employee of any corporation affiliated with any association, or for any such corporation, to sell or transfer, directly or indirectly, to such association any investment certificates or shares issued or assumed by such association at a price higher or for a consideration greater than the price paid or consideration given for such investment certificates or shares by such officer, director, employee or corporation, excepting only adjustments for accrued interest or accrued dividends, and no such officer, director, employee or corporation directly or indirectly shall request or receive any withdrawal or file any notice of intention to withdraw, in respect of any investment certificate or share issued or assumed by such association which such officer, director, employee or corporation shall have purchased or acquired at a price or for a consideration less than the value thereof. The provisions of this section shall apply to any association, regardless of whether or not it is on notice or on a pro rata basis, and regardless of the nonpayment of any or all matured withdrawal claims, but shall not apply to any association the property, business and assets of which shall be in the possession of the commissioner. This section shall be in effect only during the emergency period, which term is hereby defined to mean the period commencing March 10, 1933, and ending February 1, 1937; provided, however, that said emergency period may be terminated at any time prior to February 1, 1937, by order of the commissioner.

Association officers or directors

Exception.

In effect when.

Stats. 1933, p. 315.

SEC. 5. Section 8.09 of said act, as amended, is hereby amended to read as follows:

Regulation of interest and dividends.

Sec. 8.09. Regulation of Interest and Dividends. Notwithstanding anything to the contrary contained in this act or in any investment certificate or certificate evidencing shares or in any agreement or elsewhere, no association shall hereafter at any time pay, credit, declare or allow any interest or dividends in excess of the rate of four per cent per year in respect of interest or dividends which shall accrue or be earned during the emergency period (but only during such period) as hereinafter in this section 8.09 defined, upon investment certificates or shares, whether heretofore or hereafter issued and whether or not withdrawal claims shall have heretofore been filed or shall have heretofore matured; provided, however, that in the event any association shall hereafter pay, credit, declare or allow such interest or dividends as hereinafter provided in any amount less than at such rate of 4 per cent per year, it shall, out of future profits, and prior to payment or declaration of any dividends on stock, pay on all

investment certificates and shares then outstanding, on which, in the absence of this section, the rate of return would have been equal to or greater than 4 per cent per year, an amount equal to the difference between 4 per cent per year from and after the effective date of this act and the amount of all interest or dividends so paid, credited, declared or allowed on such investment certificates or shares in respect of the period from and after the effective date of this act. The commissioner is hereby authorized, however, during such emergency period, in the case of any or all associations, to increase such rate to a rate not in excess of 5 per cent per year, or to decrease such rate or to postpone the time for the payment of such interest or dividends, or any part thereof, or to decrease such rate and to postpone such time of payment, if he shall determine that such increase is reasonably justified in the interest of the certificate holders or shareholders, or is in the public interest, or that such decrease or postponement, or decrease and postponement, is reasonably necessary for the protection of the investment in such association of its certificate holders or shareholders, or is in the public interest; provided, however, that in the event the authority granted the commissioner by this section 8.09 to increase or decrease such rate or to postpone such time of payment shall be held invalid, then it is hereby declared to be the intention of the Legislature that the invalidity of such authority shall not affect the validity of the remaining portions of this section; provided further, that in no case shall the commissioner increase or decrease such rate or postpone such time of payment unless he shall have caused a notice of such intended action to be published, at least five days before such intended action is taken, in a newspaper of general circulation published in the county or city and county in which such association's principal office in this State is located; and, provided further, that such association or any of its certificate holders or shareholders aggrieved by the action of the commissioner may at any time within ten days after the taking of such action apply to the Supreme Court of the State of California for a review of such action, and such action shall not be set aside or modified unless such court shall determine that the commissioner in taking such action committed an abuse of discretion. Any executor, administrator, guardian or receiver, and any trustee of any kind or nature, and any insurance company or cemetery association, without the necessity of obtaining court approval, may surrender any investment certificate or share certificate providing for interest or dividends in excess of the rate permitted by this section 8.09, in exchange for a new investment certificate or share certificate; provided the form of such new investment certificate or share certificate shall have been approved by the commissioner.

Commissioner's power to increase rates.

Constitutionality

Notice of change.

Exchange.

Notwithstanding anything to the contrary contained in this act or in any outstanding note, mortgage, deed of trust or other instrument or elsewhere, no association, nor the com-

Maximum rate of interest.

missioner while in possession of the property, business and assets of any association, shall hereafter at any time demand, charge or collect any interest in excess of the rate of seven and two-tenths per cent per year in respect of the interest which shall accrue during said emergency period (but only during such period), upon any loan, secured by real property, held or heretofore or hereafter made by any association, or held by the commissioner while in possession of the property, business and assets of any association; provided, however, that nothing herein contained shall prevent any association or the commissioner while in possession of the property, business and assets of any association, from collecting interest at such maximum yearly rate monthly in advance, nor from charging or collecting usual and ordinary fees and expenses in connection with the making or renewing of any loan.

"Investment certificate"

Solely for the purpose of this section, and notwithstanding anything to the contrary in this act contained, the term "investment certificate" as used in this section 8.09 shall be deemed to include any instrument issued to its savers by a borrowers' mutual building and loan association as defined in section 15.01 of this act, and the term "association" as used in this section 8.09 shall be deemed to include a borrowers' mutual building and loan association as defined in section 15.01 of this act. Notwithstanding anything to the contrary herein contained, the commissioner may in his discretion permit any association which has neither stock nor investment certificates issued or outstanding to pay, credit, declare or allow during said emergency period, a dividend on its shares in excess of said maximum yearly rate of four per cent. Notwithstanding the respective rates of interest and dividends prescribed by this section 8.09, or by the commissioner pursuant to this section 8.09, interest on unpaid interest or dividends on unpaid dividends may be paid, credited, declared, allowed, demanded, charged or collected at a like rate.

"Association"

"Emergency period."

The term "emergency period" as used in this section 8.09 shall mean the period commencing March 10, 1933, and ending February 1, 1937; provided, however, that said emergency period may be terminated at any time prior to February 1, 1937, by order of the commissioner. Any agreement contrary to any of the provisions of this section shall be void.

Loss reserve

If, during said emergency period, any association shall make any net profits after dividends on shares, computed in accordance with accounting practices prescribed or approved by the commissioner, the total amount of such net profits after dividends on shares shall be set aside as a loss reserve which shall be available at all times to meet any losses whether arising from loans or otherwise, and no part of such loss reserve may be used to pay dividends on stock.

New section

SEC. 6. A new section is hereby added to said act, as amended, to be numbered 8.10 and to read as follows:

Sec. 8.10. Rate of Return on Shares and Investment Certificates. Any association may issue shares or investment certificates or both without provision for a definite return thereon, notwithstanding anything to the contrary contained in this act. The rate or rates of return on such shares or investment certificates or both shall be determined within thirty days before or after the end of each quarterly, semi-annual or annual period by the board of directors of the association and, except in the case of an association (a) issuing neither investment certificates nor stock or (b) having no matured withdrawal claims as such term is defined in section 6.02, shall be subject to the approval of the commissioner. The commissioner shall approve such rate or rates unless he finds the same unfair, unjust or inequitable, having due regard to the earnings of the association, the nature and amount of its assets and liabilities, and the amount of its undivided profits, reserves, surplus and capital; and if, within ten days after the commissioner shall have been advised in writing of the rate or rates determined by the board of directors of the association, the commissioner shall not have notified the association in writing that he disapproves of such rate or rates, the approval of the commissioner shall be conclusively presumed. If within thirty days after the commissioner shall have been advised in writing of the rate or rates determined by the board of directors of the association, the commissioner and such board of directors shall not have agreed upon such rate or rates or upon other rate or rates, then the commissioner (having due regard to the earnings of the association, the nature and amount of its assets and liabilities, and the amount of its undivided profits, reserves, surplus and capital) shall determine such rate or rates; provided, however, that such association or any of its certificate holders or shareholders aggrieved by the action of the commissioner in so determining such rate or rates may at any time within ten days after the taking of such action apply to the Supreme Court of the State of California for a review of such action, and such action shall not be set aside or modified unless such court shall determine that the commissioner in taking such action committed an abuse of discretion.

Rate of return on shares and investment certificates

Power of commissioner.

SEC. 7. Section 9.02 of said act, as amended, is hereby amended to read as follows:

Stats 1933, p 1109

Sec. 9.02. Investments Generally. An association may invest in, hold, buy and sell the following:

Investments of associations

(1) Real property used or to be used primarily as the principal office or branch of such association; provided, that no association issuing either stock or investment certificates or both shall invest in such real property more than one-half of the sum of its aggregate paid-up nonwithdrawable capital and any surplus and reserve which is not subject to distribution to the shareholders or stockholders except upon dissolution or liquidation;

Same.

(2) Furniture, fixtures, furnishings and equipment necessary or proper for the business of such association, or for use in connection with properties owned by or securing loans of such association; provided, that no association issuing either stock or investment certificates or both shall invest in furniture, furnishings and equipment for its offices more than ten per cent of the sum of its aggregate paid-up nonwithdrawable capital and any surplus and reserve which is not subject to distribution to the shareholders or stockholders except upon dissolution or liquidation;

(3) United States Government bonds and treasury certificates; or any bonds, debentures, notes or other obligations guaranteed by the United States of America;

(4) Bonds, debentures and notes issued by any Federal home loan bank, or other similar Federal agency, or consolidated Federal home loan bank bonds, debentures or notes;

(5) Bonds of this State or of any county, municipality or school district in this State;

(6) Bonds, other securities and bankers' acceptances which are legal as investments for or purchases by savings banks in this State;

(7) Bonds issued by any railroad corporation or any public utility corporation excluding street railway corporations, substantially all of the properties of which are located in the United States of America; provided the purchase of all bonds pursuant to the sole authority of this subdivision (7) shall be first approved by the commissioner;

(8) Notes or bonds secured by first mortgage or first deed of trust, payment of which is guaranteed by a policy of mortgage insurance, or mortgage participation certificates, issued by a mortgage insurance company in accordance with the provisions of Title II of Part IV of Division 1 of the Civil Code of this State;

(9) California street improvement bonds; provided the purchase of all bonds pursuant to the sole authority of this subdivision (9) shall be first approved by the commissioner and that no association at any one time shall have invested pursuant to the sole authority of this subdivision (9) an aggregate amount in excess of two per cent of the then total assets of such association;

(10) Stock issued by any Federal home loan bank or other similar Federal agency of which such association may be eligible to be a member; or

(11) Bonds, notes, debentures or other obligations of National mortgage associations or other similar credit institutions now or hereafter organized under Title III of the National Housing Act; provided the purchase of all bonds, notes, debentures or other obligations pursuant to the sole authority of this subdivision (11) shall be first approved by the commissioner.

Provided that, except with the prior consent of the commissioner, no association at any one time shall have vested

pursuant to subdivisions (6), (7), (8), (9) and (11) of this section an aggregate amount in excess of ten per cent of the then total assets of such association.

Associations may make deposits with any bank and such deposits shall not be construed as loans within the meaning of this act.

SEC. 8. Section 9.04 of said act, as amended, is hereby amended to read as follows: Stats. 1933, p. 1110.

Purchases, sales and pledges of loans.

Sec. 9.04. Purchases, Sales and Pledges of Loans. An association may purchase any notes or other obligations, together with the mortgages, trust deeds or other security therefor, if such notes or obligations evidence loans which, at the time of such purchase, such association would be authorized to make pursuant to this act in an amount at least equal to the amount so purchased. No association shall sell, exchange, transfer, pledge, hypothecate or otherwise dispose of or encumber any notes or other obligations held by it, evidencing any loan made or purchased by it, or the mortgages, trust deeds or other security therefor, except with the approval of the commissioner; provided, that any association may, without the necessity of obtaining such approval, pledge or otherwise hypothecate any of the notes or other obligations held by it, together with the mortgages, trust deeds and other security therefor, to the extent permitted by section 9.05 or section 9.06 of this act.

SEC. 9. A new section is hereby added to said act, as amended, to be numbered 9.18 and to read as follows: New section

National Housing Act loans and insurance.

Sec. 9.18. National Housing Act Loans and Insurance. An association (a) either with or without security, may make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing alterations, repairs, and improvements pursuant to Title I of the National Housing Act upon real property securing a loan then held by such association, if the Federal Housing Administrator shall insure such association against losses which it may sustain as a result of such loans, advances of credit and purchases made by such association for such purpose, to the extent of twenty per cent of the total amount of the loans, advances of credit and purchases made by such association for such purpose; (b) may make loans upon the security of improved real property pursuant to the provisions of this section and pursuant to Title II of the National Housing Act, if the Federal Housing Administrator pursuant to said Title II shall have insured, or shall have made a commitment to insure, such association against losses of principal which it may sustain as a result of such loans; and (c) may secure insurance pursuant to said National Housing Act. No law of this State prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made or prescribing or limiting the period for which loans or advances of credit may be made, and no provision of this act prescribing or limiting interest rates upon loans or advances of credit, shall

be deemed to apply to loans, advances of credit or purchases made pursuant to this section.

New section

SEC. 10. A new section is hereby added to said act, as amended, to be numbered 10.03a and to read as follows:

Federal insurance reserve account

Sec. 10.03a. Federal Insurance Reserve Account. Any association by resolution of its board of directors may irrevocably establish all or any part of any reserve or surplus account for the sole purpose of absorbing losses; provided, however, that, except in the case of reserve or surplus accounts which were available prior to the adoption of such resolution for the purpose (either solely or among other things) of absorbing losses, the written consent of the commissioner shall first be obtained. If prior to the adoption of such resolution (a) the reserve or surplus account so established for the sole purpose of absorbing losses was available for the purpose (either solely or among other things) of absorbing losses, and (b) such reserve or surplus account constituted all or a part of, or counted towards, the investment certificate reserve referred to in section 5.03, the loss reserve referred to in section 8.09, the loan reserve or the stock surplus referred to in section 10.03, or any other reserve or surplus account required by or referred to in this act, then such reserve or surplus account (excepting such part, if any, as may be absorbed by losses) shall continue to constitute all or a part of, or to be counted towards, such reserve or surplus account required by or referred to in this act.

New section.

SEC. 11. A new section is hereby added to said act as amended. to be numbered 10.09 and to read as follows:

Reports by commissioner

Sec. 10.09. Reports by Commissioner. The commissioner at any time or from time to time may mail to any or all of the investors of any association a report concerning such association or any of its business or affairs or a statement or analysis of its financial condition. The cost of preparing, printing and mailing such report, statement or analysis shall be paid by such association.

New section

SEC. 12. A new section is hereby added to said act, as amended, to be numbered 12.11 and to read as follows:

Conversion into Federal association

Sec. 12.11. Conversion into Federal Association. An association may convert itself into a Federal savings and loan association by following the procedure hereafter outlined in this section 12.11. At any regular or special meeting of the investors of any such association entitled to vote, which meeting in either case shall have been called to consider such action, the investors entitled to vote by an affirmative majority of the votes cast in person or by proxy at such meeting, may declare by resolution the determination to convert such association into a Federal savings and loan association. If such association has investment certificates outstanding, such determination shall be approved, either before or after the adoption of such resolution, by certificate holders holding not less than two-thirds in value of such outstanding investment certificates.

Same.

Within ten days after said meeting (or if such association has outstanding investment certificates, within ten days after said meeting or within ten days after the requisite approvals of its certificate holders have been given, whichever is later) there shall be filed in the office of the commissioner a certificate verified by the affidavit of the president or vice president and the secretary or assistant secretary of such association, which certificate shall contain a copy of the minutes of said meeting and a statement as to whether or not such association has outstanding investment certificates, and if it has, that certificate holders holding not less than two-thirds in value of such outstanding investment certificates have approved the determination to convert such association into a Federal savings and loan association; and a like certificate shall be filed in the office of the Secretary of State. A certified copy of such certificate so filed in the office of the Secretary of State shall be presumptive evidence of the holding and of the action of such meeting and of the approvals of certificate holders.

After said meeting, such association shall take such action as may be necessary to make it a Federal savings and loan association, and within ten days after receipt of the Federal charter there shall be filed, in the office of the commissioner and thereafter and within said ten-day period in the office of the Secretary of State, a copy of said charter issued to such association by the Federal Home Loan Bank Board or a certificate showing the organization of such association as a Federal savings and loan association certified by or on behalf of the Federal Home Loan Bank Board. Upon the filing of such instrument in the office of the Secretary of State such association shall cease to be a State association and shall thereafter be a Federal savings and loan association.

At the time when such conversion becomes effective as hereinbefore provided in this section 12.11 such association shall cease to be supervised by this State and all of the property of such association, including all of its right, title and interest in and to all property of every kind and character, whether real, personal or mixed, shall immediately, by operation of law and without any conveyance or transfer whatsoever and without any further act or deed, be vested in said association under its new name and style as a Federal savings and loan association and under its new jurisdiction; and said Federal savings and loan association shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by it as a State association and said Federal savings and loan association shall continue responsible for all of the obligations of said State association to the same extent as though said conversion had not taken place; it being expressly declared that such Federal savings and loan association shall be merely a continuation of such State association under a new name and new jurisdiction and such revision of its corporate structure as may be consid-

ered necessary for its proper operation under said new jurisdiction.

Any executor, administrator, guardian or receiver, and any trustee of any kind or nature and any insurance company or cemetery association may, without the necessity of obtaining court approval (a) vote in person or by proxy in favor of converting an association into a Federal savings and loan association, or may approve the determination to so convert; (b) exchange any shares, stock, investment certificates or other rights or claims, for shares issued by such Federal savings and loan association; and (c) may continue to hold as a legal investment any shares so received.

New article

SEC. 13. A new article is hereby added to said act, as amended, to be numbered XVI and to read as follows:

Article XVI—Rehabilitation, Readjustment, Consolidation, Merger or Reorganization of Associations.

Application of article.

Sec. 16.01. Application of Article. The terms "such association" or "such associations," as used in this article, shall be limited to an association or associations included in one or more of the following classes: (1) An association of which the property, business and assets are in the possession of the commissioner; (2) an association which is no longer able to conduct the normal business of an association; (3) an association which is unable to discharge its debts or other obligations as they become due or which is an "association on notice" as defined in section 6.01; (4) an association which is in such condition that, unless such association is liquidated or a plan is consummated, a preference is likely to be obtained by some certificate holders over other certificate holders or by some shareholders over other shareholders or by some creditors over other creditors of the same class; (5) an association which is in such a condition that it will probably be necessary, unless a plan is consummated, to liquidate such association or to sell or otherwise dispose of a substantial part of its assets at substantially less than the amount which might reasonably be expected to be realized therefrom in the ordinary and proper conduct of a going business. The determination by the commissioner that an association is included in one or more of the foregoing classes shall be prima facie evidence of such fact.

Definition of plan.

Sec. 16.02. Definition of Plan. The term "plan" as used in this article is hereby defined to mean a plan for the rehabilitation, readjustment or reorganization, consolidation or merger of such association or of two or more such associations, or of all or of any part of the business, properties and assets of such association or of two or more such associations, or for the readjustment, modification or reorganization of the rights or interests of any or all of the investors and creditors of, and other persons, if any, interested in, such association or of two or more such associations, or for any two or more of the fore-

going purposes. Without limiting the generality of the foregoing, a plan may provide in respect of all or any part of the business, properties and assets of such association or associations for any one or more of the following: (1) for the retention thereof by, or (if then in the possession of the commissioner) the return thereof to, such association or any of such associations; (2) the retention thereof by, or (if not then in the possession of the commissioner) the delivery thereof to, the commissioner; (3) the transfer thereof to another corporation or to two or more other corporations (which corporation or corporations or any of them may but need not be an association or associations or a Federal savings and loan association or associations); (4) the transfer thereof to a trustee or trustees. Any new association formed, pursuant to a plan, to continue the building and loan business of an existing association, may adopt and continue to use the name of such existing association or any part of such name.

Procedure.

Sec. 16.03. Procedure. A plan (1) may be proposed by the commissioner or (2) may be proposed, subject to the approval of the commissioner, by such association or by two or more such associations through action of the board of directors of such association or associations or (3) may be proposed, subject to the approval of the commissioner, by the holders of 20 per cent in value of the aggregate outstanding free shares and investment certificates of such association or associations. No plan shall be proposed or approved by the commissioner unless the commissioner is satisfied that the plan is fair and equitable and does not discriminate in favor of any class of investors, creditors or other persons affected thereby, and is feasible. A plan shall be presented by the proposer or proposers to the superior court of the county in which an office of such association, or at least one of such associations, is located with a petition that the court determine the fairness of such plan and the approvals requisite to such plan becoming operative, which petition shall set forth such plan and the fact that it has been proposed or approved by the commissioner and any other facts which such proposer or proposers shall deem material to a consideration of the fairness of such plan. Thereupon the court shall fix the time and place for the hearing of such petition and shall direct such association or each of such associations to deliver to such proposer or proposers (or, in the discretion of the court, to the commissioner) a list of the names and addresses of the investors and creditors of such association or of each of such associations and of all other known persons, if any, affected by such plan, and such other information as the court may deem necessary or proper whereupon such association or each of such associations shall comply with such direction. Thereafter the proposer or proposers of such plan, not less than twenty days before the date fixed for such hearing, shall mail or cause to be mailed to each of the investors and creditors of such association or associations and to all other known persons, if any, affected by such

Presentation to court.

Notice of hearing

plan, a notice of the time and place fixed by the court for such hearing and either a copy of such plan or a summary thereof, which summary shall be either prepared or approved by the commissioner. Section 8.08 of this act shall not apply to such notices. Said notices shall be mailed, postage prepaid, to the respective addresses as shown on such list or lists, or if no address be there shown, to the last known address. In addition, the proposer or proposers of such plan shall cause notice of the time and place fixed for such hearing to be posted in three public places in said county not less than twenty days before the day fixed for such hearing and to be published at least once and not less than twenty days nor more than thirty days before the day fixed for such hearing in a newspaper of general circulation published in said county. A copy of said plan shall be kept by the commissioner available for public inspection and he shall take such other steps as he shall deem necessary for making the plan and all notices and facts in connection therewith available to all interested parties.

Hearing.

Sec. 16.04. Hearing. At the time and place fixed for such hearing, or at the time and place to which such hearing may be continued by the court, the court shall hear the parties interested therein and, if it deem it necessary, may take testimony relative thereto and/or may accept proof in affidavit form as to any fact or circumstance material thereto. Such hearing shall be, among other things, upon the fairness of the terms and conditions of the issuance of all securities to be issued pursuant to such plan and of the exchange thereof for outstanding securities, claims or property interests, or partly in such exchange and partly for cash, and all persons to whom it is proposed to issue securities in such exchange shall have the right to appear at such hearing. No plan shall be approved by the court unless the court is satisfied that the plan is fair and equitable and does not discriminate in favor of any class of investors, creditors or other persons affected thereby, and is feasible. After the completion of such hearing the court shall approve, modify or disapprove such plan. No such plan shall become operative unless and until it shall have been approved, in its original form or if modified, in its modified form, by such court and the commissioner, nor unless and until such plan shall have been consented to, either in person or by a duly appointed agent, attorney or committee by the following persons: (a) if such association or any of such associations shall have stock outstanding, then by the holders of a majority in amount of the stock of such association or of each of such associations having stock outstanding; (b) if such association or any of such associations shall have shares outstanding, then by the holders of a majority in value of the shares of such association or of each of such associations having shares outstanding; (c) if such association or any of such associations shall have investment certificates outstanding, then by the holders of two-thirds in value of the investment certificates of such association or of each of such associa-

Approval of plan, terms.

tions having investment certificates outstanding; (d) if such association or any of such associations shall have creditors, then by two-thirds of each class of creditors of such association or of each of such associations having creditors; (e) and by two-thirds in amount of each class of other known persons, if any, affected by such plan; provided, however, that such consents shall not be required in the case of any investor, creditor or other person affected, or of any class of investors, creditors or other persons affected if (1) the rights of such person or persons shall not be materially affected by such plan or (2) if such plan shall provide for the payment in cash of the value of the right or interest of such person or persons; and provided further, that such consents shall not be required from stockholders of any association if the value of the assets of such association shall be less than the liabilities thereof, including the value of all outstanding shares and investment certificates, or if the business, properties and assets of such association be then in the possession of the commissioner; and provided further, that the consent of the shareholders of any association shall not be required if the value of the assets of such association shall be less than the liabilities of such association, including the value of its investment certificates but not including the value of its shares, or if the business, properties and assets of such association be then in the possession of the commissioner. For the purpose of this article, real property, contracts for the sale of real property, loans, and all other assets (whether like or unlike the foregoing) shall be valued at what may reasonably be expected to be realized therefrom in the orderly and proper conduct of a going business. The consents required by this section may be given before the plan is presented to the court, or after such presentation and before the court has approved it, or after such approval. If at the time such plan is approved by the court the proportions above required of the investors, creditors and other persons, if any, affected thereby shall not have consented to the plan, the order of court may provide that upon satisfactory proof of the fact that such consents have been given, a further order may be entered ex parte providing that such plan shall become operative, which further order shall be binding upon the commissioner, such association or associations, and all such investors and creditors, and all other persons, if any, affected thereby. The superior court in which such petition is pending is hereby given jurisdiction to determine all questions required to be determined pursuant to this article including, without limiting the generality of the foregoing, the following: whether the association or associations subject to such plan are included in one or more of the classes specified in section 16.01; whether any plan, either in its original or modified form, is fair and equitable; whether it discriminates in favor of any class of investors, creditors or other persons affected thereby; whether it is feasible; whether the terms and conditions of the proposed issuance and exchange

Power of court.

of securities thereunder are fair and to approve or disapprove such terms and conditions; the total liabilities of such association or associations; the approvals requisite under this article to such plan becoming operative, including jurisdiction to determine, for the purposes of the plan and such consents, the division of the creditors and other known persons, if any, affected by such plan, into classes according to the nature of their respective rights and interests. In any such plan the court and the commissioner shall give due consideration to the rights and interests of all persons affected thereby (with due regard to the feasibility of such plan and the condition of such association or associations), in the following order of priorities: first, secured creditors: second, investment certificate holders and unsecured creditors, without preference of one over the other, except and to the extent that the court shall deem such preference fair and equitable in view of all the facts and circumstances; third, shareholders; and fourth, stockholders; provided, however, that provision may be made in any such plan for the payment in full of all taxes, assessments, insurance, alterations, repairs and other operating expenses, and for the payment of expenses in connection with such plan as approved by the commissioner and allowed by the court; provided further, that in the case of any association of which the property, business and assets are in the possession of the commissioner which shows a net profit from and after the effective date of this act, the court and the commissioner shall require as a condition of approval of any such plan that there be added, pro rata, or in such equitable manner as the court and the commissioner may determine, to the claims of the investment certificate holders and shareholders of such association, as interest and dividends on such investment certificates and shares, an amount which may equal such net profits of such association, but shall in no event exceed a sum equal to the total interest and dividends at the rate of four per cent per year on all such claims from the effective date of this act up to the date of approval of the plan by the court, less the amount of any interest or dividends actually paid or credited on such investment certificates and shares in respect of the period from and after the effective date of this act.

Effect of approval and consents

Sec. 16.05. Effect of Approval and Consents. When such plan shall have been so approved by the court and the commissioner and shall have been consented to by or on behalf of the respective required proportions of the investors, creditors and other persons, if any, affected thereby, such plan shall be binding upon the commissioner, such association or associations, all the investors and creditors of such association or associations, and all other persons, if any, affected thereby; and such association or associations and all such investors and creditors and all other persons, if any, affected thereby shall be conclusively deemed to have consented to all of the terms and conditions of such plan whether or not all of such persons shall actually have consented thereto and whether or not all

of them shall have received notice of such plan or of such hearing as hereinbefore provided. Thereupon such steps shall be taken by the commissioner, such association or associations and all other persons affected by such plan, and all acts shall be done, all instruments executed and all securities issued, as may be required by such plan so approved and as may be necessary or desirable for the consummation of such plan. The commissioner shall supervise and direct subject to the orders of the court the consummation of such plan. The commissioner shall have and may exercise the same jurisdiction, authority and powers with respect to any business, properties or assets retained by or delivered to the commissioner pursuant to any plan as the commissioner shall have with respect to the business, properties and assets of any association of which the commissioner has taken possession; and the commissioner shall have and may exercise the same jurisdiction, authority and powers with respect to any association (excepting a Federal savings and loan association) formed pursuant to any plan or to which any business, properties or assets may be returned or transferred pursuant to any plan as the commissioner would have of such association if it had been formed or had acquired its business, properties and assets by means other than a plan.

Steps taken to consummate plan

Commissioner's jurisdiction over plan

Sec. 16.06. Appeals. No appeal from an order of the superior court approving a plan shall be effectual for any purpose, unless within thirty days after the entry of such order the appellant or appellants shall file with the clerk of such court a bond executed on the part of the appellant or appellants by at least two sureties to the effect that the appellant or appellants, in the event such order is affirmed on appeal, will pay all of respondents' costs, expenses and reasonable attorneys' fees arising from such appeal, and also all losses and damages to the investors, creditors and other persons, if any, affected by such plan, arising from any delay in consummating such plan during the pendency of such appeal. The form and amount of such bond shall be approved by the superior court but in no case shall such bond be for an amount less than one per cent of the total liabilities of such association or associations. Appeals from orders approving plans shall be given preference in hearing on appeal over all other appeals, except contested election cases and cases in which the people of the State are parties.

Appeal from order approving plan.

Sec. 16.07. Securities Issued Under Plan. The term "securities" as used in this article shall include not only shares, stock and investment certificates issuable by associations under other provisions of this act but also shares of Federal savings and loan associations and stock of one or more classes issuable by corporations generally, and also bonds, notes, debentures, warrants, or evidences of indebtedness or of beneficial interest or of any other claims or rights. An association may issue, pursuant to a plan approved under this article, any one or more of the above mentioned kinds of securities,

Securities issued under plan

Corporate Securities Act.

regardless of any provisions of this act to the contrary. None of the provisions of the corporate securities act shall apply to any securities issued pursuant to a plan approved under this article, whether or not such securities are issued by an association, except that brokers, as defined in said act, shall be subject to the provisions of said act with respect to all transactions involving such securities.

Authority of fiduciaries

Sec. 16.08. Authority of Fiduciaries. Any executor, administrator, guardian or receiver, and any trustee of any kind or nature, and any insurance company or cemetery association may, without the necessity of obtaining any specific court approval, (a) consent to any plan which has been approved by the court pursuant to section 16.04; (b) exchange any shares, stock, investment certificates or other rights or claims, for securities issued pursuant to such plan; and (c) may continue to hold as a legal investment any securities so received.

Emergency period.

Sec. 16.09. Emergency Period. No plan shall be operative pursuant to this article unless approved by the court and consented to as required by this article during the emergency period, which period, for the purposes of this article, shall commence with the effective date of this article and shall expire February 1, 1937, or at such earlier date as the commissioner shall find and declare that such emergency period has terminated; provided, however, that if, prior to the expiration or termination of said emergency period, such plan shall have been approved by the superior court and shall have been consented to as required by this article, such plan shall become operative, unless such approval shall be set aside on appeal, notwithstanding the fact that such approval of the superior court was not final at the expiration or termination of such emergency period.

Legislative declaration of emergency

Sec. 16.10. Legislative Declaration of Emergency. The Legislature hereby declares the existence of a public emergency affecting the welfare, health, safety and comfort of the people requiring the provisions of this article, arising out of the following circumstances. More than four hundred million dollars is invested in associations in this State and such investments are held by several hundred thousand people, a large percentage of whom are persons of only moderate means and many of whom are executors, administrators, guardians, receivers, trustees, insurance companies and cemetery associations. Nearly all of the funds of associations have been invested in long-time loans secured by real property, mostly by homes owned and occupied by persons of only moderate means. By reason of the long-continued and still existing disruption of the general economic and financial processes, with resulting widespread unemployment and drastic decline in rental and sales values, it has been and will be impossible for many borrowers from associations to meet their obligations to the associations. By reason of defaults of such borrowers, many associations have suffered heavy losses, both in income

and in net worth. In the absence of this article liquidation of many such associations would be necessary. Such liquidation would impose severe hardships not only upon the borrowers and investors but also upon the public generally since, by forcing the sale in each locality of numerous parcels of real property, the real estate market would be speedily demoralized, which would cause great losses both to borrowers and investors and also to the public generally, as well as large increases in tax delinquencies, and danger to the financial stability of banks and insurance companies. Associations are not subject to the Bankruptcy Act, but are and for many years have been subject to control and regulation by the State and to supervision by the commissioner. In the public interest it is necessary to enact this article in order to provide a means, subject to suitable safeguards, by which the business or affairs of associations in one or more of the classes specified in section 16.01 may be rehabilitated.

Inspection of association records.

Sec 16.11. Inspection of Association Records. Any investor or investors holding two per cent or more in value of the aggregate outstanding free shares and investment certificates of an association may file a verified petition with the superior court of the county wherein such association has an office, praying for an order directing such association to permit him or his agent to inspect the books of account, the files and the minutes of proceedings of the stockholders and of the directors of such association and to make lists and extracts therefrom, and directing such association to deliver to the commissioner a list showing the names and addresses of the stockholders, shareholders and certificate holders of such association.

Hearing on petition.

Order.

Upon the filing of said petition the court may set same for hearing, which hearing shall be held only after five days' written notice to the commissioner and to said association. The court, after said hearing, and upon being satisfied that the purpose of the petitioner or petitioners is to obtain and use such information solely in connection with the formulation, proposal and submission of a plan and that such an order is necessary and proper in the promises, may grant said order upon such terms and conditions as it may deem proper. The court shall set forth in any such order, limitations and restrictions upon the use of the information acquired pursuant thereto, and may prescribe that any violation of such limitations or restrictions shall be adjudged to have been committed in contempt of court and punished accordingly.

If such order shall direct the association to furnish the commissioner a list showing the names and addresses of the stockholders, shareholders and certificate holders of such association, the commissioner shall forward by mail to the investors of such association shown on such list any communications relative to such plan presented to him for such forwarding by such petitioner or petitioners, together with any comments of the commissioner with respect thereto, provided such petitioner or petitioners pay all mail and clerical expense in

connection therewith. The commissioner shall be under no liability, either civil or criminal, for forwarding any communications presented to him as aforesaid.

New section.

SEC. 14. A new section is hereby added to said act, as amended, to be numbered 6.09 and to read as follows:

Delay in paying.

Power of commissioner to take possession of property.

Sec. 6.09. Delay in Paying. Irrespective of any other provision of law in this act or elsewhere, whenever an association, not excepted from the application of this section, shall have been an association on notice for a period of one year, the commissioner may in his discretion forthwith or at any time thereafter, so long as such association remains an association on notice, take possession of the property, business and assets of such association and retain such possession until its affairs be finally liquidated in the manner provided by law for the liquidation of associations by him, or until such association shall have been reorganized as elsewhere in this act provided, or until such association may otherwise be allowed to resume business upon such conditions as may be approved by the commissioner. The right of the commissioner to take possession under this section is not exclusive, but is additional to his right to take possession under each and every other provision of this act. This section shall be in effect only during the emergency period, which term is hereby defined to mean the period commencing with the effective date of this section 6.09, and ending February 1, 1937, and this section shall not be applicable to an association in any one or more of the following classes: (a) an association which is an "insured institution" as defined in Title IV of the National Housing Act; (b) an association not issuing either stock or investment certificates, the by-laws of which expressly provide that section 6.08 of this act shall be applicable to such association; or (c) an association which has not, since March 10, 1933, by reason of the authority granted the commissioner by section 8.09 of this act, reduced its interest on investment certificates or its dividends on shares below the rate of four per cent per year.

Stats. 1933, p. 1120.

SEC. 15. Section 15.16 of the act cited in the title hereof, as amended, is hereby amended to read as follows:

State supervision and control.

Sec. 15.16. State Supervision and Control. Borrowers' mutual building and loan associations as in this article defined, doing business in this State, shall be under the supervision and control of the Building and Loan Commissioner. Each of the following sections of this act, and every section of each of the following articles of this act is hereby incorporated into and made a part of this article: Sections 1.01, 2.02, 2.04, 2.05, 2.06, 2.09, 6.07, 8.08, 8.09, 8.10, 9.17, 9.18, 10.02, 10.03a, 10.04, 10.05, 10.06, 10.08 10.09, 12.11; and articles eleven, twelve, thirteen, fourteen and sixteen.

Constitutionality.

SEC. 16. If any section, subsection, paragraph, sentence, clause, phrase or other part of this act, or if any article, section, subsection, paragraph, sentence, clause, phrase or other part of the Building and Loan Association Act as amended by this act, is for any reason held to be unconstitutional, or

to be invalid as applied to any person, association or circumstance, such decision shall not affect the validity of the remaining portions of this act or of said act as so amended, or the application to other persons, associations or circumstances of the part held to be invalid as aforesaid. The Legislature hereby declares that it would have passed this act and each section, subsection, paragraph, sentence, clause, phrase or other part thereof, and would have amended said act by adding thereto each article, section, subseetion, paragraph, sentence, clause, phrase or other part added thereto by this act, irrespective of the fact that any one or more of the sections, subsections, paragraphs, sentences, clauses, phrases or other parts of this act be declared unconstitutional or be invalid as applied to any person, association or circumstance, and irrespective of the fact that any one or more of the articles, sections, subsections, paragraphs, sentences, clauses, phrases or other parts added to said act by this act be declared unconstitutional or be invalid as applied to any person, association or circumstance.

Emergency police power measure.

SEC. 17. The Legislature hereby declares that this act is enacted in the exercise of the police powers of this State in view of the existing emergency affecting building and loan associations arising from the circumstances set forth in section 16.10 of the act cited in the title hereof, as amended by this act.

Urgency.

SEC. 18. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution of the State of California, and as such it shall take effect immediately. The following is a statement of the facts constituting such necessity: By reason of the long-continued and still existing depression, many building and loan associations have suffered heavy losses both in income and in net worth and are unable to carry on their normal business, thereby causing severe hardship to hundreds of thousands of investors and home owners and increasing public unemployment and distress. The provisions of this act will enable building and loan associations to obtain insurance from the Federal Savings and Loan Insurance Corporation, to make insured loans pursuant to the National Housing Act, to convert into Federal savings and loan associations and otherwise to rehabilitate the business of building and loan associations. The provisions of this act are necessary not only to accomplish the foregoing, but also to enable many building and loan associations to continue in business during the period required for such rehabilitation and to create proper safeguards for the protection of the public during such period. In the absence of this act much forced liquidation would occur immediately which would demoralize the real estate market, cause tremendous losses to borrowers, investors and the public generally, as well as large increases in tax delinquencies and danger to the financial stability of banks and insurance com-

panies. It is therefore essential to the immediate preservation of the public peace, health and safety that each and every part of this act be enacted and be immediately effective.

CHAPTER 164.

Stats 1927, p 1562, amended

An act to amend section 3 of an act entitled "An act to provide for the acquisition of rights of way for and the construction, maintenance and improvement of State highways, classifying the highways in the State system and allocating and directing the expenditure of funds for the construction, maintenance and improvement of State highways," approved May 26, 1927, relating to expenditure of State highway funds within cities, declaring the urgency hereof, and to provide that this act take effect immediately.

[Approved by the Governor May 17, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Stats 1933, p. 2030

SECTION 1. Section 3 of the act cited in the title hereof is hereby amended to read as follows:

Allocation of money in State highway fund.

Sec. 3. All money in the State highway fund, except such portions thereof as are expended for general administration purposes and for maintenance of State highways, including traversable State highways and highways in State parks, shall be allocated and expended as follows:

(a) One-half thereof shall be allocated to and expended upon primary State highways, and the annual expenditures thereof shall be made within each group of counties enumerated in section 4 of this act in amounts which shall bear the same proportion to the total amount so available during the current year as the number of miles of primary State highways within each group bears to the total number of miles of primary State highways; the remaining one-half of said amount so available shall be expended upon the secondary State highways in the State highway system, and the total annual expenditures thereof shall be made one-half thereof in each of the groups of counties enumerated in section 4 of this act; provided, that not to exceed four per cent of the money hereby allocated to the secondary highways in a particular group may be used and expended as State aid to joint highway districts within such group in accordance with the laws pertaining to the financing of highways within joint highway districts.

(b) In the event the California Highway Commission shall determine at any time that the money hereby allocated to the primary highways in either group of counties designated in this act is larger than necessary for the purpose of adequately meeting traffic requirements, then on the authorization of said commission, the Department of Public Works

may expend not more than fifty per cent of the money so allocated to the primary highways in such group of counties upon the secondary highways in such group of counties.

Allocation of money

Provided further, that in the event the California Highway Commission shall determine at any time that the cost of constructing, reconstructing, widening or improving the primary highways in either group of counties designated in this act is greater than can be met by the money hereby allocated to such primary highways, then on the authorization of said commission, the Department of Public Works may expend not more than fifty per cent of the money hereby allocated to the secondary highways in such group of counties upon the primary highways in such group of counties.

(c) As a further flexible provision with respect to the expenditure of primary and secondary money it is further provided that the Department of Public Works in constructing, reconstructing, widening, improving or maintaining routes within municipalities, as hereinafter provided, within a particular group of counties designated in this act, may on the authorization of the California Highway Commission expend for said purposes money allocated to either the primary or secondary highways in such group of counties.

(d) Except as otherwise permitted hereunder, any annual or biennial balances remaining unexpended to the credit of any group of counties shall remain credited to the particular group of counties to which it is allocated as above set forth.

(e) In apportioning the expenditures of money as required by this act, there shall be excluded from the computations of moneys expended any sums contributed by any city, city and county, county, or from any other source, to pay a portion of the cost of constructing, reconstructing, widening or improving any State road or highway.

(f) The money hereinabove allocated to primary and secondary State highways, respectively, and the amounts available therefor each year shall be expended by the Department of Public Works in acquiring the necessary rights of way for and in constructing, reconstructing, widening or improving to standards justified by traffic requirements, and on the most direct and practicable routes as determined by the California Highway Commission, the primary and secondary State highways, respectively, in the State highway system and for the construction, maintenance and improvement of highways in State parks subject to the approval of the official or officials charged by law with the management and control of such parks.

(g) All the money hereby allocated to and available for expenditure upon primary State highways in county group No. 1 shall be subject to the appropriation made by Chapter 5, Statutes of 1933, and all the money hereby allocated to and available for expenditure upon either primary or secondary State highways in county group No. 1 shall be subject to the appropriation made by Chapter 9, Statutes of 1933.

Accounts.

(h) The Department of Public Works shall set up and keep such accounts as may be necessary to show all expenditures from the State highway fund for the several purposes authorized and required by this act, and shall make and keep on file in the office of the Director of Public Works an annual statement showing all such expenditures from said fund.

(i) All money withdrawn from said "State highway fund" shall be upon warrants drawn by the State Controller upon demands made by the Department of Public Works, and audited as provided by law; provided, however, that the Department of Public Works may, without at the time furnishing vouchers and itemized statements, withdraw from the State highway fund a sum not to exceed five hundred thousand dollars. The sum or sums so withdrawn may be used as a revolving fund where cash advances are necessary.

Revolving fund.

Expenditures within cities

(j) The Department of Public Works shall annually expend from the State highway fund an amount equal to one-quarter of one cent per gallon tax on motor vehicle fuel, after the proportionate payments therefrom into the "Fuel tax enforcement fund" and after the proportionate refunds shall have been made, within the incorporated cities and cities organized under freeholder charters, and any city and county in this State, for the purposes specified in this section and in section 5 of this act, and such expenditures shall be made within each such city or city and county within the State in the proportion that the total population in each city or city and county bears to the total population in all such cities in this State. For the purpose of this section the population in each city or city and county is declared to be that determined by the last preceding Federal census except that,

(1) As to a city incorporated subsequent to the last preceding Federal census and prior to the effective date of this amendment, until such population is determined by a Federal census, the population is hereby declared to be three times the number of voters registered in said city at the general election next preceding the effective date of this amendment;

(2) As to a city incorporated subsequent to the effective date of this amendment, until such population is determined by a Federal census, the population is hereby declared to be three times the number of voters registered at the general election next succeeding the date of incorporation.

The expenditure of the money hereby allocated to each incorporated and charter city or city and county shall, in the discretion of the Department of Public Works, be made first for the acquisition of rights of way for, or the construction or maintenance or improvement of State highways or portions thereof within such city.

In the event that the amount of money allocated to any one incorporated or charter city or city and county is greater than is necessary to adequately maintain and improve to adequate standard all State highways within such city, then any surplus amount accruing to such city shall be expended for

the acquisition of rights of way, or the construction, or maintenance or improvement of other streets of major importance within such city as may be agreed upon by the Department of Public Works and the legislative body of such city.

With respect to any expenditure within an incorporated or charter city or city and county herein authorized, the Department of Public Works may delegate any such expenditure to the legislative body of such city when and if said department is satisfied that such city is equipped to conduct such acquisition or construction or maintenance or improvement work in an efficient and economic manner.

The legislative body of any incorporated or charter city or city and county may authorize the accumulation of funds accruing to it over a period of years, or authorize the advancement of moneys to accrue to such city over a period of years to permit the accomplishment of a major project in its entirety. No such accumulation or advancement of funds shall be made without the approval of the Department of Public Works.

The legislative body of any incorporated or charter city or city and county may authorize the allocation and expenditure by the Department of Public Works of any money accruing to such city hereunder upon any State or other major street or highway outside the limits of such city. The provisions of this section shall be construed as a guaranty for the expenditure of not less than the amounts herein provided within each city or city and county, but shall not be deemed to prevent the expenditure of any larger amount by the Department of Public Works upon any State highways or portions thereof lying within an incorporated city or city organized under freeholder charters, or city and county in this State, as provided in section 5 of this act.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health, and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and it shall, therefore, go into immediate effect. The following is a statement of the facts constituting such necessity: Urgency.

The act which is amended by this act provides for the expenditure of money in the State highway fund derived from the motor vehicle fuel license tax act, and provides for the expenditure of part of such money in incorporated cities on the basis of the last Federal census, which was taken in 1930. No provision is made for cities incorporated since the last census, and consequently the operation of the act as it now stands is not uniform as to all incorporated cities and may give rise to a constitutional question which would prevent all incorporated cities from receiving the benefits of the act. In order to make the act operate uniformly during the ensuing fiscal year, and in order to insure equitable distribution of such expenditures, to all incorporated cities, it is necessary that this act take immediate effect.

CHAPTER 165.

An act to add section 274d to the Code of Civil Procedure, relating to phonographic reporters, and declaring the urgency of this act.

[Approved by the Governor May 17, 1935. In effect immediately.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the Code of Civil Procedure to be numbered 274d and to read as follows:

Phonographic reporters. Criminal division, San Francisco municipal court.

274d. The provisions of section 274c with reference to the appointment, tenure of office and removal of phonographic reporters shall not apply to phonographic reporters of the criminal division of the municipal court of the City and County of San Francisco who are now acting in that capacity and who were certified by the civil service commission of the City and County of San Francisco, and/or who were appointed to the court superseded by said municipal court, who shall be deemed the duly appointed, qualified and acting phonographic reporters of the criminal division of the municipal court of said City and County of San Francisco, and who shall be entitled to all of the benefits of the civil service and retirement provisions of the charter of the said City and County of San Francisco and of the rules of the civil service commission having jurisdiction respecting suspensions and dismissals of employees.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and shall take effect immediately. The facts constituting such necessity are as follows:

Section 274c of the Code of Civil Procedure may be construed to deprive certain phonographic reporters of the San Francisco municipal court of the benefits of the civil service and retirement provisions of the charter of the City and County of San Francisco.

It is therefore necessary that this act go into immediate effect in order to prevent these reporters from losing their status in civil service and in the retirement system.

CHAPTER 166.

Stats 1917, p. 673, amended

An act to amend sections 2, 4 and 26 of an act entitled "An act providing for the regulation and supervision of companies, brokers, agents, and sales of securities as the same are therein defined, and to prevent fraud in the sale of securities; providing for the enforcement of said act and penalties for the violation thereof; and creating a State Corporation Department and the office of 'Commissioner

of Corporations,' " approved May 18, 1917, as amended, relating to the Division of Corporations, the regulation and supervision of companies, brokers, agents, investment counsel and sales of securities, and the prevention of fraud in the sale of securities; and declaring the measure an urgency measure within the meaning of section 1 of Article IV of the Constitution and providing accordingly for the act to take effect immediately.

[Approved by the Governor May 17, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 2 of the act cited in the title hereof is amended to read as follows: Stats 1933, p 2309.

Sec. 2. (a) Words used in this act in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; and the neuter, the masculine and feminine; the singular number includes the plural, and the plural the singular; "writing" includes "printing" and "typewriting"; "oath" includes "affirmation"; the word "county" includes "city and county"; and "territory" includes "district." When used in this act, the following terms shall, unless the context otherwise indicates, have the following respective meanings: Definitions

1. The word "division" means the "Division of Corporations" created by this act. Division

2. The word "commissioner" means the "Commissioner of Corporations." Commissioner.

3. The word "company" includes all domestic and foreign private corporations, associations, syndicates, joint stock companies, and partnerships of every kind, trustees as hereinafter defined, and also individuals as hereinafter defined. Company

4. The word "trust" includes all voluntary trusts, as the same are defined in the Civil Code, expressly created by or declared in an instrument in writing the purpose of which is to carry on any business or to secure the payment or repayment of money, but shall not be deemed to include a trust created or declared under or by virtue of a will or a judicial writ, order, decree, or judgment. Trust

5. The word "trustee" includes only persons or companies executing trusts as hereinbefore defined. Trustee

6. The word "individual" in so far as it is included in the definition of a "company," includes only persons selling, offering for sale, negotiating for the sale of or taking subscriptions for any security of their own issue. Individual

7. The word "security" shall include any stock, bond, note, treasury stock, debenture, evidence of indebtedness, certificate of interest or participation, certificate of interest in a profit-sharing agreement, certificate of interest in an oil, gas or mining title or lease, collateral trust certificate, any transferable share, investment contract, or beneficial interest in title to Security

property, profits or earnings, guarantee of a security and any certificate of deposit for a security.

Sale

8. "Sale" or "sell" shall include every disposition, or attempt to dispose, of a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. "Sale" or "sell" shall also include a contract of sale, an exchange, an attempt to sell, an option of sale, a solicitation of a sale, subscription or an offer to sell, directly or by an agent, or a circular letter, advertisement or otherwise; provided, that a privilege pertaining to a security giving the holder the privilege to convert such security into another security of the same company shall not be deemed a sale of such other security within the meaning of this definition; and provided further, that the issue or transfer of a right pertaining to a security and entitling the holder of such right to subscribe to another security of the same company shall not be deemed a sale of such security within the meaning of this definition; but the sale of such other security upon the exercise of such right shall be subject to the provisions of this act.

Agent.

9. The word "agent" means and includes every person or company employed or appointed by a company or broker or any other person who shall, within this State, either as an employee or otherwise, for a compensation, sell, offer for sale, negotiate for the sale of or take subscriptions for any security.

Broker

10. The word "broker" includes every person or company, other than an agent, who shall, in this State, engage either wholly or in part in the business of selling, offering for sale, negotiating for the sale of, or otherwise dealing in any security issued by others, (including all securities of the classes listed in paragraphs 1, 2, 3, 4, 5, 6, 7 and 9 of subdivision (b) of this section) or of underwriting any issue of such securities, or of purchasing such securities with the purpose of reselling them, or of offering them for sale to the public. Provided, however, the word broker shall not include the following, or any agent or agency of any of the following: the United States of America or any Territory or insular possession thereof, or the District of Columbia, or any State, Territory, county, or municipality, or taxing district therein.

Mortgage.

11. The word "mortgage" shall be deemed to include a deed of trust to secure a debt, and the word "mortgagee" shall be deemed to include a trustee and/or beneficiary under a deed of trust.

Investment counsel

12. The words "investment counsel" as used in this act shall include every person or company other than a broker, who in this State, for compensation, engages in the business of advising others either directly or through publications or writings as to the value of securities or as to the advisability of investing in or purchasing of securities, and every person other than a broker or certified public accountant who issues

or promulgates analyses or issues reports concerning securities; provided however, that said term shall not be construed to include any licensed, practicing attorney who renders or performs any of said services in connection with the practice of law.

Securities exempted from act.

(b) Except as hereinafter otherwise expressly provided, the provisions of this act shall not apply to any of the following classes of securities:

1. Any security issued or guaranteed by the United States of America, or any Territory or insular possession thereof, or by the District of Columbia, or by any State, Territory, county or municipality or taxing district therein.

2. Any security issued or guaranteed by any foreign government with which the United States of America is at the time of the sale or offer of sale thereof maintaining diplomatic relations, or by any State, province, or political subdivision thereof having the power of taxation or assessment, which security is recognized at the time it is offered or sold in this State as a valid obligation by such foreign government or by such State, province or political subdivision thereof issuing the same.

3. Any security issued by and representing an interest in or a direct obligation of a national bank, or issued by any Federal land bank or joint land bank, or a national farm loan association, under the provisions of the Federal Farm Loan Act of July 17, 1916, or any amendment thereof or thereto, or by any company created and acting as an instrumentality of the government of the United States of America pursuant to authority granted by the Congress of the United States of America, or by any company organized and existing under and by virtue of any act of Congress.

4. Any security issued by and representing an interest in or a direct obligation of a State bank, trust company or savings institution incorporated under the laws of this State.

5. Any security the issuance of which has been authorized by the Railroad Commission of this State or by the Interstate Commerce Commission.

6. Any security (including shares, stock and investment certificates as defined in the "Building and Loan Association Act") issued by a company organized for the purpose of conducting a building and loan association within this State subject to the supervision of the Building and Loan Commissioner.

7. Any security issued by a company organized for the purpose of transacting an insurance business subject to the jurisdiction of the Insurance Commissioner.

8. Any security (except notes, bonds, debentures, or other evidences of indebtedness) issued by a company organized under the laws of this State exclusively for educational, benevolent, fraternal, charitable or reformatory purposes and not for pecuniary profit and no part of the earnings of which inures to the benefit of any private stockholder or individual.

9. Any security which has been certified as a legal investment for savings banks and trust companies under the laws of this State.

10. Bills of exchange, trade acceptances, promissory notes and other commerical paper issued, given or acquired in a bona fide way in the ordinary course of legitimate business, trade or commerce.

11. Promissory notes, whether secured or unsecured, where the notes are not offered to the public, or are not sold to an underwriter for the purpose of resale. Provided, however, that brokers shall be subject to the provisions of this act with respect to all transactions involving the foregoing classes of securities enumerated in this subdivision (b), excepting those securities hereinabove specified in paragraphs 8, 10 and 11 of this subdivision (b).

Sales of securities exempted

(c) Except as herein expressly provided, the provisions of this act shall not apply to the sale of any security in any of the following transactions:

1. At any judicial, executor's, administrator's or guardian's sale, or at any sale by a receiver or trustee in insolvency or bankruptcy.

2. By or for the account of a pledgee or mortgagee selling or offering for sale or delivery in the ordinary course of business, to liquidate a bona fide debt, a security pledged in good faith as security for such debt.

3. The sale of securities when made by or on behalf of a vendor not the issuer or underwriter thereof who, being a bona fide owner of such securities, disposes of his own property for his own account, and such sale is not made, directly or indirectly, for the benefit of the issuer or an underwriter of such security, or for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of this act.

Stats 1933, p 2319

SEC. 2. Section 26 of said act is hereby amended to read as follows:

See Stats. 1935, Ch 766

Sec. 26. The commissioner shall charge and collect the following fees:

Fees

1. For filing an original or supplemental application for a permit to issue securities (except certificates of deposit or any guarantee of any security, both of which are covered in paragraphs 10 and 11 of this section 26), ten dollars, plus—

One-twentieth of one per cent of the amount of any excess of the aggregate value of the securities sought to be issued over twenty thousand dollars and not exceeding fifty thousand dollars;

One twenty-fifth of one per cent of such amount in excess of fifty thousand dollars and not exceeding one hundred thousand dollars;

One-fiftieth of one per cent of such amount in excess of one hundred thousand dollars and not exceeding five hundred thousand dollars; and

One one-hundredth of one per cent of such amount in excess of five hundred thousand dollars. Fees.

For the purpose of determining the above fees:

(a) The value of such securities shall be deemed to be their par or face value unless the consideration for such securities is in excess of such par or face value, in which case the value will be deemed to be the amount of the consideration so received.

(b) Where the securities proposed to be issued have no nominal or par value, the value of such securities shall be deemed to be the price at which the company proposes to sell or issue the same, or the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration (if other than money) to be received in exchange therefor; provided, however, until a new value shall have been established, that each share of no par value stock proposed to be issued shall be deemed to have a value equal to the value which has been established by previous sales for money or other property of other shares of the same class.

(c) Interim or voting trust certificates shall be deemed to have a value equal to the aggregate value of the securities to be represented by said interim or voting trust certificates.

(d) Rights, warrants or other certificates evidencing stockholders' rights to purchase additional securities shall be deemed to have a value equal to the difference between the selling price of the securities represented by such rights, warrants or other certificates and the market value of the securities so represented at the date of filing of application.

(e) Where an application is made to issue securities containing a provision entitling the holder or holders thereof to convert or exchange the same for a different class of securities, the value of the securities to be so issued shall be deemed to be an amount equal to twice the amount of the consideration to be received for the securities containing the conversion or exchange provision.

2. For acting as escrow holder for securities as herein provided, ten dollars for each twelve month period, payable in advance.

3. For filing any application for a broker's or an investment counsel's certificate, twenty-five dollars.

Provided, however, that if after a certificate shall have been issued to any broker operating as a partnership there shall be a change of interest affecting less than twenty-five per cent (25%) of the whole interest therein, no new application need be made, but there shall be filed with the commissioner, accompanied by payment of a fee of ten dollars ($10), written notice of such change, stating the names and addresses of the partners and their respective interests, and any other information which may be required by the commissioner, together with evidence satisfactory to the commissioner that the bond theretofore filed by such broker is and will be maintained in good standing notwithstanding such change. The commissioner may in his discretion require a new application, in which event

Fees.

the procedure and fee shall be the same as upon an original application for a broker's certificate. If the commissioner shall approve such change without a new application, the certificate theretofore issued and in force and any agents' license theretofore issued to agents of such partnership and then in force, shall continue in full force and effect.

4. For filing any application for an agent's certificate, five dollars.

5. For an examination, audit, or investigation, the actual amount of the salary or other compensation paid to the person or persons making the examination, audit or investigation plus the actual amount of expenses, reasonably incurred in the performance of such work.

6. For copies of papers and records not required to be certified or otherwise authenticated by the commissioner, ten cents for each folio.

7. For certified copies of official documents, orders and other papers filed in his office; for making and mailing copies of process served upon him under the provisions of section 24 of this act, and for transcript on appeal, fifteen cents for each folio and one dollar for each certificate under seal affixed thereto.

8. For certificate of service and mailing of process served upon the commissioner under the provisions of section 24 of this act, two dollars.

9. For filing any application for an amendment to an existing permit to issue securities, or for a permit to negotiate for the sale of securities or requesting the written consent of the commissioner to a proposed instrument amending, supplementing or abrogating any portion of any mortgage, deed of trust, indenture or other instrument under which bonds, debentures or other evidences of indebtedness are issued or secured, ten dollars.

10. For filing any application for a permit to issue certificates of deposit, twenty-five dollars, plus a sum, as estimated by the commissioner, to cover the actual expense of noticing and holding any hearing held in connection therewith.

11. For filing any application for a permit to execute or issue any guarantee of any security, twenty-five dollars.

No fees shall be charged or collected for copies of papers, records, or official documents furnished to public officers for use in their official capacity or for the reports of the commissioner in the ordinary course of distribution; but the commissioner may fix a reasonable charge for the publications issued under his authority.

Disposition of fees

All fees charged and collected under this section shall be paid at least once each week, accompanied by a detailed statement thereof, into the treasury of the State to the credit of a fund to be known as the "corporation commission fund," which fund is hereby created.

Stats 1933, p 2312.

SEC. 3. Section 4 of said act is hereby amended to read as follows:

Examination of and action upon application

Sec. 4. Upon the filing of such application, it shall be the duty of the commissioner to examine it and the other papers and documents filed therewith, and he may, if he deems it advisable, make or have made a detailed examination, audit and investigation of the applicant and its affairs. If he finds that the proposed plan of business of the applicant is not unfair, unjust, or inequitable, that it intends to fairly and honestly transact its business, and that the securities that it proposes to issue and the method to be used by it in issuing or disposing of them are not such as, in his opinion, will work a fraud upon the purchaser thereof, the commissioner shall issue to the applicant a permit authorizing it to issue and dispose of securities, as therein provided, in this State, in such amounts and for such considerations and upon such terms and conditions as the commissioner may in said permit provide. Otherwise, he shall deny the application and refuse such permit and notify the applicant in writing of his decision. Every permit shall recite in bold type that the issuance thereof is permissive only and does not constitute a recommendation or endorsement of the securities permitted to be issued. The commissioner may impose conditions requiring the deposit in escrow of securities, the impoundment of the proceeds from the sale thereof, limiting the expense in connection with the sale thereof and such other conditions as he may deem reasonable and necessary or advisable to insure the disposition of the proceeds of such securities in the manner and for the purposes provided in such permit.

Issuance of permit.

Hearing.

Pursuant to this act the commissioner has been and is authorized, in the instance of an application for a permit to issue securities in exchange for one or more bona fide outstanding securities, claims or property interests, or partly in such exchange and partly for cash, to approve the terms and conditions of such issuance and exchange and the fairness of such terms and conditions, after a hearing upon the fairness of such terms and conditions, at which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear.

Commissioner as escrow holder.

The commissioner may act as escrow holder for securities required to be deposited in escrow by his order. He may, from time to time, amend, alter or revoke any permit issued by him, or temporarily suspend the rights of the applicant under such permit.

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and as such it shall take effect immediately. The following is a statement of the facts constituting such necessity:

By reason of the long-continued and still existing depression throughout the State of California and throughout the United States, many companies have suffered heavy financial losses and are unable safely and prop ly to meet their obliga-

tions and liabilities under their outstanding securities, thereby threatening such companies with severe hardship or insolvency or forced liquidation, and causing distress to holders of their securities and the public generally. There exists the necessity for rapid and orderly readjustments and proper rehabilitation under the regulation and supervision of the commissioner in these and like situations, to promote orderly processes and conduct of business, and to prevent the cumulative evils of present economic disruption and financial demoralization. The provisions of this act will assist such companies to readjust their affairs and rehabilitate themselves, and to continue in business in an orderly manner, to the mutual benefit of such companies and the holders of their outstanding securities, and the public generally. It is therefore essential to the immediate preservation of the public peace, health and safety that each and every part of this act be enacted and be immediately effective.

CHAPTER 167.

An act to amend section 718c of the Civil Code, empowering municipalities to lease property.

[Approved by the Governor May 17, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1931, p. 2003.

SECTION 1. Section 718c of the Civil Code is hereby amended to read as follows:

Leasing of property by municipalities

718c. Property owned, leased or otherwise controlled by a municipality may be leased or subleased for airport purposes or purposes incidental or pertaining to aircraft, including: manufacture of aircraft, airplane engines, aircraft equipment, parts and accessories, construction and maintenance of hangers, mooring masts, flying fields, signal lights, radio equipment, service shops, conveniences, appliances, works, structures and other air navigation, aircraft and airplane engine manufacturing plants and facilities, for a period not exceeding fifty years, and sewage and sewage effluent may be leased by a municipality for a period of not exceeding fifty years. Municipalities may lease land to the State. or to any political subdivision thereof, for fair and exhibition purposes, or to the State Department of Natural Resources for the purpose of housing men and equipment, for a period not exceeding fifty years.

CHAPTER 168.

An act giving and granting to the council of the city of San Diego the right to use and the right to authorize the use

of Balboa Park in said city for exposition purposes, and declaring the urgency thereof.

[Approved by the Governor May 17, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The council of the city of San Diego, California, is hereby authorized and empowered to use, or authorize any exposition company to use, any part or portion of the lands set aside as a public park by resolution of the board of trustees of the city of San Diego and approved and ratified by Chapter 42, Statutes of 1869-70, approved February 4, 1870, for the purpose of giving an exposition in the years 1935 and 1936.

Use of lands for exposition.

Stats. 1869-70, p. 49.

SEC. 2. The council of the city of San Diego is hereby authorized and empowered to enclose any part or portion of said park which may be set aside for the use herein set forth and charge an entrance or admission fee to said exposition, and may sell, give or grant to any person or persons, association or associations, corporation or corporations, such rights, privileges and concessions as are usually granted by expositions, or such rights, privileges and concessions as may be expedient or necessary to the success of said exposition, and said city may charge and collect compensation therefor. The power and authority conferred by this act on the said council of the city of San Diego may be by said council delegated to any exposition company or corporation now or hereafter organized for the purpose of promoting, financing, managing and conduction said exposition.

Authority of city council.

SEC. 3. This act shall apply to pueblo lots 1129, 1130, 1131, 1135, 1136, 1137, 1142 and a portion of pueblo lot 1144, according to the official survey of the city of San Diego by Charles H. Poole, made in 1856, which pueblo lots are now a part of Balboa Park in the city of San Diego.

Land affected.

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1, of Article IV, of the Constitution, and shall therefore go into immediate effect. The facts constituting necessity are as follows:

Urgency.

The exposition contemplated by this act will open on the twenty-ninth day of May, 1935, and will give employment to several thousands of citizens of this State, and will allow the investment of large sums of idle money in profitable business enterprises and will attract many visitors and tourists to the State of California. The Legislature hereby declares that the welfare of the State requires that the employment of these citizens and the investment of this idle money be immediately facilitated and protected.

CHAPTER 169.

An act to repeal sections 2.879 and 2.880 of the School Code and to add thereto sections 2.879 and 2.880, relating to election of school trustees.

[Approved by the Governor May 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Sections repealed.

SECTION 1. Sections 2.879 and 2.880 of the School Code are hereby repealed.

New section.

SEC. 2. A new section is hereby added to the School Code to be numbered 2.879 and to read as follows:

Declaration of candidacy for office of school trustee.

2.879. Any person desiring to become a candidate for office of school trustee shall, fifteen days prior to the date of the election, file a written statement with the county superintendent of schools substantially as follows:

"I, _____, do hereby declare myself as a candidate for the office of school trustee of _____ district, of the county of _____, and request my name be placed on the official ballots of said district, for the election to be held March ____, 19____.

_____
Address _____."

New section

SEC. 3. A new section is hereby added to the School Code to be numbered 2.880 and to read as follows:

Ballots for election of school trustees

2.880. Each county superintendent of schools shall furnish a uniform ballot for the election of school trustees in his county and no other form of ballot shall be used. The cost of printing and the distribution of the ballots to the various elementary school districts under jurisdiction of the county superintendent of schools for election of members of governing boards thereof shall be paid by the county superintendent of schools from the unapportioned county elementary school fund. The cost of printing and distributing of the ballots to the various high school and junior college districts under the jurisdiction of the county superintendent of schools shall be paid by the county superintendent of schools from the county unapportioned high school fund.

The form of ballots shall be as follows:

"Official ballot provided by the superintendent of schools to be used in the election of school trustees in _____ district in the county of _____.

_____ ☐"
(12 spaces)

The name of the county and school district shall be printed or typewritten in as part of the official ballot.

Immediately following the above there shall be at least 12 spaces for the insertion of names of candidates, each space with a blank square for the expression of the will of the voter.

The name of each candidate for school trustees who has filed his declaration of candidacy for that particular district in accordance with the preceding section shall be printed or typewritten on the ballot.

CHAPTER 170.

An act to add a new section to the Agricultural Code, to be numbered 318, relating to meat inspection, declaring the urgency hereof, to take effect immediately.

Stats. 1933, p 60.

[Approved by the Governor May 20, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Agricultural Code to be numbered 318, and to read as follows:

New section

318. It is unlawful to sell any meat or products thereof, sausage casings, or other casings that contain dye or artificial coloring.

Dyed or artificially colored meat

For the purpose of this article any meat, products thereof, sausage casings, or other casings that contain any dye or artificial coloring shall be deemed adulterated, and the director shall render the same unfit for human consumption with a suitable denaturing agent.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Urgency

On account of the rising price of meat and meat products during a period of depression, there is a tendency on the part of unscrupulous dealers in meat and meat products to color inferior and unwholesome meat and meat products in order to conceal the impurities thereof. This practice is rapidly spreading and will undoubtedly increase greatly with the coming of the summer season. Consequently, in order to safeguard the public health it is necessary that this act take immediate effect.

CHAPTER 171.

An act to add section 411.5 to the Vehicle Code, relating to suspension and revocation of licenses.

[Approved by the Governor May 20, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 172.

An act to add a new section to the School Code to be numbered 4.191, relating to the insuring under the workmen's compensation laws of this State, of persons employed by county superintendents of schools to supervise or to give instruction in the public schools.

[Approved by the Governor May 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the School Code to be numbered 4.191 and to read as follows:

Compensation insurance of persons employed by county superintendent of schools to supervise or give instruction

4.191. For the purpose of insuring such person under the workmen's compensation laws of this State, any person employed by a county superintendent of schools to supervise instruction or to give instruction in the school districts under the jurisdiction of such county superintendent of schools shall be deemed an employee of the county. The cost of so insuring any person employed to supervise instruction shall be paid by the county superintendent of schools from the county elementary school supervision fund. The cost of so insuring any person employed by the county superintendent of schools to give instruction shall be paid by the county superintendent of schools from the unapportioned county elementary school fund.

CHAPTER 173.

An act to amend section 2.251 of the School Code, relating to teachers' attendance reports.

[Approved by the Governor May 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Sch C, 1929, p 37.

SECTION 1. Section 2.251 of the School Code is hereby amended to read as follows:

Enrollment and attendance.

2.251. The teacher or teachers shall keep the enrollment and attendance of each district separate from that of the other districts composing the union. At the close of the term, or year, a report shall be made of the attendance of each district composing the union separately. These separate reports shall be combined in a principal's report. In case of a joint union school district, the teacher or teachers shall send a copy of such report to the county superintendent having jurisdiction over the district.

CHAPTER 174.

An act to add a new section to the Political Code, to be numbered 3881b, relating to entry of changes and corrections on assessment book and delinquent list.

[Approved by the Governor May 20, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Political Code, to be numbered 3881b and to read as follows: New section

3881b. Anything to the contrary in sections 3803, 3804a and 3881 of the Political Code notwithstanding, all entries on the assessment book and delinquent list of changes and corrections authorized by said sections, at any time after the delivery of the assessment book to the county auditor by the clerk of the board of supervisors, shall be made by the county auditor. Entry of changes and corrections on assessment book and delinquent list

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CHAPTER 175.

An act to amend section 2.123 of the School Code, relating to the providing of instruction and transportation by county superintendents of schools for elementary pupils.

[Approved by the Governor May 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 2.123 of the School Code is hereby amended to read as follows: Stats. 1931, p. 1520.

2.123. The county superintendent of schools may without the formation of a new district or the filing of a petition for the formation thereof, whenever in his judgment it is necessary in order to provide for the education of children residing within any school district in his county, and funds are not available from other sources, maintain such emergency schools as may be necessary within any school district or districts in his county, provide an extra teacher or extra teachers for the regular school or schools of any district in the county, or may provide transportation for such children to a public school. The salaries of teachers employed in emergency schools and extra teachers provided for the regular district schools and the cost of such transportation shall be paid out of the county unapportioned elementary school fund. Provision in lieu of new district.

CHAPTER 176.

Stats. 1931, p. 587.

An act to amend section 1144 of the Probate Code, relating to the disposition of the property of the estate of any decedent of the value of two hundred dollars or less.

[Approved by the Governor May 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1931, p. 661.

SECTION 1. Section 1144 of the Probate Code is hereby amended to read as follows:

Estates of $200 or under.

1144. If it appears that the total value of the estate of the decedent does not exceed two hundred dollars, the court or judge shall make an order granting the application and there shall be no administration upon the estate unless additional property is found or discovered. No fee shall be charged by the clerk of the court or the public administrator or his attorney for filing the application, or for any duty or service connected therewith. Such sales may be made with or without notice, as the public administrator may elect, and title to the property sold shall pass without the need of confirmation by the court. The money received from such sales and collections shall be used to defray the expenses of the burial of the decedent and the expenses of his last illness. The public administrator shall file with the clerk of the court a statement showing the property of the decedent that came into his hands and the disposition that he made thereof, together with vouchers for all expenditures.

CHAPTER 177.

Stats. 1921, p 1500, amended

See Stats 1935, Ch. 358

An act to amend section 11 of the Inheritance Tax Act, to require that county auditor's warrants be drawn for the payment of refunds.

[Approved by the Governor May 20, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1929, p. 1846.

SECTION 1. Section 11 of the Inheritance Tax Act is hereby amended to read as follows:

Refund if debts proved after payment

11. (1) If any debts shall be proved against the estate of a decedent after the payment of any legacy or distributive share thereof, from which any such tax has been deducted or upon which it has been paid by the person entitled to such legacy or distributive share, and such person is required by order of the superior court having jurisdiction, on notice to the State Controller, to refund the amount of such debts or any part thereof, an equitable proportion of the tax shall be repaid to him by the executor, administrator or trustee, if the

tax has not been paid to the county treasurer; or if such tax has been paid to such county treasurer, such officer shall refund out of any inheritance tax moneys in his hands or custody such equitable proportion of the tax and credit himself with the same in the account required to be rendered by him under this act.

Tax on deductions for debts erroneously allowed

(2) Where it shall be proved to the satisfaction of the superior court that deductions for debts were allowed upon the appraisal, since proved to have been erroneously allowed, it shall be lawful for such superior court to enter an order assessing the tax upon the amount wrongfully and erroneously deducted.

If order is modified or reversed

(3) If, after the payment of any tax in pursuance of an order fixing such tax, made by the superior court having jurisdiction, such order be modified or reversed by the superior court having jurisdiction within two years from and after the date of entry of the order fixing the tax, or be modified or reversed at any time on an appeal taken therefrom within the time allowed by law on due notice to the State Controller, the county treasurer shall refund to the executor, administrator, trustee, person or persons by whom such tax was paid, the amount of any moneys paid or deposited on account of such tax in excess of the amount of tax fixed by the order modified or reversed, out of any inheritance tax moneys in his hands or custody, and credit himself with the same in the account required to be rendered by him to the Controller on his semi-annual settlement; but no application for such refund shall be made after one year from such reversal or modification, unless an appeal shall be taken therefrom, in which case no such application shall be made after one year from the final determination on such appeal or of an appeal taken therefrom, and the representatives of the estate, legatees, devisees or distributees entitled to any refund under this section shall not be entitled to any interest upon such refund, and the State Controller shall deduct from the fees allowed by this act to the county treasurer the amount theretofore allowed him upon such overpayment. This subdivision shall not be construed as giving any right to have such order modified or reversed in addition to those provided in the Code of Civil Procedure for the modification or reversal of judgment.

Order to refund tax erroneously paid

(4) When any amount of said tax shall have been erroneously paid, the superior court having jurisdiction, on application after notice to the State Controller, and on satisfactory proof to it, shall by order direct the county auditor to draw his warrant upon the county treasurer in favor of the executor, administrator, trustee, person or persons who have paid any such tax in error in the amount of such tax so erroneously paid; provided, that all applications for such repayment of such tax so erroneously paid shall be made within one year of the date of the entry of the order fixing tax or of the decree of final distribution of the estate. Such refund shall be made by said treasurer out of any inheritance tax moneys in his hands or custody and he shall credit himself with the same

in the account required to be rendered by him to the Controller on semiannual settlement, and the State Controller shall deduct from the fees allowed by this act to the county treasurer the amount theretofore allowed him upon such erroneous payment.

Application to pending proceedings.

(5) This section, as amended, shall apply to appeals and proceedings now pending and taxes heretofore paid in relation to which the period of one year from such reversal or modification has not expired when this section, as amended, takes effect. For the payment of the refunds authorized by this section, the court shall direct the county auditor to draw warrants upon the county treasurer.

CHAPTER 178.

An act to add a new section to the Penal Code, to be numbered 1375, prescribing the manner in which counties shall pay the State for expense of insane and inebriates.

[Approved by the Governor May 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the Penal Code, to be numbered 1375 and to read as follows:

Amounts due from county to State.

1375. All amounts due from any county to the State by reason of the provisions of sections 1373 and 1374 of this code shall be included by the county auditor in his State settlement report, required by section 3868 of the Political Code.

CHAPTER 179.

Stats 1933, p. 60.

An act to amend section 651 of the Agricultural Code, relating to dairy statistics.

[Approved by the Governor May 22, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 160.

SECTION 1. Section 651 of the Agricultural Code is hereby amended to read as follows:

Dairy statistics Publication.

651. The director may compile and publish statistics relative to the dairy industry, and disseminate the same and other information useful to the general good and development of the dairy industry of the State, and may make a suitable charge or charges for publications issued under the authority of this chapter.

CHAPTER 180.

An act to amend section 631 of the Agricultural Code, relating to examination of milk and dairy products. Stats. 1933, p. 60.

[Approved by the Governor May 22, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 631 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p. 158.

631. Applications for tester's, sampler's and weigher's or technician's licenses shall be made to the department which shall examine each applicant for the license applied for as to his qualifications and knowledge of the law applicable to him. Application.

The original fee for such licenses is: Fees.

(a) For a tester's license, five dollars.

(b) For a sampler's and weigher's license, one dollar.

(c) For a technician's license, five dollars.

All such licenses expire on the 31st day of each December and may be renewed within thirty days prior to the expiration thereof upon payment of a fee of one dollar if the licensee has complied with all the requirements of the law and rules and regulations applicable to him. Expiration.

CHAPTER 181.

An act to amend sections 491 and 493 of the Agricultural Code, relating to milk inspection. Stats. 1933, p. 60.

[Approved by the Governor May 22, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 491 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 140.

491. Counties, cities or groups of either or both may maintain in connection with their respective health departments a milk inspection service and laboratory conformable to the provisions of this division and the rules and regulations promulgated by the director. Such counties and cities may contract one with the other for the maintenance by one or some of them of such milk inspection service and laboratory within the limits of the others and pay a prorata of the cost thereof from license fees collected for that purpose or from other moneys available for such purposes. Any county or city may levy and collect a license tax from those who come under the provisions of this division and pay the same or provide that the same be paid directly to any other county or city performing the inspection service under this division. Upon approval in writing of such milk inspection service by the director, any Milk inspection service. License tax.

such milk inspection service shall grade market milk as produced or sold under its jurisdiction and require the use of the respective grade designations as prescribed in this division.

Stats 1933, p. 141.

SEC. 2. Section 493 of the Agricultural Code is hereby amended to read as follows:

Change of dairy score.

493. Any milk delivered by the producer thereof, to be sold as any grade of market milk, shall not be degraded or excluded from the market when a score of the dairy on which said milk is produced is below the specified minimum legal requirement:

(a) Unless a copy of said score shall be promptly given to the proprietor or operator of the dairy and when milk is sold in bulk to a distributor or processor, a copy of said notice shall also be given to such distributor or processor.

(b) Unless a rescore, after ten days, shows the score of said dairy to be still or again below the specified minimum legal requirements and a copy of such rescore is promptly given to the proprietor or operator of said dairy and the purchaser of the milk produced by said dairy and until sixty hours elapses after the rescore. If, during the sixty hours, following the rescoring, a protest is filed with the head of the milk inspection service under whose jurisdiction the milk of such dairy is sold, the milk produced on said dairy shall not be degraded or excluded from the market until after a third score has been made and concurred in by the representative of said milk inspection service and the director.

CHAPTER 182.

Stats 1933, p. 60

An act to amend section 476 of the Agricultural Code, relating to fat or oil in dairy products.

[Approved by the Governor May 22, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

Stats 1933, p. 134

SECTION 1. Section 476 of the Agricultural Code is hereby amended to read as follows:

Addition of fats.

476. Except as otherwise provided in this division it is unlawful to manufacture or sell any milk, cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them or any ice cream, ice milk, cheese or any other dairy product to which has been added any fat or oil other than milk fat, or the fat naturally contained in chocolate and not separated therefrom either under the name of said products, articles or the derivatives thereof, or under any fictitious or trade name. The addition to the products commonly known as condensed skim milk, condensed buttermilk, or semisolid buttermilk of not more than five per cent of pure cod liver oil is not a violation of this section, if the product is sold for poultry or stock feed.

CHAPTER 183.

An act to amend section 453 of the Agricultural Code, relating to milk inspection. Stats. 1933, p. 60.

[Approved by the Governor May 22, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 453 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p 130.

453. The violation of any of the provisions of this division, or the rules and regulations for its enforcement, is a misdemeanor and, unless a different penalty is specifically prescribed, is punishable by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than ten days nor more than ninety days, or by both. Offering physical resistance or bodily attack on authorized representatives of the department or of an approved milk inspection service, engaged in the proper conduct of their official duties, is a misdemeanor, punishable by imprisonment in the county jail for not less than ten days, without the alternative of a fine in any case. Penalties.

CHAPTER 184.

An act to amend section 4.360 of the School Code, relating to school district budgets, declaring the urgency thereof and providing that this act shall take effect immediately.

[Approved by the Governor May 22, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 4.360 of the School Code is hereby amended to read as follows: Stats 1933, p 2342.

4.360. The governing board of every school district of any kind or class shall have power and it shall be its duty to submit annually on or before the first day of July to the county superintendent of schools a school budget, showing all the purposes for which the school district will need money and the amount of money that will be needed for each of said purposes for the next ensuing school year; the budget shall also contain an amount to be known as the general reserve in such sum as the governing board of the district shall deem sufficient for the school year subsequent to that for which the budget is intended to apply to meet the cash requirements to which the district's credit may be legally extended for that portion of the subsequent school year prior to the receipt of taxes levied for the district. School budget

The budget shall show the estimated cash balances on hand for the school district according to the records of the county auditor (exclusive of receipts from bond sales and gifts or donations by reason of such bond sales), and appropriations from the State school fund, the State high school fund, the State junior college fund, the State vocational education fund and the State general fund according to the demand upon the State Controller made by the Superintendent of Public Instruction. The budget shall also show other known income and estimates of income not definitely known. Said budget shall be submitted on the form prescribed by the Superintendent of Public Instruction.

Urgency.

SEC. 2. This measure is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and as such shall take effect immediately.

The reasons constituting such necessity are as follows:

Under School Code section 4.360 as the same now exists, school districts are unable to provide during one school year funds with which claims against the district may be paid during the first months of the succeeding school year when the income of the district is, by reason of nonpayment during July and August of State apportionments of school funds and by reason of the fact that school district taxes levied for any school year are not payable until December of that year, insufficient to pay such claims. Consequently, registered warrants paying six per cent interest annually must be issued by the district in payment of such claims. The payment of interest on such registered warrants costs the tax payers of school districts thousands of dollars annually. This measure will relieve school district taxpayers from the necessity of paying interest on such registered warrants, and if it takes effect immediately, this saving will become effective in the school year 1936–1937, otherwise the savings will not become effective until the school year 1937–1938, for the reason that the budgets of school districts for the school year 1935–1936, which, if this measure is enacted, will permit such savings to become effective in the school year 1936–1937 must be prepared on or before July 1, 1935.

CHAPTER 185.

An act to repeal section 3385 of the Political Code, relating to licensing of animals kept for propagation.

[Approved by the Governor May 22, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Repeal.

SECTION 1. Section 3385 of the Political Code is hereby repealed.

CHAPTER 186.

An act to amend section 2.481 of the School Code, relating to the transfer of an elementary school district from one high school district to another.

[Approved by the Governor May 22, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 2.481 of the School Code is hereby amended to read as follows: Sch. C., 1929, p. 51.

2.481. If, by the exclusion of the elementary school district, the assessed valuation of the property of the high school district would be less than ten million dollars, except where an elementary school district has become severed from the other districts comprising the high school district, or, if by the exclusion of the elementary school district the outstanding bonded indebtedness of the district would exceed five per cent of the value of the taxable property remaining in the district, the board of supervisors shall refuse to call an election for the purpose of determining whether the elementary school district shall be excluded. When elementary school district not to be excluded

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CHAPTER 187.

An act to amend section 3.172 of the School Code, relating to beginning classes of elementary schools.

[Approved by the Governor May 22, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 3.172 of the School Code is hereby amended to read as follows: Sch. C., 1929, p. 114.

3.172. Children shall be admitted to the beginning classes of an elementary school maintaining but one term in the school year only during the first school month of the school term and then only if such children are six years of age or over, or will be six years of age within six calendar months from the date that school is opened. Admission to elementary schools

Where an elementary school maintains more than one term in the school year, children shall be admitted to the beginning classes of the elementary school only during the first school month of any school term and then only if such children are six years of age or over, or will be six years of age within three calendar months from the day such term opens.

CHAPTER 188.

Stats 1933, p. 60.

An act to amend section 790 and to add section 813.5 to the Agricultural Code, relating to celery.

[Approved by the Governor May 22, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 173.

SECTION 1. Section 790 of the Agricultural Code is hereby amended to read as follows:

Standards established

790. There are hereby established standards for fruits, nuts and vegetables which shall include apricots, avocados, berries, cherries, citrus fruits, dates, grapes, peaches, pears, oriental persimmons, plums and fresh prunes, "wonderful" pomegranates, quinces, walnuts, artichokes, asparagus, cantaloupes, carrots, cauliflower, celery, head lettuce, melons, onions, peas, potatoes, sweet potatoes, tomatoes and apples.

New section

SEC. 2. Section 813.5 is hereby added to said act to read as follows:

Celery standard.

813.5. Celery when packed in any container shall be so tightly packed that it is not possible, without damaging or injuring the celery, to place additional stalks in the container and shall be uniform in size which means that the stalks of celery do not vary in size more than would tightly pack a one-half dozen size larger or smaller than the size count as marked.

Not more than a total of ten per cent, by count, of the stalks of celery in any one container may vary from the uniform in size requirement.

Celery which fails to meet the uniform in size requirement shall be considered as complying with this section, if the container in which it is packed is plainly and conspicuously marked, on the outside of the end which bears any other markings required by this section, in letters not less than one-half inch in height, with the words "irregular sizes."

Containers

All containers of celery shall bear upon them in plain sight and in plain letters on one outside end, the name of the person who first packed or authorized the packing of the celery, or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer, and in figures not less than three-fourths of an inch in height, the number of stalks in the container, expressed in dozens and one-half dozens, directly followed by the term "Doz" or "Dozen," in like size letters or type. The number of stalks in a container shall not vary more than four stalks from the count as marked. In ten per cent or less of the crates in any one lot the contents may vary not more than twelve stalks from the count as marked.

"Stalk" when used in this section, shall mean the individual celery plant.

CHAPTER 189.

An act to repeal section 677a of the Political Code and to add section 677.5 thereto, relating to budgets of State departments and other State agencies.

[Approved by the Governor May 22, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 677a of the Political Code is hereby repealed. Repeal.

SEC. 2. Section 677.5 is hereby added to the Political Code to read as follows: New section.

677.5. Every State office, department, institution, board, court, commission, bureau, officer and other agency of the State, for whom appropriations have been made, shall submit to the Department of Finance for approval, a complete and detailed budget at such time and in such form as may be prescribed by the Department of Finance, setting forth all proposed expenditures and estimated revenues for the ensuing fiscal year. Budgets

Any officer or employee who incurs any expenditure in excess of the provisions of the fiscal year budget, as approved by the Department of Finance, shall be liable both personally and on his official bond for the amount of such expenditures.

CHAPTER 190.

An act to add a new section to the Civil Code, to be numbered 453.14, relating to mortgage insurance companies; declaring the urgency thereof and providing that this act shall take effect immediately.

[Approved by the Governor May 23, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Civil Code, to be numbered 453.14 and to read as follows: New section

453.14. Irrespective of any other provision of this code, a mortgage insurance company may invest in, hold, buy and sell and make collateral loans secured by shares of stock, bonds, notes, debentures or other obligations of any national mortgage association or other similar credit institution now or hereafter organized under the National Housing Act; also the stock, bonds, debentures, notes and other securities or instruments issued by any Federal agency or corporation organized under Federal authority whose powers include loaning money on real estate or guaranteeing or insuring loans on real estate or otherwise dealing in such loans. Mortgage insurance companies, investments

Loans.

Irrespective of any other provision of this code, a mortgage insurance company (a) either with or without security, may make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing alterations, repairs, and improvements pursuant to the National Housing Act upon real property securing a loan then held by or insured by such mortgage insurance company, if the Federal Housing Administrator shall insure such mortgage insurance company against losses which it may sustain as a result of such loans, advances of credit and purchases made by such mortgage insurance company for such purpose, to the extent provided in Title I of the National Housing Act; (b) may make loans upon the security of real property pursuant to the provisions of this section and pursuant to the National Housing Act, if, prior to July 1, 1937, the Federal Housing Administrator pursuant to said act shall have insured, or shall have made a commitment to insure, such mortgage insurance company against losses of principal which it may sustain as a result of such loans; and (c) may secure insurance pursuant to said National Housing Act. No law of this State prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made or prescribing or limiting the period for which loans or advances of credit may be made, and no provision of this act prescribing or limiting interest rates upon loans or advances of credit, shall be deemed to apply to loans, advances of credit or purchases made pursuant to this section.

Urgency.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and as such it shall take effect immediately. The following is a statement of facts constituting such necessity:

By reason of the long continued and still existing economic and financial depression many mortgage insurance companies have suffered heavy losses, both in income and in net worth, and are unable to carry on their normal business, thereby causing severe hardships to thousands of investors and home owners and increasing public unemployment and distress. The provisions of this act, by permitting mortgage insurance companies to acquire securities of national mortgage associations, to make insured loans pursuant to the National Housing Act, and to acquire securities of other Federal agencies or corporations, will enable mortgage insurance companies to cooperate with the Federal government in carrying out the objects and purposes of the National Housing Act. The provisions of this act are also necessary to enable numerous home owners in California, whose homes are subject to mortgages, to refinance such mortgages by obtaining insured loans pursuant to the National Housing Act. By the passage of this act many homes in California may be saved from fore-

closure and many loans may be made to home owners for the purpose of financing alterations, repairs and improvements upon real property, thereby decreasing unemployment and distress. It is, therefore, essential to the immediate preservation of public peace, health and safety that each and every part of this act be enacted and be immediately effective.

CHAPTER 191.

An act to amend an act entitled "An act to provide for the organization and government of drainage districts, for the drainage of agricultural lands other than swamp and overflowed lands, and to provide for the acquisition or construction thereby of works for the drainage of the lands embraced within such districts," approved March 20, 1903, as amended, by amending the title and sections 37 and 40 thereof, and adding a new section to be designated section 97, to authorize the borrowing or procuring of money by drainage districts from the United States or any agency thereof, and declaring the urgency thereof.

Stats. 1903, p. 291, amended.

[Approved by the Governor May 23, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows: An act to provide for the organization and government of drainage districts, for the drainage of agricultural lands other than swamp and overflowed lands, to provide for the acquisition or construction thereby of works for the drainage of the lands embraced within such districts, and to provide for the borrowing or procuring of money from the United States or any agency thereof and the entering into contracts, and for the issuance of bonds, warrants or other evidence of indebtedness for the repayment thereof.

Title amended.

SEC. 2. Section 37 of said act is hereby amended to read as follows:

Stats 1903, p. 303.

Sec. 37. When bonds issued under section 35 of this act shall be duly executed, they shall be deposited with the treasurer of the county wherein the district was organized, who is hereby authorized and charged with the duty of receiving the same, and his receipt shall be taken therefor, and he shall be charged with the same on his official bond, and shall have no power to deliver the same in exchange for any bonds or indebtedness proposed to be funded until the bonds or evidence of indebtedness proposed to be funded shall have been surrendered to him, and he shall have been ordered by the board of directors of the district, by an order duly entererd on their records to make such delivery. When such bonds have been exchanged for other bonds, coupons, or other evidences of

Duty of county treasurer.

indebtedness, the said treasurer shall at once cancel such other bonds, coupons, or other evidences of indebtedness by writing across the face thereof "Canceled" and the date of cancellation, and report the same with his next regular report hereinafter provided for to the board of directors of the district designating the bond, coupon, or other evidence of indebtedness, so that it can be identified. the date of cancellation, and the person from whom it was received, together with the amount paid therefor, or the terms of exchange, in case there is an exchange.

If any bonds authorized under the provisions of this act remain unissued or unsold for a period of one year after the date of the election at which they were authorized, and their cancellation becomes necessary in the refinancing of the obligations of the district, the board of directors of said district may by resolution, in lieu of the proceedings provided for in this act for the reduction of the district's bonded indebtedness, authorize the said treasurer to cancel the same and said bonds shall be canceled in the same manner as herein provided for the cancellation of exchanged bonds.

Stats 1903, p 303.

SEC. 3. Section 40 of said act is hereby amended to read as follows:

Directors to furnish estimate of money needed

Sec. 40. The board of directors must, on or before the first meeting of the board of supervisors in September of each year, furnish the supervisors and the auditor of the county wherein the district is situated, or if such district is not entirely within one county, then as hereinafter provided, to the supervisors and auditors of each county in which any portion of the district is situated, an estimate in writing of the amount of money needed for the purposes of the district for the ensuing fiscal year and may add thereto a sum sufficient to provide funds for necessary expenditures during the next succeeding fiscal year, prior to the time when the first installment of taxes for such succeeding fiscal year shall be collected and apportioned, and also to include in any year a sum to be placed in a sinking fund to pay the principal of bonds outstanding. This amount must be sufficient to raise the annual interest on the outstanding bonds, to create a reserve fund as may be provided by contract or under the terms and conditions of any issue of bonds, to be used to pay bond principal and interest, to pay the estimated cost of repairs, the incidental expenses of the district, and in any year in which any bonds shall fall due, an amount sufficient to pay the principal of the outstanding bonds as they mature

New section.

SEC. 4. A new section is hereby added to said act, to be numbered section 97 and to read as follows:

Additional powers of drainage districts

Sec. 97. In addition to other powers in this act conferred, drainage districts shall have authority to borrow or procure money from the United States or any agency thereof, for the purpose of financing any of the operations of the district or financing or refinancing any or all of the obligations of the district, including outstanding warrants or any other indebted-

ness, or the funding or refunding or purchase of the bonds of the district, or for any of the other purposes of the district authorized by law. As evidence of such loan or loans and the obligations of such district to repay the same to the United States or any agency thereof, any drainage district upon being authorized so to do at an election held as hereinafter provided, may make and enter into a contract or contracts with the United States or any agency thereof, as a condition or requirement to the making of such loan or loans. Such district may issue bonds of such district as may be required by the contract last above provided for or without such contract, such bonds bearing such rate of interest, containing such terms and conditions, being in such forms and payable in such manner and from such source or sources of income and/or revenue as may be agreed upon between the district and the United States or any agency thereof and may obligate and bind the district for the payment of such bonds according to the terms thereof. Such bonds may be serial or sinking fund bonds and may be callable either by number or by lot and may be made payable to bearer or to the United States or any agency thereof and shall be authorized and issued in the manner substantially as provided for in this act for the issuance of new bonds for the purpose of paying or funding or refunding the indebtedness or some part thereof of the district, except as modified by this section.

Notwithstanding any provision of this act, a majority vote on the proposal to enter into and execute a contract with the United States or any agency thereof and to issue bonds as provided for by this section shall be sufficient to authorize the execution thereof and the issuance of such bonds and the notice of election and ballot need contain only the information required in the case of ordinary bond elections and that a proposal to enter into such contract and to issue bonds, if any, may be voted upon together as a single proposition.

Urgency.

SEC. 5. This act is hereby declared to be an urgency measure within the meaning of section 1 of Article IV of the Constitution, necessary for the immediate preservation of the public peace, health and safety, and shall take effect immediately. The facts constituting such necessity are as follows: There exists throughout the State of California economic conditions which make it impossible for many property owners to pay taxes and assessments levied upon their property and many of the drainage districts in this State are in default in the payment of obligations under their outstanding bonds, and the operations of such districts are seriously hindered and great distress exists therein. Many of such districts are negotiating with the Reconstruction Finance Corporation, an agency of the United States, for loans to enable them to reduce and refinance their outstanding indebtedness, and if such loans can be obtained speedily, the distress in such districts will be greatly alleviated. The completion of such loans is being delayed by questions as to the scope and meaning of the act hereby

amended, and the amendments herein provided for are necessary to hasten the obtaining of such loans and the relief of large numbers of land owners, who will otherwise lose their property and be compelled to rely on governmental agencies for support and maintenance.

CHAPTER 192.

Stats. 1931, p. 587.

An act to amend section 1153 of the Probate Code, relating to publication of reports of the finances of the estates of decedents by the public administrator.

[Approved by the Governor May 24, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1931, p. 663.

SECTION 1. Section 1153 of the Probate Code is hereby amended to read as follows:

Reports, publication thereof.

1153. The public administrator, or any person who received letters of administration while acting as public administrator, must return to the superior court, once in every six months, a report, under oath, of all estates of decedents which have come into his hands during the said six months, giving the value of each estate, the amount of money which he has received from each estate, a statement of what he has done with it, and the amount of his fees and expenses incurred in each estate, and the balance, if any, in each estate, remaining in his hands. He must publish such report six times in some newspaper published in the county, or if there is none, then post the same, legibly written or printed, in the office of the county clerk of the county. One copy of the report must be filed with the papers in each estate so reported within sixty days after the first Monday in January and July of each year.

CHAPTER 193.

An act to amend sections 800 and 802 of the Penal Code, relating to limitation of criminal actions.

[Approved by the Governor May 24, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1891, p. 193.

SECTION 1. Section 800 of the Penal Code is hereby amended to read as follows:

Limitation: Felonies.

800. An indictment for any other felony than murder, the embezzlement of public money, or the falsification of public

records, must be found, an information filed or case certified to the superior court, within three years after its commission.

SEC. 2. Section 802 of the Penal Code is hereby amended to read as follows: Code amdts. 1880, p. 12

802. If, when the offense is committed, the defendant is out of the State, the indictment may be found, an information filed, or case certified to the superior court within the term herein limited after his coming within the State, and no time during which the defendant is not an inhabitant of, or usually resident within this State, is part of the limitation. Exception.

CHAPTER 194.

An act to amend section 573 of the Probate Code of the State of California, relating to actions which may be maintained against executors and administrators. Stats. 1931, p. 587.

[Approved by the Governor May 24, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 573 of the Probate Code of the State of California is hereby amended to read as follows: Stats 1931, p. 618.

573. Actions for the recovery of any property, real or personal, or for the possession thereof, or to quiet title thereto, or to determine any adverse claim thereon, and all actions founded upon contracts, may be maintained by and against executors and administrators in all cases in which the same might have been maintained by or against their respective testators or intestates, and all actions by the State of California or any political subdivision thereof founded upon any statutory liability of any person for support, maintenance, aid, care or necessaries furnished to him or to his spouse, relatives or kindred, may be maintained against executors and administrators in all cases in which the same might have been maintained against their respective testators or intestates. Power to sue and be sued.

CHAPTER 195.

An act to amend section 788 of the Fish and Game Code, relating to the crab season in California. Stats. 1933, p. 394.

[Approved by the Governor May 24, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 788 of the Fish and Game Code of the State of California is hereby amended to read as follows: Stats. 1933, p. 464.

Crabs.

788. Crabs may be taken in districts 1½, 6, 7, 8, and 9 between December 15 and August 30. Crabs may be taken elsewhere in the State between November 1 and August 15. It shall be unlawful to take crabs for commercial purposes on Sunday in districts 10 and 11.

CHAPTER 196.

Stats 1933, p 394.

An act to amend section 790 of the Fish and Game Code, relating to the preservation of crabs and crab meat.

[Approved by the Governor May 24, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 464.

SECTION 1. Section 790 of the Fish and Game Code of the State of California is hereby amended to read as follows:

Preserving crabs

790. It is unlawful to pickle, can, or otherwise preserve any crab, provided that fresh crab meat may be preserved in not less than five pound net weight containers by means of refrigeration, under regulations which the commission is hereby authorized to prescribe. Crab meat from outside the State may be imported into the State under regulations which the commission is authorized to prescribe.

Out-of-state crabs

CHAPTER 197.

An act to amend sections 1235 and 1238 of the Penal Code, relating to appeals in criminal cases.

[Approved by the Governor May 24, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1905, p 700

SECTION 1. Section 1235 of the Penal Code is hereby amended to read as follows:

Appeals, by whom taken.

1235. Either party in the prosecution by indictment, information, or complaint may appeal on questions of law alone, as prescribed in this chapter.

Stats. 1905, p. 700.

SEC. 2. Section 1238 of the Penal Code is hereby amended to read as follows:

In what cases by the people.

1238. An appeal may be taken by the people:

1. From an order setting aside the indictment, information, or complaint;

2. From a judgment for the defendant on a demurrer to the indictment, accusation or information;

3. From an order granting a new trial;

4. From an order arresting judgment;

5. From an order made after judgment affecting the substantial rights of the people.

CHAPTER 198.

An act to amend sections 888 and 959 of the Penal Code, relating to indictments.

[Approved by the Governor May 24, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 888 of the Penal Code is hereby amended to read as follows: Code amdts 1880, p 12.

888. All public offenses triable in the superior courts must be prosecuted by indictment or information, except as provided in the next section, and except as provided by section 859a of this code. Superior court, public offenses

SEC. 2. Section 959 of the Penal Code is hereby amended to read as follows: Stats 1927, p. 1041.

959. The indictment, information or complaint is sufficient if it can be understood therefrom: Sufficiency of indictments, informations and complaints

1. That it is entitled in a court having authority to receive it, though the name of the court be not stated.

2. If an indictment, that it was found by a grand jury of the county in which the court was held, or if an information, that it was subscribed and presented to the court by the district attorney of the county in which the court was held.

3. That the defendant is named, or, if his name can not be discovered, that he is described by a fictitious name, with a statement that his true name is to the jury or district attorney, as the case may be, unknown.

4 That the offense was committed at some place within the jurisdiction of the court, except where the act, though done without the local jurisdiction of the county, is triable therein.

5. That the offense was committed at some time prior to the time of the finding the indictment, filing of the information, or certifying the case to the superior court.

CHAPTER 199.

An act to amend sections 2482 and 2484 of the Civil Code, relating to limited partnerships.

[Approved by the Governor May 24, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 2482 of the Civil Code is hereby amended to read as follows: Stats. 1929, p. 1915

2482. If the certificate contains a false statement, one who suffers loss by reliance on such statement may hold liable any party to the certificate who knew the statement to be false, Liability for false statement in certificate

(a) At the time he signed the certificate, or

(b) Subsequently, but within a sufficient time before the statement was relied upon to enable him to cancel or amend the certificate, or to file a petition for its cancellation or amendment as provided in subdivision three of section 2501.

Stats 1929, p. 1915.

SEC. 2. Section 2484 of the Civil Code is hereby amended to read as follows:

Admission of additional limited partners.

2484. After the formation of a limited partnership, additional limited partners may be admitted upon filing an amendment to the original certificate in accordance with the requirements of section 2501.

CHAPTER 200.

Stats. 1933, p 610, amended.

An act to amend the title, sections 1 and 2 of "An act to require security for the payment of wages of persons engaged in the mining industry," approved April 25, 1933 (Stats. 1933, Chap. 161), relative to security for the payment of wages in the mining industry and providing penalties for violation of the provisions thereof.

[Approved by the Governor May 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 610.

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows:

Title amended.

An act to require security for the payment of wages of persons engaged in the mining industry and providing penalties for violation of the provisions thereof.

Stats. 1933, p. 610.

SEC. 2. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Miners: Payment of wages.

Section 1. Every person, firm, association or corporation, or agent, manager, superintendent or officer thereof, engaged in the business of extracting, or of extracting and refining or reducing metals or minerals other than petroleum, other than parties having a free and unencumbered title to the fee of the property being worked, and also other than mining partnerships in respect to the members of the partnerships, must, before commencing work in any period for which a single payment of wages is made, have on hand either physically or by deposit with a bank or trust company, in the county where such property is located, or, if there is no bank or trust company in the county, then in the bank or trust company nearest the property, cash or readily salable securities of a market value equivalent to such cash, in a sufficient amount to make the payment of wages of every person employed on the mining property, or in connection therewith, for such period.

Stats. 1933, p. 610.

SEC. 3. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Sec. 2. Any person, firm, association or corporation, or agent, manager, superintendent or officer thereof, who violates, or omits to comply with, any provision of this act is guilty of a misdemeanor, punishable by a fine of not exceeding five hundred dollars or imprisonment for not exceeding six months, or by both. Penalty.

CHAPTER 201.

An act to amend section 871 of an act entitled "An act to provide for the organization, incorporation and government of municipal corporations," approved March 13, 1883, relating to the assessment, levy and collection of taxes. Stats 1883, p. 93, amended.

[Approved by the Governor May 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 871 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933, p. 1333.

Sec. 871. The city council shall have the power, and it shall be its duty, to provide by ordinance a system for the assessment, levy and collection of all city taxes not inconsistent with the provisions of this chapter. Nothing herein shall prevent the city council from exercising the power granted by general laws of the State relative to the assessment and collection of taxes by county officers. All taxes assessed, together with any percentage imposed for delinquency and the costs of collection, shall constitute liens on the property assessed; and every tax upon personal property shall be a lien upon the real property of the owner thereof. The liens provided for in this section shall attach as of the first Monday in March of each year, and may be enforced by a sale of the real property affected, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by action in any court of competent jurisdiction to foreclose such liens. Any property sold for such taxes shall be subject to redemption within a redemption period of at least five years and upon such terms as the city council may prescribe by ordinance. All deeds made upon any sale of property for taxes or special assessments under the provisions of this chapter shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for nonpayment of county taxes.

Taxes Sixth class cities.

Liens.

Sale for delinquency.

Every tax has the effect of a judgment against the person, and every lien created by this section has the force and effect of an execution levied against all property of the delinquent. The judgment is not satisfied nor the lien removed until the taxes are paid or the property sold for the payment

Tax as judgment.

Limitation. thereof; provided, that the lien of every tax whether now existing or hereafter attaching shall cease to exist for all purposes after thirty years from the time said tax became a lien; and every tax whether now existing or hereafter levied shall be conclusively presumed to have been paid after thirty years from the time the same became a lien, unless the property subject thereto has been sold in the manner provided by law for the payment of said tax.

CHAPTER 202.

An act to amend section 11870 of the Insurance Code, relating to workmen's compensation insurance of the State and its agencies and certain political subdivisions, public corporations and quasi public corporations.

[Approved by the Governor May 25, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 203.

An act to add a new section to the Penal Code to be numbered 969½, relating to the amendment of a complaint to charge prior convictions.

[Approved by the Governor May 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section. SECTION 1. A new section is hereby added to the Penal Code to be numbered 969½ and to read as follows:

Prior felonies: Amendment of complaint. 969½. Whenever it shall be discovered that a pending complaint to which a plea of guilty has been made under section 859a of this code does not charge all prior felonies of which the defendant has been convicted either in this State or elsewhere, said complaint may be forthwith amended to charge such prior conviction or convictions and such amendments may and shall be made upon order of the court. The defendant shall thereupon be arraigned before the court to which the complaint has been certified and must be asked whether he has suffered such previous conviction. If he answers that he has, his answer must be entered by the clerk in the minutes of the court, and must, unless withdrawn by consent of the court, be conclusive of the fact of his having suffered such previous conviction in all subsequent proceedings. If he answers that he has not, his answer must be entered by the clerk in the

minutes of the court, and the question whether or not he has suffered such previous conviction must be tried by a jury impanelled for that purpose, unless a jury is waived, in which case it may be tried by the court. The refusal of the defendant to answer is equivalent to a denial that he has suffered such previous conviction.

CHAPTER 204.

An act to add section 615.1 to the Fish and Game Code, relating to fish in districts 3 and 3A. Stats. 1933, p. 394.

[Approved by the Governor May 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 615 1 is hereby added to the Fish and Game Code to read as follows: New section

615.1. In districts 3 and 3A, trout may be taken in the San Lorenzo River and its tributaries from May 1 to June 30; steelhead trout may be taken in the San Lorenzo River, but not in its tributaries, from the mouth of the river to the confluence of the river and Boulder Creek, from November 1 to February 1; the bag limit on steelhead is two per day, and not more than one bag limit may be possessed by one person during one day. It is unlawful to use or to possess within 100 yards of the San Lorenzo River or its tributaries any landing gear, gaffs, nets or spears. Districts 3 and 3A: Trout

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CHAPTER 205.

An act to amend section 441 of the Political Code, relating to rates of interest on registered warrants.

[Approved by the Governor May 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 441 of the Political Code is hereby amended to read as follows: Stats 1933, p. 1547.

441. Whenever the State Controller draws his warrant upon the State Treasurer payable out of the general fund in the State treasury, and said warrant represents an amount in excess of the unapplied money in the general fund, the State Controller shall upon the date that such warrant is drawn present such warrant to the State Treasurer, who shall endorse upon the back thereof the date of presentation by the Controller and that the same is not paid for want of funds and bears interest at the rate fixed by the Governor, Treasurer Registration of warrants

and Controller from the date of such registration to and including the date upon which the State Treasurer first advertises that said warrant is payable upon presentation. Endorsement by the Treasurer in the manner hereinabove prescribed shall constitute the registration of such warrant.

Fixing interest rate.

The Governor, Treasurer and Controller, acting as a committee shall by majority vote fix the rate of interest paid on warrants registered hereunder but such rate shall not exceed five per cent per annum.

After the registration thereof the State Treasurer shall return warrants to the State Controller for distribution.

Warrant register

The State Controller shall furnish the State Treasurer with a separate warrant register for warrants which are registered under this section, and the State Treasurer shall stamp on said warrant register the date on which any warrant is registered and the date on which said warrant is first advertised as payable.

Redemption of warrants.

Whenever the State Controller deems that there are sufficient unapplied moneys in the general fund in the State treasury to pay all or some of the registered warrants outstanding against said general fund, he shall notify the State Treasurer of the numbers of the warrants which are to be redeemed. The State Treasurer shall immediately publish notice that said warrants are redeemable by advertising for six consecutive days, Sundays excepted, in newspapers publishing legal notices published in the city of Sacramento, in the city of San Francisco, and in the city of Los Angeles.

Form of notice.

Said notice shall read substantially as follows:

"NOTICE TO HOLDERS OF STATE OF CALIFORNIA WARRANTS.

State Controller's warrants number ------ to number ------, inclusive, drawn against the general fund in the State treasury are now payable upon presentation to the State Treasurer.

(Name of State Treasurer)
State Treasurer."

Warrants registered in accordance with the provisions of this section shall cease to bear interest on the date following the day upon which said advertisements first appear.

Preferred claims.

After payment of support of the public school system, as provided for in section 14 of Article XIII of the Constitution, all moneys remaining in the general fund in the State treasury shall be first applied to the payment of the principal and interest of any outstanding bonds of the State of California as such principal and interest become due. If at any time it is necessary to register warrants for the payment of such principal and interest, warrants so registered shall constitute a prior lien in the order of their issuance on any moneys thereafter received into the general fund in the State treasury, and said warrants shall be paid before any other warrants regardless of the prior issuance of the latter.

For the purposes of this section "unapplied money" means money in the general fund in the State treasury for which outstanding warrants have not already been drawn and which would remain in said general fund if all outstanding warrants theretofore drawn were paid. "Unapplied money" defined.

CHAPTER 206.

An act to amend section 737aa of the Political Code, relating to salaries of judges.

[Approved by the Governor May 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Section 1. Section 737aa is hereby amended to read as follows: Stats. 1933, p. 1733.

737aa. The annual salary of the judge of the superior court in and for the county of Monterey is eight thousand dollars. Superior judge: Monterey County.

CHAPTER 207.

An act to amend sections 652, 655, 656 and 665 of the Fish and Game Code, relating to salmon. Stats 1933, p. 394.

[Approved by the Governor May 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 652 of the Fish and Game Code is hereby amended to read as follows: Stats 1933, p. 454.

652. In district 1½, salmon may be taken with hook and line, between May 29 and December 31; except as otherwise provided, with spear, between August 1 and October 31. The bag limit is five per day for hook and line fishing, and 2 per day when taken with spear. Salmon may not be speared in the Eel River above Fernbridge in that part of district 1½ in Humboldt County. See Stats. 1935, Ch. 479. District 1½: Salmon.

SEC. 2. Section 655 of the Fish and Game Code is hereby amended to read as follows: Stats 1933, p 455.

655. In Klamath River district, above tidewater, salmon may be taken with hook and line, between May 29 and December 31; spear, between August 1 and October 31. The bag limit is 5 per day for hook and line fishing, and 2 per day when taken with spear. See Stats 1935, Ch 479. Klamath River district.

SEC. 3. Section 656 of the Fish and Game Code is hereby amended to read as follows: Stats 1933, p. 455.

656. In the Klamath River district, in tidewater, salmon may be taken with hook and line, between May 29 and December 31. The bag limit is 5 per day. Not more than one Same district in tidewater: Salmon.

daily bag limit may be possessed by any person during one day.

Stats 1933, p. 456.

SEC. 4. Section 665 of the Fish and Game Code is hereby amended to read as follows:

Salmon: Bag and possession limits.

665. Salmon taken in districts 1, 1½, 2, 2½, 3, 5, 12a, and the Klamath River district may not be sold. In district 5 the bag limit is 5 per day between May 29 and December 31. Not more than one daily bag limit may be possessed by any person during one day.

CHAPTER 208.

Stats 1933, p. 394.

An act to amend section 730 of the Fish and Game Code, relating to fish.

[Approved by the Governor May 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 461.

SECTION 1. Section 730 of the Fish and Game Code is hereby amended to read as follows:

Halibut: Bag limit.

730. No California halibut may be taken or possessed which weighs less than 4 pounds in the round, or less than 3½ pounds dressed with the head on, or less than 3 pounds dressed with the head off, except that not more than 30 pounds of California halibut of less than such minimum weights may be taken and possessed during one day, but may not be sold or offered for sale. Any fresh or frozen halibut (Hippoglossus hippoglossus) imported into the State of California from any foreign country shall be plainly marked with vegetable ink showing country of origin, such mark to appear on each fish or portion thereof offered for sale.

Imported halibut.

CHAPTER 209.

An act to repeal sections 3.284 and 3.285 of the School Code, relating to the maintenance of high school courses in elementary schools.

[Approved by the Governor May 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Sch C., 1929, p. 118, repealed

SECTION 1. Sections 3.284 and 3.285 of the School Code are hereby repealed.

CHAPTER 210.

An act to amend section 1341 of the Fish and Game Code, relating to rabbits. Stats. 1933, p. 394.

[Approved by the Governor May 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1341 of the Fish and Game Code is hereby amended to read as follows: Stats 1933, p 503

1341. In districts 4, 4¾, 19 and 21 cottontail and brush rabbits may be taken at any time. In all other districts, cottontail and brush rabbits may be taken between November 15 and December 31. The bag limit is 15 per day, 30 per week. Not more than one daily bag limit of cottontail or brush rabbits may be possessed by any person during one day. Rabbits

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CHAPTER 211.

An act to add section 1354 to the Fish and Game Code, relating to the taking of frogs for educational and scientific purposes. Stats 1933, p 394.

[Approved by the Governor May 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1354 is hereby added to the Fish and Game Code to read as follows: New section

1354. The commission may issue a permit to take, possess, purchase or dispose of frogs below the minimum sizes specified in section 1351 when such frogs are to be used for scientific or educational purposes. Frogs for scientific purposes

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CHAPTER 212.

An act to validate all proceedings for the formation of improvement districts within irrigation districts and all assessments heretofore made in any such improvement districts, to validate all warrants heretofore issued or to be issued, payable from the assessments levied in such improvement districts; and authorizing and directing the collection of the assessments in such improvement districts sufficient to pay the principal and interest of said warrants; validating and confirming all acts and proceedings of the board of directors of any irrigation district in connection with the acquisition and creation of improvement districts within irrigation districts, and the acquisition,

construction, operation, maintenance and repair of improvements therein.

[Approved by the Governor May 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Improvement districts within irrigation districts validated.

Stats 1927, p. 1415.

SECTION 1. When in any irrigation district organized and existing under the laws of the State of California, proceedings have been taken for the purpose of organizing any improvement district under the provisions of the "Irrigation District Improvement Act," all acts and proceedings of the board of directors of such irrigation district conducting the proceedings for the formation of such district and all other acts and proceedings leading up to and including the formation of such districts, including the petition for such formation in the form and manner in which such petition was heretofore approved by such board of directors, and all other acts and proceedings relative to the levy of any assessment in such district and all warrants heretofore issued, or to be issued pursuant to such acts and proceedings in any such district heretofore organized are hereby legalized, confirmed and validated. The power of the board of directors of such irrigation district conducting such proceedings in any such improvement district to make, levy, and collect said assessment, and to issue warrants payable therefrom, is hereby ratified, confirmed, and approved; and said warrants are hereby declared to be and shall be in the form and manner in which the same have heretofore been issued, or are to be issued, if not now outstanding, the legal and valid obligations of and against such improvement district, payable from the proceeds of the assessment levied or to be levied therein; and all other acts and proceedings heretofore taken under the provisions of said "Irrigation District Improvement Act," or purporting to be taken under said act, are hereby legalized, confirmed and validated. No error or informality in any such proceedings heretofore taken under said "Irrigation District Improvement Act" shall in any wise invalidate the formation of any such improvement district, the levy of any assessment therein or the issuance of any warrants payable from such assessment or any other act or proceeding relative thereto, from and after the effective date of this act, all such proceedings and acts being hereby ratified, confirmed, approved and validated.

Assessments validated.

Warrants validated.

Special assessments, levy and collection

SEC. 2. For the purpose of paying the interest on any warrants issued by any irrigation district under the provision of said "Irrigation District Improvement Act" as the same becomes due, and the principal thereof, the assessors, treasurers, collectors, board of directors and other officers of the respective irrigation districts organized under the laws of this State in which such improvement districts shall have been organized or attempted to have been organized under said "Irrigation District Improvement Act," shall have the same powers and perform the same duties as are provided by

said act for the assessment, levy and collection of the special assessments and the payment of the principal and interest of the warrants provided to be made and issued under the provisions of said act; and it shall be and hereby is made the duty of the board of directors of any irrigation district in which such improvement district shall have heretofore been organized or attempted to have been organized to levy and collect the special assessment heretofore made or to be made in such improvement district clearly sufficient to pay the principal and interest of the warrants issued or to be issued on account of such proceedings, and said boards of directors are hereby vested with power and jurisdiction to do all and singular the things herein and in said "Irrigation District Improvement Act" required to be done for the purpose of providing funds sufficient to pay the principal and interest of said warrants.

CHAPTER 213.

An act granting certain tide and submerged lands of the State of California to the city of San Buenaventura, upon certain trusts and conditions.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. There is hereby granted to the city of San Buenaventura, a municipal corporation in the county of Ventura, State of California, all the right, title and interest of the State of California, held by said State by virtue of its sovereignty, in and to all the tidelands and submerged lands (whether filled or unfilled) situated below the line of mean high tide of the Pacific Ocean and lying between the prolongation of the west boundary line of the city of San Buenaventura into the said Pacific Ocean and the prolongation of the east boundary line of the said city of San Buenaventura into the Pacific Ocean, to be forever held by said city, and by its successors, in trust for the uses and purposes and upon the express conditions following, to wit:

Grant of certain State lands to city of San Buenaventura (Ventura).

(a) That said lands may be used by said city for the establishment, improvement and conduct of its harbor and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances necessary or convenient for the promotion of commerce and navigation and fisheries and for the establishment and maintenance of bath houses and bathing facilities, and for such other recreational facilities necessary or convenient for the inhabitants of said city; but said uses shall not be deemed to deprive the city of San Buenaventura of the rights granted to it by Article XVIII of its charter, to appoint harbor commissioners, to create or be a part of a harbor dis-

Trusts and conditions.

Harbor rights

trict, and to take any and all other steps that it may from time to time deem advisable for the improvement and maintenance of its waterfront and harbor and for the development and conduct of port facilities and commerce; and said city may, in pursuance of the provisions of said Article XVIII of the said charter, lease any portion of the waterfront for public recreational purposes for a term of not exceeding ten years, and a lease may be made for such other purposes or for a longer period if such lease be submitted to the electors and approved by a vote of two-thirds of those voting thereon, if the purposes of the lease are consistent with the trust upon which said lands are held by the State of California and with the requirements of commerce and navigation of said harbor;

Reservation

(b) That said harbor shall be improved by said city without expense to the State of California, and it shall always remain a public harbor for all purposes of commerce and navigation, and the State of California shall have at all times the right to use without charge all wharves, docks, piers, slips, quays and other improvements constructed on said land or any part thereof for any vessel or other water craft, or any railroad, owned and operated by the State of California;

Extraction of oil or gas prohibited

(c) That in the management, conduct or operation of said harbor or any of the utilities, structures or appliances mentioned in paragraph (a) no discrimination in rates, tolls or charges in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city;

(d) That there is reserved for the people of the State of California the absolute right to fish in the waters of said harbor, with the right of convenient access to said waters over said lands for said purpose;

(e) That the said city shall not, upon said land, prospect for, nor remove therefrom, any oil, gas or other hydrocarbon substances, nor shall it suffer or permit the removal of same.

(f) That in the event drilling for oil, gas, or other hydrocarbon substances, shall take place upon land other than that herein granted, and so located that like drilling shall be reasonably requisite for the proper protection of the land hereby granted from drainage by such wells, then the State of California, for itself and for all persons authorized by it, expressly reserves the right to enter upon the said land for the purpose of drilling thereon such well or wells as shall be reasonably requisite for the proper protection of said land from drainage, and may produce and save oil, gas, or other hydrocarbon substances, from such well or wells, free from any claim of the said city.

Reservation.

CHAPTER 214.

An act to amend sections 1011, 1012 and 1072 of the Agricultural Code, relating to economic poisons. Stats 1933, p. 60

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1011 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 229

1011. It is unlawful to pack, ship, store, deliver for shipment, or sell any fresh or dried fruits or vegetables carrying spray residue or other added deleterious ingredients in excess of the quantity prescribed under the laws of the United States, or in excess of 0.010 grain fluorine, 0.010 grain arsenic trioxide, or 0.018 grain lead per pound of fruit or vegetable. Spray residue.

SEC. 2. Section 1012 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 230.

1012. The director may:

(a) Enter every place within the State where fresh or dried fruits or vegetables are produced, packed, stored, shipped, transported, delivered for shipment, or sold and inspect all fresh or dried fruits or vegetables found therein or in transit. Powers of director.

(b) Seize and quarantine any or all lots of fresh or dried fruits or vegetables which carry or are likely to carry spray residue or other added deleterious ingredients pending examination and chemical analysis and final disposition.

(c) When any lot of fresh or dried fruits or vegetables has been found to carry spray residue in excess of the quantity prescribed by the laws of the United States, the director may permit the lot to be cleaned or reconditioned and release such lot after such treatment if the same is found to comply with the provisions of this article.

(d) The director shall make rules and regulations to carry out the provisions of this article.

SEC. 3. Section 1072 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p 240.

1072. The director may, after hearing, cancel the registration of, or refuse to register, any economic poison: Cancellation of registration.

(a) Which is of little or no value for the purpose for which it is intended, or which is detrimental to vegetation, except weeds, to domestic animals, or to the public health and safety when properly used, and may require such practical demonstration as may be necessary to determine said facts.

(b) Concerning which false or misleading statements are made or implied by the registrant or his agent, either verbally or in writing or in the form of advertising literature.

The director may cancel the license of, or, refuse to license any manufacturer, importer, or dealer in economic poison who repeatedly violates any of the provisions of this article or the rules and regulations of the director.

CHAPTER 215.

Stats. 1933, p. 60.

An act to amend section 34 of, and to add section 34.5 to, the Agricultural Code, relating to cooperative agreements for the purpose of enforcing provisions relating to standardization and collaborative services.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 63.

SECTION 1. Section 34 of the Agricultural Code is hereby amended to read as follows:

Cooperative agreements

34. The director may enter into cooperative agreements with individuals, associations, boards of supervisors, and with departments, divisions, bureaus, boards or commissions of this State or of the United States for the purpose of eradicating, controlling or destroying infectious diseases or pests within this State, or with boards of supervisors for the purpose of enforcing the provisions of this code relating to fruit, nut, and vegetable standards.

New section

SEC. 2. Section 34.5 is hereby added to the Agricultural Code to read as follows:

Collaborative services

34.5. The director may also arrange for the services of individuals employed by the United States, the State, or a county on a collaborative basis and allow them a reasonable fee and necessary expenses incurred when serving the department in a collaborative capacity.

CHAPTER 216.

Stats 1933, p. 60.

An act to amend section 805 of the Agricultural Code, relating to persimmons.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 185.

SECTION 1. Section 805 of the Agricultural Code is hereby amended to read as follows:

Persimmons: Standards

805. Oriental persimmons shall be mature but not overripe, shall be free from mold, and decay; and free from serious damage, due to cuts, bruises, breaking of the skin, growth cracks, hail, or other causes. Damage to any one persimmon is not serious unless it causes a waste of ten per cent, by weight, of the individual persimmon.

Not more than ten per cent, by count, of the oriental persimmons in any one container or bulk lot, may be below these requirements, but not to exceed one-half of this tolerance, shall be allowed for any one cause.

Packed oriental persimmons shall not vary in any one container more than one-half of one inch in diameter, when measured through the widest portion of the cross-section.

No oriental persimmon of the Hachiya variety shall be considered mature unless at the time of picking ninety per cent of the surface has attained an orange or reddish color. No oriental persimmon of other varieties shall be considered mature unless at the time of picking at least seventy-five per cent of the surface has attained an orange or reddish color and the remaining per cent of the surface has attained a yellowish green color.

Hachiya variety.

Other varieties.

CHAPTER 217.

An act to amend sections 682, 806, 811, 827, 849, 877, and 878 of the Penal Code, relating to proceedings before the committing magistrate, and to add a new section to the Penal Code numbered 877a, relating to the commitment by the magistrate on plea of guilty.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 682 of the Penal Code is hereby amended to read as follows:

Stats. 1911, p. 68.

682. Every public offense must be prosecuted by indictment or information, except:

Indictment or information; offenses not prosecuted by.

1. Where proceedings are had for the removal of civil officers of the State;

2. Offenses arising in the militia when in actual service, and in the land and naval forces in the time of war, or which the State may keep, with the consent of Congress, in time of peace;

3. Offenses tried in municipal, justices' and police courts;

4. All misdemeanors of which jurisdiction has been conferred upon superior courts sitting as juvenile courts;

5. A felony to which the defendant has pleaded guilty to the complaint before a magistrate, where permitted by law.

SEC. 2. Section 806 of the Penal Code is hereby amended to read as follows:

Code amdts., 1880, p. 12.

806. The complaint is the allegation in writing made to a court or magistrate that a person has been guilty of some designated offense. When the complaint is used as a pleading to which the defendant pleads guilty under section 859a of this code, the complaint shall contain the same allegations, including the charge of prior conviction or convictions of crime, as are required for indictments and informations and, wherever applicable, shall be construed and shall have substantially the same effect as provided in this code for indictments and informations.

Complaint.

SEC. 3. Section 811 of the Penal Code is hereby amended to read as follows:

1872 code.

Examination of complainant: Offense triable in same county

811. When a complaint is laid before a magistrate of the commission of a public offense, triable within the county, he must examine on oath the complainant or prosecutor, and any witnesses he may produce, and take their depositions in writing, and cause them to be subscribed by the parties making them.

1872 code.

SEC. 4. Section 827 of the Penal Code is hereby amended to read as follows:

Same offense triable in another county.

827. When a complaint is laid before a magistrate of the commission of a public offense triable in another county of the State, but showing that the defendant is in the county where the complaint is laid, the same proceedings must be had as prescribed in this chapter, except that the warrant must require the defendant to be taken before the nearest or most accessible magistrate of the county in which the offense is triable, and the depositions of the complainant or prosecutor, and of the witnesses who may have been produced, must be delivered by the magistrate to the officer to whom the warrant is delivered.

1872 code.

SEC. 5. Section 849 of the Penal Code is hereby amended to read as follows:

Arrest without warrant Complaint.

849. When an arrest is made without a warrant by a peace officer or private person, the person arrested must, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the arrest is made, and a complaint stating the charge against the person, must be laid before such magistrate.

1872 code.

SEC. 6. Section 877 of the Penal Code is hereby amended to read as follows:

Commitment

877. The commitment must be to the following effect except when it is made under the provisions of section 859a of this code.

County of _____ (as the case may be).

The people of the State of California to the sheriff of the county of _____:

An order having been this day made by me, that A. B. be held to answer upon a charge of (stating briefly the nature of the offense, and giving as near as may be the time when and the place where the same was committed), you are commanded to receive him into your custody and detain him until he is legally discharged.

Dated this _____ day of _____ nineteen _____.

New section.

SEC. 7. A new section is hereby added to the Penal Code to be numbered 877a and to read as follows:

Commitment.

877a. When the commitment is made under the provisions of section 859a of this code, it must be made to the following effect:

County of _____ (as the case may be).

The people of the State of California to the sheriff of the county of _____.

A. B. having pleaded guilty to the offense of (stating briefly the nature of the offense, and giving as near as may be the time

when and the place where the same was committed), you are commanded to receive him into your custody and detain him until he is legally discharged.

Dated this ------ day of ------ nineteen -------.

SEC. 8. Section 878 of the Penal Code is hereby amended to read as follows: 1872 code

878. On holding the defendant to answer or on a plea of guilty where permitted by law, the magistrate may take from each of the material witnesses examined before him on the part of the people a written undertaking, to the effect that he will appear and testify at the court to which the depositions and statements or case are to be sent, or that he will forfeit the sum of five hundred dollars. Undertaking of material witnesses

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CHAPTER 218.

An act to amend section 792 of the Agricultural Code, relating to avocados. Stats. 1933, p. 60.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 792 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p. 174.

792. Avocados shall be free from decay, disease, overripeness and rancidity. Avocados shall also be free from all defects, other than those hereinbefore mentioned, which singly or in the aggregate cause a waste of fifteen per cent or more, by weight, of the entire avocado, including the skin and seed. Not more than five per cent, by count, of the avocados in any one container or bulk lot may be below the foregoing requirements. Avocados. Standards.

"Defect" includes damage due to insect injuries, cuts, growth cracks, bruises, sunburn, freezing injury or other causes. "Defect" defined

All avocados, at the time of picking, and at all times thereafter, shall contain not less than eight per cent by weight of oil. Oil content.

When packed, avocados in any one container shall not vary in weight by more than thirty-three and one-third per cent of any avocado in the container. Weight variance

CHAPTER 219.

An act relating to tare allowances on fruit, grain, and wool sold in bags.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Purchaser to pay salvage value of burlap bags.

SECTION 1. Every person who purchases fruit, grain, or wool in burlap bags owned by the seller and deducts a tare on account of such bag, shall pay to the seller thereof at the time of delivery the salvage value of such bag after using.

With grain bags, such salvage value shall be determined by taking as a basis the opening price for the season of San Quentin bags as promulgated by the State Board of Prison Directors, of which basic price fifty per cent shall be paid to said owner for new bags and twenty-five per cent for used or second hand bags.

Said values shall continue to be paid until such time as a change in price shall be promulgated by said prison board whereon a new base shall thereby be established.

The warehouse receipt shall indicate new or old bags.

"Grain" defined.

The word "grain" as used herein shall include wheat, barley, corn, oats, rye and grain sorghums.

Penalty.

SEC. 2. The violation of the provisions of this act is a misdemeanor.

CHAPTER 220.

Stats 1933, p. 394.

An act to amend section 1310 of the Fish and Game Code, and to add thereto section 1340.6, relating to fur-bearing mammals.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 502.

SECTION 1. Section 1310 of the Fish and Game Code is hereby amended to read as follows:

Fur-bearing mammals.

1310. The following are fur-bearing mammals: pine marten, fisher, wolverene, mink, river otter, grey fox, cross fox, silver fox, red fox, kitfox, and muskrat.

New section

SEC. 2. Section 1340.6 is hereby added to the Fish and Game Code to read as follows:

Bear.

1340 6. Bear may be taken between November 1 and December 31. Not more than two bears may be taken during the open season Bear may be taken only with firearms and with bow and arrow.

CHAPTER 221.

An act to amend sections 798.6 and 801 of the Fish and Game Code, relating to abalones.

Stats 1933, p. 394.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 798.6 of the Fish and Game Code is hereby amended to read as follows:

Stats 1933, p. 465.

798.6. In district 2 not more than 5 abalones may be possessed during one day, by any person to whom a sporting fishing license has been issued, except that any person conducting a market, or restaurant, where abalones are sold to the public may possess any number of lawfully taken abalones.

Abalones-District 2.

SEC. 2. Section 801 of the Fish and Game Code is hereby amended to read as follows:

Stats. 1933, p. 465.

801. In districts 7, and 18, the bag limit is 10 abalones per day, and in district 10 the bag limit is 5 abalones per day, when the abalones are taken in water less than twenty feet in depth. Abalones so taken may not be sold.

Same Districts 7, 10 and 18.

CHAPTER 222.

An act to validate the organization and existence of municipal improvement districts.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Whenever the legislative body of any municipality has heretofore declared any portion of such municipality to be a municipal improvement district under the provisions of an act entitled, "An act to provide for the formation of districts within municipalities for the acquisition or construction of public improvements, works and public utilities; for the issuance, sale and payment of bonds of such districts to meet the cost of such improvements; and for the acquisition or construction of such improvements," approved April 20, 1915, or under the provisions of such act as amended, and such district has existed as such for a period of six months prior to the taking effect of this act, all acts and proceedings of such municipality and all acts of all public officers leading up to and including the formation of such district are hereby legalized, ratified and confirmed and declared valid for all intents and purposes, and any such district is hereby declared to be a legal municipal improvement district.

Municipal improvement districts validated.

Stats. 1915, p. 99.

CHAPTER 223.

"Highway Carriers' Act."

An act regulating the use of public highways for commercial purposes by certain motor vehicles operated thereon for the transportation of property for compensation; preventing discriminations between various forms of transportation; conferring powers upon the Railroad Commission with respect to the transportation of property for compensation by said motor vehicles; providing penalties for the violation of this act, and repealing all acts inconsistent with the provisions of this act.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

PREAMBLE.

Preamble.

The use of the public highways for the transportation of property for compensation is a business affected with a public interest and it is hereby declared that the purpose of this act is to preserve for the public the full benefit and use of public highways consistent with the needs of commerce without unnecessary congestion or wear and tear upon such highways; to secure to the people just and reasonable rates for transportation by carriers operating upon such highways; to secure full and unrestricted flow of traffic by motor carriers over such highways which will adequately meet reasonable public demands by providing for the regulation of rates of all transportation agencies so that adequate and dependable service by all necessary transportation agencies shall be maintained and the full use of the highways preserved to the public.

Definitions.

SECTION 1. (a) The term "corporation" when used in this act includes a corporation, a company, an association and a joint stock association.

(b) The term "person" when used in this act includes an individual, a firm or a copartnership.

(c) The term "public highway" when used in this act includes every public street, road or highway in this State.

(d) The term "Railroad Commission" when used in this act means the Railroad Commission of the State of California.

(e) The term "motor vehicle" when used in this act means every motor truck, tractor, or other self-propelled vehicle used for transportation of property over the public highways, otherwise than upon fixed rails or tracks, and any trailer, semitrailer, dolly or other vehicle drawn thereby.

(f) The term "highway carrier" when used in this act means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever engaged in transportation of property for compensation or hire as a business over any public highway in this State by means of a motor vehicle or motor vehicles. However, it does not include carriers operating exclusively within the limits of

a single incorporated city or city and county, nor does it include persons rendering casual transportation services as an accommodation, and not in the usual or ordinary course of business of such person, nor does it include persons hauling their own products.

(g) The term "highway common carrier" when used in this act means every highway carrier operating as a common carrier subject to regulations as such by the Railroad Commission under Chapter 213 of the Statutes of 1917, as amended.

(h) The term "radial highway common carrier" when used in this act means every highway carrier operating as a common carrier not heretofore subject to regulation as such by the Railroad Commission under Chapter 213 of the Statutes of 1917, as amended.

(i) The term "highway contract carrier" when used in this act means every highway carrier other than a highway common carrier as defined in subsection (g) and every radial highway common carrier as defined in subsection (h).

Purposes of act

SEC. 2. No highway carrier other than a highway common carrier shall engage in the business of the transportation of property for compensation by motor vehicle over any public highway in this State, except in accordance with the provisions of this act, which the Legislature hereby declares to be enacted under the power of the State to regulate the use of public highways.

Carriers must secure permit.

SEC. 3. Except as hereinafter provided, no highway carrier, other than a highway common carrier, shall engage in the business of transportation of property for compensation by motor vehicle on any public highway in this State without first having obtained from the Railroad Commission a permit authorizing such operation; provided, however, that any highway carrier subject to the provisions of this act, who is in business on the effective date of this act, shall file his application with the commission within thirty days after this act shall take effect. Any highway carrier desiring a permit to operate hereunder as a highway carrier other than a highway common carrier, shall file a petition therefor with the Railroad Commission. Such petition shall set forth the name and address of the applicant; the names and addresses of its officers, if any; full information concerning the financial condition and physical properties of applicant; and such other information necessary to the enforcement of this act, as the Railroad Commission may, by order require. Upon compliance with this act a permit must be issued by the commission, but no such permit shall be granted to a foreign corporation. Pending the issuance of any permit by the commission, the continuance of such operation shall be lawful. Any operating permit not exercised for a period of one year shall lapse and terminate.

Petition for permit.

Issuance of permit

Carriers of same commodities between same points

SEC. 4. No person or corporation shall be permitted by the Railroad Commission to engage, nor shall any person or corporation engage in the transportation of property on

the public highway, both as a common carrier and as a highway contract carrier of the same commodities between the same points.

Any person or corporation who, prior to the effective date of this act, operated as both a common carrier and as a highway contract carrier, must, in order to continue operation after the effective date of this act, elect whether such person or corporation will continue to operate as a highway contract carrier, or as a common carrier of the same commodities between the same points.

Insurance protection required

SEC. 5. The Railroad Commission shall, in granting permits under the provisions of this act, require the highway carrier to procure, and continue in effect during the life of the permit, adequate protection, as required in section 6 hereof, against liability imposed by law upon such highway carrier for the payment of damages for personal bodily injuries (including death resulting therefrom) in the amount of not less than five thousand dollars on account of bodily injuries to, or death of, one person; and protection against a total liability of such highway carrier on account of bodily injuries to, or death of, more than one person, as a result of any one accident, in the amount of not less than ten thousand dollars; and protection in an amount of not less than five thousand dollars for one accident resulting in damage or destruction of property whether the property of one, or more than one claimant.

Alternative methods of protection

SEC. 6. The protection required under section 5 shall be evidenced by the deposit with the Railroad Commission, covering each vehicle used or to be used under the permit applied for, of a policy of public liability and property damage insurance, issued by a company licensed to write such insurance in the State of California; or of a bond of a surety company licensed to write surety bonds in the State of California; or of a personal bond, with such sureties as the Railroad Commission shall find adequate to guarantee the protection prescribed in section 5 hereof; or it shall be evidenced by a trust fund in the amount of fifteen thousand dollars, to be held in trust by some institution or person acceptable to the Railroad Commission; or by a combination of any of or all of said methods in such manner that the aggregate of the protection or funds available therefor shall equal the principal sum of not less than fifteen thousand dollars, and such highway carrier shall have the option of the method to be used in obtaining such protection, and may change from one method to another, from time to time, with the consent of the Railroad Commission.

Duration of protection.

SEC. 7. The protection against liability as outlined in section 5 hereof must be continued in effect during the life of the permit, and the policy of insurance, surety bond or personal bond shall be not cancellable on less than ten (10) days written notice to the Railroad Commission. The Railroad Commission shall have power to establish such rules and regu-

Regulations

lations as may be necessary to carry out the provisions of sections 5 to 7, inclusive.

SEC. 8. Each highway carrier shall display on each vehicle operated by it, a distinctive license plate in the form to be prescribed by the Railroad Commission, showing the classification, as herein provided, to which such carrier belongs, but no such license plate shall be issued by the said commission until a permit under this act, or a certificate of public convenience and necessity as provided for under the provisions of Chapter 213 of the Statutes of 1917, as amended, has been issued to such carrier. License plate

SEC. 9. A fee of three dollars ($3.00) shall be paid to the Railroad Commission for filing each application for an operating permit. Each permittee shall also pay to the Railroad Commission on or before the first day of January of each year, a fee of one dollar ($1.00) for the reregistration of his permit. All moneys collected by the Railroad Commission under this act shall be deposited at least once a month into the State treasury, to the credit of the general fund, and a detailed statement thereof shall be transmitted to the State Controller. Fees. Disposition of moneys

SEC. 10. The Railroad Commission shall, upon complaint or upon its own initiative without complaint, establish or approve just, reasonable, and nondiscriminatory maximum or minimum or maximum and minimum rates to be charged by any highway carrier other than a highway common carrier, now subject to the jurisdiction of said commission under Chapter 213 of the Laws of 1917, and as amended, for the transportation of property and for accessorial service performed by said highway carrier. Carrier rates

In establishing or approving such rates the commission shall take into account and give due and reasonable consideration to the cost of all of the transportation services performed, including length of haul, any additional transportation service performed, or to be performed, to, from, or beyond the regularly established termini of common carriers or of any accessorial service and the value of the commodity transported and the value of the facility reasonably necessary to perform such transportation service.

In event the commission establishes minimum rates for transportation services by highway carriers, such rates shall not exceed the current rates of common carriers for the transportation of the same kind of property between the same points. Minimum rates.

It shall be unlawful for any highway carrier to charge or collect any lesser rate than the minimum rate or greater rate than the maximum rate established by the commission under this section. Penalty.

The commission shall make such rules and regulations as may be necessary to the application of the rates established or approved under the provisions of this act. Regulations.

SEC. 11. If any highway carrier other than a common carrier desires to perform any transportation or accessorial Rate less than minimum.

service at a lesser rate than the minimum rates so established, the Railroad Commission shall, upon finding that the proposed rate is reasonable authorize such rates less than the minimum rates established in accordance with the provisions of section 10 hereof.

Rebates prohibited.

SEC. 12. It shall be unlawful for any highway carrier or his agent, servant or employee, directly or indirectly, to offer, remit or give to any shipper or consignee, his agent, servant or employee directly or indirectly, any commission or other consideration to induce such person to deliver to such highway carrier property to be transported; and it likewise shall be unlawful for any shipper or consignee, his agent, servant or employee, to receive from such highway carrier, directly or indirectly, any such commission or consideration as an inducement to secure the transportation of any such property.

Authority of commission.

SEC. 13. In all respects in which the Railroad Commission has power and authority under the Constitution of this State or this act, applications and complaints may be made and filed with the Railroad Commission, process issued, hearings held, opinions, orders and decisions made and filed, petitions for rehearing filed and acted upon, and petitions for writs of review or mandate filed with the Supreme Court of this State, considered and disposed of by said court, in regard to the matters provided for in this act, in the same manner, under the same conditions and subject to the same limitations and with the same effect specified in the Public Utilities Act, so far as applicable.

Penalties.

SEC. 14. Any person or any director, officer, agent or employee of a corporation who shall violate any of the provisions of this act or of any operating permit issued hereunder to any highway carrier, or any order, rule or regulation of said commission, shall be guilty of a misdemeanor and, upon conviction thereof, be fined not more than five hundred dollars or imprisoned in the county jail for not more than three months, or both. The operating permit, if any, shall, at the discretion of said commission, be subject to cancellation for such violation, and said commission shall thereupon require the removal from such vehicle operated thereunder of any distinctive symbols or license plates herein provided for, which may have been issued therefor.

SEC. 15. Any person or corporation who violates or fails to comply with any provision of this act, or who fails, omits or neglects to obey, observe or comply with any order, decision, rule, direction or requirement or any part or provision thereof, of the commission, is subject to a penalty of not more than five hundred dollars for each offense.

Each violation a separate offense.

SEC. 16. Every violation of the provisions of this act or of any order, decision, decree, rule, direction, demand or requirement of the commission, or any part or portion thereof by any corporation or person is a separate and distinct offense, and in case of a continuing violation each day's continuance

thereof shall be and be deemed to be a separate and distinct offense.

SEC. 17. In construing and enforcing the provisions of this act relating to penalties, the act, omission or failure of any officer, agent or employee of any person or corporation, acting within the scope of his official duties or employment, shall in every case be and be deemed to be the act, omission or failure of the employing person or corporation. Violations by employees.

SEC. 18. Actions to recover penalties under this act shall be brought in the name of the people of the State of California, in the superior court of the county, or city and county, in which the cause or some part thereof arose, or in which the corporation complained of, if any, has its principal place of business, or in which the person, if any, complained of, resides. Such action shall be commenced and prosecuted to final judgment by the attorney of the commission. In any such action, all penalties incurred up to the time of commencing the same may be sued for and recovered. In all such actions, the procedure and rules of evidence shall be the same as in ordinary civil actions. All penalties recovered by the State in any such action, together with the costs thereof, shall be paid into the State treasury to the credit of the general fund. Any such action may be compromised or discontinued on application of the commission upon such terms as the court may approve and order. Recovery of penalties. Disposition of penalties.

SEC. 19. All penalties accruing under this act shall be cumulative of each other, and a suit for the recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or forfeiture or be a bar to any criminal prosecution against any person or corporation, or any officer, director, agent or employee thereof, or any other corporation or person or be a bar to the exercise by the commission of its power to punish for contempt. Penalties cumulative.

SEC. 20. The provisions of this act shall not apply to: Exemptions

(a) Transportation service all of which is rendered in territory within the exterior boundaries of an incorporated city, or city and county; provided that such territory shall include the area of any incorporated city situated wholly within such outside limits;

(b) The transportation of baggage and express when such transportation is incidental to that of passengers by passenger stage corporations as defined in section 2¾ of the Public Utilities Act. Stats 1927, p. 73

SEC. 21. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, except as hereinbefore specifically provided, irrespective of the fact that one or more sections, sentences, clauses or parts be declared unconstitutional. Constitutionality.

Interstate commerce.

SEC. 22. Neither this act nor any provision hereof shall apply to or be construed as a regulation of commerce with foreign nations or among the several states, except in so far as the same may be permitted under the provisions of the Constitution and the acts of Congress of the United States.

Repeal.

SEC. 23. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Short title

SEC. 24. This act shall be known as the "Highway Carriers' Act."

CHAPTER 224.

An act to amend sections 3727 and 3728 of the Political Code, relating to the entering of values and acreages in the assessment book and the preparation of duplicate statistical statements of assessments.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

1872 code.

SECTION 1. Section 3727 of the Political Code is hereby amended to read as follows:

Total valuation of assessments.

3727. The county auditor, as soon as the assessment book is delivered to him by the clerk of the board of supervisors, must proceed to add up the valuations, and enter the total valuation of each kind of property, and the total valuation of all property, on the assessment book.

Stats 1917, p. 431.

SEC. 2. Section 3728 of the Political Code is hereby amended to read as follows:

Statistical statements of assessments

3728. The auditor must, on or before the second Monday in August in each year, prepare from the "assessment book" of such year, as corrected by the board of supervisors, duplicate statements, showing in separate columns—

1. The total value of all property.
2. The value of real estate.
3. The value of improvements.
4. The value of personal property, exclusive of money.
5. The amount of money.
6. Such other information as the State Board of Equalization may require.

CHAPTER 225.

An act providing for the exemption from taxation of personal property brought within the State of California exclusively for purposes of use, display or exhibition at expositions, fairs, carnivals or public exhibits of literary, scientific,

educational, religious or artistic works, and for claim of exemption.

[Approved by the Governor May 27, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. All personal property brought within the State of California exclusively for purposes of use, display or exhibition at any exposition, fair, carnival or public exhibit of literary, scientific, educational, religious or artistic works within the State of California and to be removed from the State following such use, display or exhibition, and subject to taxation in some other State, shall be free and exempt from all taxation so long as used for said purposes; Tax exemption of personal property for exhibition purposes

SEC. 2. Any person, institution, corporation, partnership or association claiming property to be exempt from taxation under this section, or on whose behalf a claim for exemption is made, shall make a return thereof to the assessor annually the same as property listed for taxation and shall accompany the same by an affidavit which shall show that the property was brought within the State of California exclusively for purposes of use, display or exhibition at an exposition, fair, carnival or public exhibit of literary, scientific, educational, religious or artistic works and is being so used, and that taxes have been paid for the current year in some other State or foreign country. Tax return Affidavit

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CHAPTER 226.

An act to to remove the debris and snags from the Sacramento River between Chico Landing and the head of navigation near Red Bluff, to provide a survey for the work required, to provide for the furnishing of necessary funds therefor by the Federal Emergency Administration of Public Works, and to provide for the conduct of the necessary work by the State Emergency Relief Administration.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Under the supervision of the Department of Public Works of the State of California, there shall be a survey made of the condition of the Sacramento River between Chico Landing and the head of navigation near Red Bluff to determine what work is necessary to remove the debris and snags therefrom in order to make the Sacramento River navigable between Chico Landing and the head of navigation near Red Bluff. Upon the completion of such survey such work shall be done, under the supervision of the State Department of Public Works, as is necessary to remove all the debris and snags from Sacramento River Debris and snag removal.

such portion of the Sacramento River to render the same navigable.

Contingent on Federal aid.

SEC. 2. Such survey shall be made and such work shall be done when and if the Federal Emergency Administration of Public Works allots the necessary money therefor and when and if the State Emergency Relief Administration furnishes the necessary labor therefor.

CHAPTER 227.

Stats 1927, p. 51, amended

An act to amend sections 1, 2, 3, 4, 6, and 19 of an act entitled "An act defining credit unions, providing for their incorporation, powers, management and supervision," approved March 31, 1927, relating to the regulation of credit unions.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p. 1979

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Credit union defined

Section 1. A credit union is a cooperative corporation, organized for the twofold purpose of promoting thrift among its members and creating a source of credit for them at legal rates of interest for provident purposes.

Incorporation

Corporations may be incorporated under and by virtue of this act in the same manner as corporations under and by virtue of Title I of Part IV, Division First of the Civil Code of the State of California, including any amendment or revision thereof, or any sections hereafter enacted in lieu thereof, except as otherwise herein provided. The articles of incorporation shall set forth the following:

Contents of articles.

1. The name of the corporation, which shall include the words "credit union."

2. If the corporation be formed without authorized shares of stock, the number of authorized members or memberships.

Stats 1927, p. 51.

SEC. 2. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

By-law provisions

Sec. 2. The by-laws shall prescribe the manner in which the business of the credit union shall be conducted with reference to the following matters:

1. The purpose of the corporation.

2. The qualification for membership.

3. The date of the annual meeting during January; the manner of conducting meetings; the method by which members shall be notified of meetings, and the number of members shall constitute a quorum.

4. The number of directors necessary to constitute a quorum, and the compensation and duties of officers elected by the directors.

5. The powers and duties of the supervisory committee and the number of members, not less than three, of which it shall be composed.

6. The powers and duties of the credit committee and the number of members not less than three, of which it shall be composed.

7. The conditions upon which shares may be issued, paid for, transferred and withdrawn.

8. The fines, if any, which shall be charged for failure to punctually meet obligations of the corporation.

9. The conditions upon which certificates may be issued and withdrawn.

10. The manner in which the funds of the corporation shall be employed.

11. The conditions upon which loans may be made and repaid.

12. The maximum rate of interest that may be charged upon loans.

13. The method of receipting for money paid on account of shares, certificates or loans.

14. The manner in which the guaranty fund shall be accumulated.

15. The manner in which dividends may be determined and paid to members.

SEC. 3. Section 3 of the act cited in the title hereof is hereby amended to read as follows: Stats 1927, p. 52.

Sec. 3. Every credit union shall have power: Powers.

1. To issue shares to those persons qualified for membership and to issue shares in joint tenancy with any relative to be designated by any credit union member.

2. To charge an entrance fee to subscribers for such shares.

3. To charge a reasonable fee for the transfer of its shares.

4. To receive money and accumulate funds to be loaned and to loan the same to members and to execute certificates for the money received, which shall specify the date, amount, rate of interest, and when the principal and interest are payable.

5. To lend money to its members upon such terms and conditions as by-laws provide and as the credit committee shall approve, at rates not exceeding one per centum per month, inclusive of all charges incident to the making of such loan.

6. To deposit any moneys received by it and not lent to members, as provided in section 6 of this act.

7. To borrow money to an amount not exceeding forty per centum of the capital of such corporation.

8. To fine members for failure to meet punctually obligations to such credit union.

9. To expel members, as provided in section 12 of this act.

10. To impress a lien upon the shares and dividends of any member to the extent of any loans made to him and for any dues or fines payable by him.

11. To cancel the shares of any member who withdraws or is expelled, and apply value thereof to the liquidation of such member's indebtedness to the corporation.

12. To invest any moneys received by it not lent to its members in the securities which are authorized as an investment for savings banks as set forth by statute.

13. To fix the maximum amount of shares owned or held by any one member which shall not exceed two thousand dollars ($2,000) in total par value.

14. In addition to the powers herein enumerated, every credit union shall have the general powers conferred upon corporations by Chapter III, Title I, Part IV, Division First of the Civil Code, except as herein otherwise provided.

Stats 1927, p. 53.

SEC. 4. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

Prohibited acts

Sec. 4. No credit union shall:

1. Pay any commission or compensation for securing members or for the sale of its shares.

2. Make any loan in excess of one hundred dollars unless security thereof is taken, nor in any event make a loan to any member in excess of two thousand dollars ($2,000). The term "security" within the meaning of this subdivision shall include a note which is endorsed by any member or members of the said credit union or by any other person or persons who is a nonmember. Comaker or comakers, other than the borrower or borrowers, shall be deemed to be an endorser within the provisions of this section.

In the event a credit union shall make a loan or loans to any of its members and the said member or members shall have invested therein, either in the form of shares or in funds received an amount equal to the said loan or loans, said investment shall be deemed as security within the provisions of this section and said borrower or borrowers shall not be required to give further or additional security.

3. Impose a fine, in case of failure of a member to make payment on shares, exceeding one per centum per month or fraction of a month on accounts due, except that a minimum fine of five cents per month or fraction thereof may be imposed.

4. Permit any director, officer or member of the credit committee or supervisor committee to borrow directly or indirectly, an amount greater than the amount invested by him in the credit union, or become surety for any loan or advance made by the corporation.

5. Issue shares or accept funds in trust, except in the name of the trustee, as such, for a specified beneficiary whose residence shall be disclosed to the credit union by such trustee.

6. Issue any shares except to those qualified for membership under its by-laws; provided, however, that said credit union shall have the right to issue shares to any relative designated by those eligible to membership in the credit union in joint tenancy and further provided that upon any share issued by

any credit union to those qualified for membership under its by-laws and to any relative designated by those eligible to membership in the credit union in joint tenancy, there shall be printed upon the certificate or other evidence of such shares the words "transferable only to qualified members" as herein set forth.

7. Lend to any of its members without requiring at the time of such loan a surrender and pledge of any certificates or other evidence of membership, issued by such credit union to the member to whom such loan is to be made.

SEC. 5. The capital of a credit union shall consist of the payments made by members on shares.

Stats. 1927, p. 53. Capital

SEC. 5. Section 6 of the act cited in the title hereof is hereby amended to read as follows:

Stats. 1927, p. 53.

Sec. 6. The capital funds, undivided profits, and guaranty fund of any credit union may be deposited in one or more savings banks, State banks or trust companies, incorporated under the laws of the State of California, or in national banks located in the State and in the postal savings system of the United States, or in the securities which are authorized as an investment for savings banks and set forth by statutes, or in shares or certificates for funds received or in any form of evidence of interest issued by any credit union in California, organized either under the provisions of the credit union law of the State of California or the statutes of the United States relating to credit unions.

Deposits and investments authorized

SEC. 6. Section 19 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1927, p 57.

Sec. 19. The supervisory committee shall have power:

Supervisory committee

1. To suspend at any time by unanimous vote, at a meeting called for that purpose, the credit committee, or any member thereof, or any member of the board of directors or any officer.

2. By a majority vote to call a meeting of the shareholders to consider any violation of this article or the by-laws, or any practices of the credit union which, in the opinion of the committee, are unsafe or unauthorized.

3. To inspect the securities, cash and accounts of the credit union and supervise the acts of its board of directors, officers and credit committee.

4. Within seven days after the suspension of the credit committee, to cause notice of a special meeting to be given to the shareholders to take such action regarding the suspension as may be deemed necessary.

5. To fill vacancies in the supervisory committee until the next annual meeting of the shareholders.

6. At the close of each fiscal year to make an audit of the books and records and an examination of the business and affairs of the credit union for the year, and to make a full report of its assets and liabilities, receipts and disbursements to the board of directors and to cause such reports to be read at the annual meeting of shareholders and filed with the records of such credit union.

In no case shall a member of the supervisory committee receive any compensation for his services as a member of such committee, or serve as a member of the credit committee.

CHAPTER 228.

Stats. 1929, p. 1489, amended.

An act to amend Chapter 763, Statutes of 1929, approved June 10, 1929, as amended by Chapter 401, Statutes of 1931, approved May 25, 1931, and as amended by Chapter 10, Statutes of 1933, approved January 26, 1933, entitled and known and cited as "California Toll Bridge Authority Act" by amending the title thereof and by amending sections 2, 6½, 9, 11, 14, 16, 20 and 22½, and by adding thereto new sections numbered 4½, 5½, 5¾, 8½, 8¾, 9½, 9¾, 12½, 13¾, 16¼ and 16½, relating to and prescribing additional duties, powers and limitations regarding the construction and financing of toll bridges; and providing for the acquisition, construction, financing and operation of transportation facilities thereof and thereto; and providing that this act become effective immediately.

[Approved by the Governor May 27, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Stats 1933, p. 21.

SECTION 1. The title of that certain act of the Legislature known and cited as the "California Toll Bridge Authority Act," approved June 10, 1929, Statutes of 1929, Chapter 763, and as amended by Chapter 401, Statutes of 1931, approved May 25, 1931 and as amended by Chapter 10, Statutes of 1933, approved January 26, 1933, is hereby amended to read as follows:

Title amended.

An act declaring the policy of the State of California relative to toll bridges and creating a board to be known as California Toll Bridge Authority and providing for membership thereof and specifying its duties and powers; also authorizing California Toll Bridge Authority to authorize and direct the Department of Public Works of the State of California to build, purchase, condemn or otherwise acquire for and in the name of the State of California toll bridges and other toll highway crossings and approaches thereto across waters, bays, arms of bays, straits, rivers and streams in California, both navigable and unnavigable or across any stream that is a boundary line between California and any other State, and to acquire franchises, rights, privileges, easements or other property either real or personal, used or to be used in conjunction with any such bridges; also defining "transportation facilities" and authorizing the California Toll Bridge Authority to authorize and direct the Department of Public Works to build, purchase, condemn or otherwise acquire for and in the

name of the State of California transportation facilities of any toll bridges or toll highway crossings and approaches thereto constructed or acquired or to be constructed or acquired in accordance with the provisions of this act, as well as additional transportation facilities connecting or coordinated with any such toll bridge or bridges or other highway crossing or the transportation facilities thereon, as well as franchises, rights, privileges, easements or other property, real or personal, appurtenant to any such transportation facilities; also authorizing the Department of Public Works to make recommendation to the California Toll Bridge Authority relative to the acquisition or construction of any toll bridge or toll highway crossing and to submit preliminary estimates of the cost of such acquisition or construction and the amount of revenue bonds required to be issued for such purpose; also authorizing the Department of Public Works to make recommendation to the California Toll Bridge Authority relative to the acquisition or construction of the transportation facilities for any such toll bridge or other highway crossing and the additional transportation facilities connecting or coordinated therewith and to submit preliminary estimates of the cost of the acquisition or construction of such transportation facilities and the amount of revenue bonds required to be issued for such purpose; also authorizing California Toll Bridge Authority to issue and sell revenue bonds to provide funds for the acquisition or construction of toll bridges or other toll highway crossings and the transportation facilities thereof and thereto secured as to the redemption thereof and the interest thereon only by the tolls or other revenues received from such bridge or bridges or other highway crossings and other revenues received by the California Toll Bridge Authority and to prescribe the terms and conditions of such bonds; also authorizing the issuance and sale of such revenue bonds for the payment of interest during the period of actual construction of such bridge or other highway crossing and the transportation facilities thereof and thereto and for a period of six months thereafter; also providing for the manner in which such bonds shall be issued and signed and the manner of sale and redemption thereof and the payment of interest thereon; also authorizing said California Toll Bridge Authority to charge and fix the rates of toll on such bridges or other highway crossings and regulating the amount thereof; also authorizing the Department of Public Works of the State of California to acquire, construct, operate and maintain all such toll bridges or other toll highway crossings and the transportation facilities thereof and thereto and to collect tolls thereon and therefor; also authorizing the Department of Public Works to acquire by eminent domain any toll bridge or bridges or other toll highway crossing or approaches thereto and the transportation facilities thereof or thereto, and real estate, personal property, franchises, rights, privileges or easements appurtenant to any such toll bridge or bridges

Title amended

Title amended.

or other highway crossing or to the transportation facilities thereof or thereto, whether publicly or privately owned and whether or not already appropriated or dedicated to a public use or purpose by any person, firm, private, public or municipal corporation, county, city and county, city, town, district, or any political subdivision of the State, and defining the procedure therefor; also providing that bonds issued and sold by California Toll Bridge Authority shall not constitute or be a debt or general obligation of the State but shall be secured by the tolls or other revenues collected from the operation of such bridges or other highway crossings and shall be paid from such tolls or revenues made available by this act; also authorizing any city, county, city and county, incorporated city or town, or joint highway district to advance or contribute money, rights of way, labor, materials or other property in aid of the acquisition, construction, operation or maintenance of any such bridge or highway crossing and the transportation facilities thereof and thereto and to issue and sell general obligation bonds for such purpose; also authorizing the California Toll Bridge Authority to enter into agreements with any such political subdivisions for the repayment of contributions or advances; and providing the time and manner of making such repayments; also defining the limits within and the conditions upon which other competitive bridges or other highway crossings or ferries may be constructed or operated; also creating and establishing certain funds and regulating the manner in which moneys may be withdrawn therefrom and invested and disbursed; also prescribing the manner in which any city, county, city and county, incorporated bridge and highway district or joint highway district may acquire or construct toll bridges or other toll highway crossings; also empowering and authorizing the California Toll Bridge Authority to prescribe terms upon which persons or property may be transported over any such toll bridge or other highway crossing and the approaches thereto, and prohibiting the transportation of persons or property unless authorized by the California Toll Bridge Authority and in accordance with such authorization; also empowering and authorizing the California Toll Bridge Authority to contract with and to issue permits to any transportation company, public or private and with any municipal corporation or utility district or political subdivision for the use of any such toll bridge or other highway crossing and the transportation facilities thereof and the transportation facilities connecting or coordinated therewith; also providing that the execution of any such contract or the granting of any such permit shall not relieve any such transportation company from the duty of obtaining a certificate of public convenience and necessity from the Railroad Commission and of complying with the rules and regulations of the Railroad Commission; also authorizing and empowering the California Toll Bridge Authority in behalf of the State of California, by itself, its agents or assigns, or through the

Department of Public Works, its agents or assigns to operate any such transportation facilities; also providing for the manner in which contracts shall be let for the building of bridges or other highway crossings; also empowering the Department of Public Works to designate certain county roads as State highways; also authorizing the acquisition or construction of tubes or tunnels in connection with such bridges or other highway crossings; also authorizing insurance and indemnity bonds on bridges and other highway crossings constructed under this act; also giving, dedicating and setting apart rights of way through, over, on and across State property and streets, alleys, lanes and roads within any city, city and county, or incorporated city or town, public or municipal corporation, district, or political subdivision; also authorizing the California Toll Bridge Authority to agree as to compensation for injury or damage to the property of any such city, city and county, incorporated city or town, public or municipal corporation, district or political subdivision, for the construction of such toll bridges or other toll highway crossings; also appropriating fifty thousand dollars for the purpose of establishing a revolving fund and providing for the use thereof and the manner of reimbursements thereto.

SEC. 2. Section 2 of said act is hereby amended to read as follows: Stats. 1933, p. 21.

Sec. 2. Definitions. The term "Department of Public Works" when used in this act shall be construed to mean the Department of Public Works of the State of California. Definitions

The terms "toll bridge," "bridge," "subway," "tunnel," and "highway crossing" when used in this act, either in the singular or plural, shall be construed to embrace all appurtenances and additions, alterations or improvements thereto or replacements thereof and the approaches to each end thereof, and all lands and interest therein used therefor and buildings and improvements thereon.

The term "transportation facilities" when used in this act, and unless otherwise expressly set forth, shall be construed to embrace all facilities for the transportation of passengers and property to and over any toll bridge or bridges or other highway crossing and the approaches to each end thereof, acquired or constructed or to be acquired or constructed or in course of construction in accordance with the provisions of this act, including terminals, stations, viaducts, rails, tracks, power stations, substations and equipment and power supply lines, storage yards, and the real property, easements and rights of way upon which any of the foregoing are located or situated or necessary therefor, and equipment, signals and interlockers, cars and rolling stock, and franchises, rights and privileges appurtenant thereto.

The term "bond" when used in this act, either in the singular or plural, shall be construed to mean any bond or other written evidence of indebtedness which the California Toll

Bridge Authority may issue under this act in order to secure funds with which to carry out the purposes of this act.

New section. SEC. 3. A new section, to be numbered section 4½, is hereby added to said act to read as follows:

Transportation facilities. Power to build or acquire

Sec. 4½. Whenever in the opinion of the California Toll Bridge Authority and in the opinion of the Department of Public Works it is necessary or desirable so to do, the California Toll Bridge Authority shall authorize and direct the Department of Public Works to build and acquire for and in the name of the State of California transportation facilities of any toll bridges or toll highway crossings and approaches thereto constructed or acquired or to be constructed or acquired in accordance with the provisions of this act, and to likewise acquire or construct additional transportation facilities connecting or coordinated with any such toll bridge or bridges or other highway crossing or the transportation facilities thereon, and to pay for the same out of any fund or funds provided or made available by this act. The Department of Public Works is hereby empowered to acquire by gift, by purchase or by eminent domain proceedings any transportation facilities and any franchises, rights, privileges, easements or other property, whether real or personal, appurtenant thereto, when the acquisition or construction of any such transportation facilities is authorized by the California Toll Bridge Authority.

Acquisition

New section SEC. 4. A new section, to be numbered 5½, is hereby added to said act, to read as follows:

Recommendations and estimates for transportation facilities

Sec. 5½. Whenever in connection with any toll bridge or bridges or other highway crossing constructed or acquired or to be constructed or acquired or in the course of construction or acquisition in accordance with the provisions of this act, the Department of Public Works determines that it is advisable, necessary or convenient to provide for the transportation of persons or property to and over such toll bridge or bridges or other highway crossing, the director of said department shall submit its recommendation to that effect to the California Toll Bridge Authority together with preliminary estimates of the cost of providing for the transportation facilities therefor, and an estimate of any funds of the California Toll Bridge Authority and of the Department of Public Works available for such purpose, and an estimate of the amount required to be raised for such purpose by the issuance of revenue bonds, and a statement of the probable amount of money, property, materials or labor to be contributed from other sources in aid of such acquisition or construction

Resolution.

If a majority of the members of the California Toll Bridge Authority concur in the recommendation of the Department of Public Works then the California Toll Bridge Authority shall adopt a resolution declaring that public interest and necessity require that the transportation facilities be provided to and over such toll bridge or bridges or other highway crossing, and the acquisition, by agreement, eminent domain or otherwise, of such transportation facilities, and authorizing the

issuance of revenue bonds for the purpose of obtaining funds in an amount not in excess of that estimated to be required for such purpose, or for such purpose and the acquisition or construction of any toll bridge or bridges or other highway crossing to which such transportation facilities relate, if, pursuant to the provisions of this act, the cost of acquisition or construction of such toll bridge or bridges or other highway crossing and of such transportation facilities has been or is included within such issue of revenue bonds.

Revenue bonds.

The bonds issued for the purpose of obtaining funds to provide for such transportation facilities may be issued as a separate issue or as part of an issue or issues to provide for the acquisition or construction of any toll bridge or bridges or other highway crossing as the California Toll Bridge Authority may direct. The bonds so authorized shall be issued in the name of the California Toll Bridge Authority and shall be revenue bonds and obligations only of the California Toll Bridge Authority and in all respects shall be identical to the bonds of the Authority issued pursuant to Section 6 hereof and shall be subject to the conditions and limitations, restrictions and privileges in this act set forth with respect to bonds to be issued hereunder for the acquisition or construction of any toll bridge or bridges or other highway crossing.

New section.

SEC. 5. A new section, to be numbered 5¾, is hereby added to said act, to read as follows:

Additional transportation facilities.

SEC. 5¾. Whenever in connection with the transportation facilities of any toll bridge or bridges or other toll highway crossing constructed or acquired or to be constructed or acquired or in the course of construction or acquisition in accordance with the provisions of this act, the Department of Public Works determines that it is advisable, necessary, or convenient in connection with the transportation of persons or property to and over such toll bridge or bridges or other highway crossing, to construct or acquire additional transportation facilities to connect or be coordinated with the transportation facilities of said toll bridge or bridges or other highway crossing, so as to provide a system of transportation for persons or property to and from said toll bridge or bridges or other highway crossing and the area within fifty miles from either end of such toll bridge or bridges or other highway crossing, the director of said department shall submit its recommendations to that effect to the California Toll Bridge Authority, together with preliminary estimates of the cost of providing for such additional transportation facilities, and an estimate of any funds of the California Toll Bridge Authority and of the Department of Public Works available for such purpose, and an estimate of the amount required to be raised for such purpose by the issuance of revenue bonds, and a statement of the probable amount of money, property, materials or labor to be contributed from other sources in aid of such acquisition or construction. If a majority of the members of the California Toll Bridge Authority concur in the recommendations of the

Department's recommendations and estimates

Resolution

Department of Public Works, then the California Toll Bridge Authority shall adopt a resolution declaring that public interest and necessity require that such additional transportation facilities be provided to connect or be coordinated with the transportation facilities of such toll bridge or bridges or other highway crossing, and the acquisition, by agreement, eminent domain or otherwise, of such additional transportation facilities, and authorizing the issuance of revenue bonds for the purpose of obtaining funds in an amount not in excess of that estimated to be required for such purpose, or for such purpose and the acquisition or construction of any toll bridge or bridges or other highway crossing and the transportation facilities thereof with which such additional transportation facilities are to connect or be coordinated if, pursuant to the provisions of this act such cost of acquisition or construction of such toll bridge or bridges or other highway crossing and the transportation facilities thereof and such additional transportation facilities has been or is included within such issue of revenue bonds.

Acquisition.

Revenue bonds.

The bonds issued for the purpose of obtaining funds to provide for said additional transportation facilities may be issued as a separate issue or as part of the issue to provide for the acquisition or construction of any toll bridge or bridges or other highway crossing and the transportation facilities thereof, and with which said added transportation facilities will connect or be coordinated, as the California Toll Bridge Authority may direct. The bonds so authorized shall be issued in the name of the California Toll Bridge Authority and shall be revenue bonds and obligations of the California Toll Bridge Authority and in all respects shall be identical to the bonds of the Authority issued pursuant to section 6 hereof, and shall be subject to the conditions and limitations, rights and privileges in this act set forth with respect to bonds to be issued hereunder for the acquisition of any toll bridge or bridges or other highway crossing.

Stats 1933, p. 25.

SEC. 5 (a). Section $6\frac{1}{2}$ of said act is hereby amended to read as follows:

Additional bonds.

Sec. $6\frac{1}{2}$. In the event a bond issue for the acquisition or construction of a toll bridge or bridges or other highway crossing shall be authorized and sold in whole or in part and the California Toll Bridge Authority and Director of the Department of Public Works deem it advisable and advantageous to enlarge or extend such toll bridge or bridges or other highway crossing or any of them or to change the structure or design thereof in order to afford new or greater facilities for any type or class of traffic, the said California Toll Bridge Authority may issue additional bonds for the purpose of enlarging or extending such toll bridge or bridges or other highway crossing or changing the structure or design thereof in order to afford such new or greater facilities, provided the surrender and cancellation of all outstanding bonds theretofore issued for the acquisition or construction of such toll bridge

or bridges or other highway crossing as originally designed can be assured or obtained by call or by consent of the holders thereof. Such additional bonds shall not constitute a debt or obligation of the State of California but shall be bonds of the California Toll Bridge Authority of the same character and payable from the same funds as other bonds herein authorized; provided, however, that the pledge of the tolls and other revenues to be received from the operation of such toll bridge or bridges or other highway crossing to the payment of outstanding bonds shall not in any way be lessened, diminished or affected thereby. If the bonds issued for the acquisition or construction of such toll bridge or bridges or other highway crossing as originally designed which may be then outstanding are at that time by their terms subject to immediate retirement before maturity at the option of the California Toll Bridge Authority, or if the holders consent to the retirement of such bonds, the said authority may include in the issue of bonds to be sold for the purpose of enlarging or extending said toll bridge or bridges or other highway crossing or changing the design thereof, an amount of bonds sufficient to produce funds with which to retire such outstanding bonds according to their terms; provided, however, that before any such bonds are delivered the California Toll Bridge Authority shall have first duly called the outstanding bonds for redemption in accordance with their terms and conditions or have obtained the consent of the holders thereof to the retirement of such outstanding bonds. Out of the proceeds derived from the sale of such new bonds there shall be set aside an amount of money sufficient to retire such outstanding bonds as may be thereafter presented for payment. Bonds of the new authorized issue may be delivered in part in exchange for a like principal amount of outstanding bonds of the original issue if the holders of such outstanding bonds to be so exchanged consent thereto.

Retirement bonds.

All provisions of this act shall apply with like force and effect to the issuance of any bonds of such new authorized issue and the holders thereof shall be subrogated to all the rights and powers of the holders of the bonds which are surrendered in exchange therefor, except as such rights and powers may be modified by the express terms of the bonds of such new authorized issue or the proceedings authorizing their issuance.

Applicable provisions

SEC. 6. A new section, to be numbered 8½, is hereby added to said act to read as follows:

New section

Sec. 8½. The Department of Public Works shall have full charge of the acquisition and construction of all the transportation facilities which may be authorized by the California Toll Bridge Authority pursuant to section 5½ hereof, and the operation and maintenance thereof and the collection of tolls thereon. The Director of the Department of Public Works shall proceed with the construction of such transportation facilities immediately upon there being made available funds

Department to control transportation facilities

for such work, and shall prosecute such work to completion as rapidly as possible.

New section

SEC. 7. A new section, to be numbered 8¾, is hereby added to said act to read as follows:

Department to control additional transportation facilities.

Sec. 8¾. The Department of Public Works shall have full charge of the acquisition and construction of all the transportation facilities which may be authorized by the California Toll Bridge Authority pursuant to section 5¾ hereof, and the operation and maintenance thereof and the collection of tolls thereon. No part of such transportation facilities shall be constructed or operated by the Toll Bridge Authority, or by any person, firm, association or corporation, public or private, within any county, city, or city and county, unless and until the route thereof within such county, city, or city and county shall have been approved by the board of supervisors, city council or other legislative body thereof, anything in this act to the contrary notwithstanding. The Director of the Department of Public Works shall proceed with the construction of such transportation facilities immediately upon there being made available funds for such work, and shall prosecute such work to completion as rapidly as possible.

Stats 1933, p 27.

SEC. 8. Section 9 of said act is hereby amended to read as follows:

Condemnation of bridge crossing or approach

Sec. 9. The Department of Public Works is hereby authorized and empowered to condemn and take, in fee or otherwise, as the California Toll Bridge Authority may determine, in the name of the State of California any bridge or highway crossing or approach thereto acquired or constructed or to be acquired or constructed under the provisions of this act, and any real estate, personal property, franchises, rights, privilege or easements, whether publicly or privately owned and whether or not already devoted to a public use or purpose, deemed necessary for any such bridge or bridges or highway crossing or approach thereto, under the provisions of the Constitution and laws of this State relating to eminent domain proceedings. Said department shall not have power to commence any such proceedings in eminent domain unless and until the California Toll Bridge Authority shall first have passed a resolution declaring that public interest and necessity require the acquisition, construction or completion by the State acting through the said Department of Public Works of any such bridge or highway crossing, or the acquisition of any particular real estate, personal property, franchises, rights, privileges or easements, and that such bridge or highway crossing, real estate, personal property, franchises, rights, privileges or easements are necessary therefor. Such resolution shall be conclusive evidence (a) of the public necessity of such acquisition, construction or completion; (b) that such property and said franchises, rights, privileges or easements are, and that the acquisition of the fee or other interest therein is, necessary therefor and, (c) that such proposed acquisition, construc-

Resolution of public interest and necessity

Resolution conclusive evidence

tion or completion is planned or located in a manner which will be most compatible with the greatest public good and the least private injury. When it becomes necessary for the Department of Public Works to condemn any toll bridge or toll highway crossing, real estate, personal property, franchises, rights, privileges or easements used or to be used in connection with any such bridge or highway crossing, the Attorney General of the State shall represent the Department of Public Works, and shall also be assisted by the attorneys for the Department of Public Works and any legal counsel the Department of Public Works or the California Toll Bridge Authority may employ. In eminent domain proceedings to acquire property for any of the purposes of this act, any toll bridge or other toll highway crossing, real property, personal property, franchises, rights, easements or other property or privileges appurtenant thereto appropriated or dedicated to a public use or purpose by any person, firm, private, public or municipal corporation, county, city and county, city, town, district or any political subdivision of the State, may be condemned and taken, and the acquisition and use thereof as herein provided for the same public use or purpose to which such property has been so appropriated or dedicated, or for any other public use or purpose, shall be deemed a superior and permanent right and necessity, and a more necessary use and purpose than the public use or purpose to which such property has already been appropriated or dedicated. It shall not be necessary in any eminent domain proceedings hereunder to plead or prove any acts or proceedings preliminary or prior to the adoption of the resolution hereinbefore referred to describing the property sought to be taken and directing such proceedings. When the State or any department or governmental agency thereof acquires any existing toll bridge or the real or personal property used in connection therewith, said property and toll bridge shall continue to be subject to taxation by the county, city and county, political subdivision and municipal corporation wherein the same is located, and the State shall pay to the county or city and county granting the franchise for said bridge such amounts as may become due to such county or city and county for the franchise for the construction of such toll bridge.

Attorney General to represent department

More necessary public use.

Property subject to taxation.

SEC. 9. A new section is to be added to said act, said section to be numbered 9½ and to read as follows:

New section

Sec. 9½. The Department of Public Works is hereby authorized and empowered to condemn and take, in fee or otherwise as the California Toll Bridge Authority may determine, in the name of the State of California, any transportation facilities authorized to be constructed or acquired pursuant to section 5½ hereof, of any toll bridge or bridges or other highway crossing acquired or constructed or to be acquired or constructed under the provisions of this act, and any real estate, personal property, franchises, rights, privileges or easements, whether publicly or privately owned and whether or not already

Condemnation of transportation facilities.

devoted to a public use or purpose, deemed necessary for the transportation facilities of any such toll bridge or bridges or other highway crossing, under the provisions of the Constitution and laws of this State relating to eminent domain proceedings. Said department shall not have power to commence any such proceedings in eminent domain unless and until the California Toll Bridge Authority shall first have passed a resolution declaring that public interest and necessity require the acquisition, construction or completion by the State acting through the said Department of Public Works, of the transportation facilities of any such bridge or bridges or other highway crossing, or the acquisition of any particular real estate, personal property, franchises, rights, privileges or easements and that such transportation facilities, real estate, personal property, franchises, rights, privileges or easements are necessary therefor. Such resolution shall be conclusive evidence (a) of the public necessity of such acquisition, construction or completion; (b) that such transportation facilities and such property and said franchises, rights, privileges or easements are, and the acquisition of the fee or other interest therein is, necessary therefor; and, (c) that such proposed acquisition, construction or completion is planned or located in a manner which will be most compatible with the greatest public good and the least private injury. When it becomes necessary for the Department of Public Works to condemn any such transportation facilities, real estate, personal property, franchises, rights, privileges or easements used or to be used in connection with any such bridge or highway crossing, the Attorney General of the State shall represent the Department of Public Works and shall also be assisted by the attorneys for the Department of Public Works and any legal counsel the Department of Public Works or the California Toll Bridge Authority may employ.

Resolution of public interest and necessity.

Resolution conclusive evidence.

Attorney General to represent department.

More necessary public use.

In eminent domain proceedings to acquire property for any of the purposes of this act, any such transportation facilities, real property, personal property, franchises, rights, easements or other property or privileges appurtenant thereto appropriated or dedicated to a public use or purpose by any person, firm, private, public or municipal corporation, county, city and county, city, town, district or any political subdivision of the State may be condemned and taken and the acquisition and use thereof as herein provided for the same public use or purpose to which such property has been so appropriated or dedicated, or for any other public use or purpose shall be deemed a superior and permanent right and necessity, and a more necessary use and purpose than the public use or purpose to which such property has already been appropriated or dedicated, except as to real estate, personal property, franchises, rights, privileges or easements actively used by or necessary for the operation of a common carrier by railroad other than those used primarily by such railroad for the transportation of persons or property by interurban operation to and from an area within fifty miles from either end of such toll bridge or

Exception.

bridges. And except for such prior railroad use, it shall not be necessary in any eminent domain proceedings hereunder to plead or prove any acts or proceedings preliminary or prior to the adoption of the resolution hereinbefore referred to describing the property sought to be taken and directing such proceedings.

SEC. 10. A new section, to be numbered 9¾ is hereby added to said act, to read as follows: New section

Condemnation of additional transportation facilities

Sec. 9¾. The Department of Public Works is hereby authorized and empowered to condemn, possess and take, in fee or otherwise as the California Toll Bridge Authority may determine, in the name of the State of California, any additional transportation facilities authorized to be constructed or acquired pursuant to section 5¾ hereof, connecting or coordinated with the transportation facilities of any toll bridge or bridges or other highway crossing acquired or constructed or to be acquired or constructed under the provisions of this act, and any real estate, personal property, franchises, rights, privileges and easements, whether publicly or privately owned, and whether or not already devoted to a public use or purpose, deemed necessary for such additional transportation facilities or for any such bridge or bridges or other highway crossing, or the transportation facilities thereof, under the provisions of the Constitution and laws of the State relating to eminent domain proceedings. Such proceedings shall be had and taken in accordance with section 9½ hereof and the provisions of said section 9½ shall be deemed fully applicable to the proceedings under this section 9¾. Applicable provisions

SEC. 11. Section 11 of said act is hereby amended to read as follows: Stats. 1933, p. 28.

Cities, counties, etc., may contribute

Sec. 11. Any city, county, city and county, incorporated city or town, or joint highway or other district, or political subdivision of the State may upon the request of the Department of Public Works or of the California Toll Bridge Authority advance or contribute money, rights of way, labor, materials and other property toward the expense of building, acquiring and maintaining the toll bridge or bridges or other highway crossings, and the transportation facilities thereof and thereto, referred to in this act, and for preliminary surveys and the preparation of plans and estimates of cost therefor and other preliminary expenses. Appropriations for such purposes may be made from any funds available, including highway funds received from the State. Any of the political subdivisions or public corporations mentioned in this section may also issue general obligation bonds for any of such purposes, and all proceedings for the authorization, issue and sale of such bonds shall be had under the law governing the issue and sale of bonds for public improvements by the particular political subdivision or public corporation. Money or property so advanced or contributed may be immediately transferred or delivered to the Department of Public Works or to the California Toll Bridge Authority to

May issue bonds

Repayment to cities, counties, etc

be used for the purpose for which such advance or contribution was made. The California Toll Bridge Authority may enter into a binding agreement with any city, county, city and county, incorporated city or town, joint highway or other district, or political subdivision of the State to repay any money or the value of any rights of way, labor, materials or other property advanced or contributed toward the expense of acquiring or constructing any toll bridge or bridges or other highway crossing, or the transportation facilities thereof or thereto, acquired or constructed as provided for in this act; provided, no repayment therefor shall be made until all obligations issued by the California Toll Bridge Authority for the acquisition or construction of any such toll bridge or bridges or other highway crossing and the transportation facilities thereof or thereto have been fully redeemed and paid, and then only out of the tolls and revenues received from the operation of any such toll bridge or bridges or other highway crossing. After all bonds issued hereunder for the acquisition or construction of any toll bridge or bridges or other highway crossing and the transportation facilities thereof or thereto have been fully redeemed and paid the California Toll Bridge Authority may continue to collect tolls and other revenues for the use of such toll bridge or bridges or other highway crossing for the purpose of reimbursing the State of California for any expenditures which may have been made by it in connection with said toll bridge or bridges or other highway crossing and the transportation facilities thereof or thereto and for the purpose of repayment to any city, county, city and county, incorporated city and town, joint highway or other district or political subdivision of the State of any amount the California Toll Bridge Authority shall have agreed to repay for money, rights of way, labor, materials or other property advanced or contributed for the acquisition or construction of any such toll bridge or bridges or other highway crossing or transportation facilities thereof or thereto. The collection of tolls shall be continued on any such toll bridge or bridges or other highway crossing until all bonds issued hereunder for the acquisition or construction of such particular toll bridge or bridges or other highway crossing or the transportation facilities thereof or thereto are fully redeemed and paid.

New section

SEC. 12. A new section, to be numbered 12½, is hereby added to said act to read as follows:

Ferry operation limited

Sec. 12½. As long as any of the bonds issued hereunder for the acquisition, construction, enlargement, extension or change in design or structure of any toll bridge or other highway crossing acquired or constructed hereunder or the transportation facilities thereon or thereto are outstanding and unpaid, none of the ferries or any similar means of crossing the waters within ten miles from either side of such toll bridge permitted to be operated under section 12 hereof shall be operated except as between the particular points of landing between which

such ferry or other similar means of crossing shall have been operated and only as to the particular classes of service in which such ferry or other similar means of crossing shall actually have been engaged at the time the construction of such toll bridge or other highway crossing shall have been authorized by the California Toll Bridge Authority, nor shall any such ferry or other similar means of crossing be restored to operation between any points of landing or as to any class of traffic operation which shall have been discontinued subsequent to the authorization by the California Toll Bridge Authority of any such bridge or highway crossing.

"Ferry" defined.

The term "ferry" as used herein shall include vessels of any kind or character operating upon the inland waters of this State for the transportation of persons or vehicles other than railway freight cars, including such vessels operated by or in conjunction with any railroad or interurban railroad or other common carrier.

Exemptions

The limitations and provisions of this section shall not apply to any ferry authorized to be operated and maintained across the waters of the bay between the City and County of San Francisco and the county of Marin, or to any bridge or tube between the cities of Oakland and Alameda. The limitations and provisions of this section and of section 12 shall not apply to any ferry authorized or permitted by the California Toll Bridge Authority to be operated and maintained across the waters of the bay between the City and County of San Francisco and the city of Alameda, and it is further provided that the provisions and limitations of this section and of section 12 shall not prevent the operation of any ferry or other similar means of crossing authorized or permitted by the California Toll Bridge Authority during such period of time as any such toll bridge or other highway crossing is obstructed to traffic because of accident thereto or repair thereof, or is for any reason unable to fully accommodate traffic.

New section

SEC. 13. A new section, to be numbered 13¾ is hereby added to said act to read as follows:

Applicability of provisions regarding receipt and disbursement of money

Sec. 13¾. In so far as any issue or issues of bonds authorized under the provisions of this act for the acquisition or construction of any particular toll bridge or bridges or other highway crossing shall include, pursuant to the provisions of this act, the acquisition or construction of any transportation facilities to or of any such toll bridge or bridges or other highway crossing, the provisions of section 13 and of section 13¼ with respect to the receipt and disposition of the proceeds from the sale of said bonds, the acquisition and construction funds therein referred to, the receipt and disposition of tolls, the toll revenue funds and the other provisions of said sections with respect to the receipt and disbursement of moneys or funds shall be deemed and are hereby declared to be equally applicable to the moneys or funds relating to such transportation facilities as with respect to such toll bridge or bridges or

other highway crossing and in every instance in said sections where reference is made to a toll bridge or bridges or other highway crossing such transportation facilities shall be deemed and are hereby declared to be included to the same extent as if expressly therein set forth.

Applicability of bond provisions.

If the bonds authorized under sections 5½ or 5¾ of this act for the acquisition or construction of the transportation facilities do not include the toll bridge or bridges or other highway crossing to which said transportation facilities relate, the provisions of sections 13 and 13½ with respect to the receipt and disposition of the proceeds from the sale of said bonds, the acquisition and construction funds therein referred to, the receipt and disposition of tolls, the toll revenue funds and the other provisions of said sections with respect to the receipt and disbursement of moneys and funds shall be deemed and are hereby declared to be applicable to the moneys or funds relating to such transportation facilities and in every instance in said sections where reference is made to a toll bridge or bridges or other highway crossing such transportation facilities shall be deemed and are hereby declared to be intended thereby to the same extent and effect as if expressly therein set forth and in lieu and instead of the reference to a toll bridge or bridges or other highway crossing.

Stats 1929, p. 1499.

SEC. 14. Section 14 of said act is hereby amended to read as follows:

State appropriations in aid authorized.

Sec. 14. Nothing in this act shall be construed to prevent the State from making appropriations from time to time in aid of the acquisition or construction of any such toll bridge or bridges or other toll highway crossing, or property, franchises or rights appurtenant thereto, or the transportation facilities thereof or thereto, or for the purpose of making preliminary surveys, plans and estimates of the cost thereof, and meeting other preliminary expenses as the Legislature may deem proper.

Stats 1929, p. 1500.

SEC. 15. Section 16 of said act is hereby amended to read as follows:

Transportation over bridges and approaches regulated by Toll Bridge Authority.

Sec. 16. The California Toll Bridge Authority is hereby authorized and empowered to prescribe the terms and conditions upon which any person, or firm, or group of persons, or private, public or municipal corporation, or any district or political subdivision may transport any person or property over any toll bridge or bridges or other toll highway crossing, and the approaches to each end thereof, acquired or constructed or to be acquired or constructed or in course of construction in accordance with the provisions of this act, or may operate any of the transportation facilities thereon, and no person, or firm or group of persons, or private, public or municipal corporation, or any district or political subdivision shall transport any person or property over any such toll bridge or bridges or other toll highway crossing or the approaches thereto or operate the transportation facilities thereon, unless first authorized or permitted so to do by the

California Toll Bridge Authority, and in accordance with such authorization or permission.

Permits and contracts for use of transportation facilities.

The California Toll Bridge Authority is hereby further authorized and empowered to grant permits to and to enter into contracts with steam, electric, bus, railroad and other transportation companies, public or private, and with any municipal or public corporation or public utility district or political subdivision for the use of any such toll bridge or bridges or other toll highway crossing, and for the use of the transportation facilities thereof, upon such terms and conditions as may be mutually agreed upon; provided, however, that prior to the granting of any such permit or the execution of any such contract, the California Toll Bridge Authority shall first determine that such permit or contract is advisable or necessary for the financing of such bridge or bridges or other toll highway crossing or for the proper or necessary or safe use of such bridge or bridges and for the best interests of the State.

Certificate of public convenience and necessity required

The grant of any such permit or the execution of any such contract by the California Toll Bridge Authority shall not be deemed to relieve any such transportation company or corporation, subject to the jurisdiction of the Railroad Commission of the State of California, from the duty of obtaining such certificate of public convenience and necessity for the conduct of a transportation service over any toll bridge or other highway crossing as may by law be required, or from the duty of complying with every lawful order, rule or regulation of the Railroad Commission respecting such transportation service.

The California Toll Bridge Authority may permit in any such contract or permit, if it shall deem the same advisable or necessary, of the use by the transportation company or corporation or district or subdivision providing transportation, of the transportation facilities of the California Toll Bridge Authority upon such terms and in such manner as the California Toll Bridge Authority shall deem proper, without restriction thereof to the toll bridge or bridges or other highway crossing to which said transportation facilities relate, provided that such use shall be for or in aid of the transportation of persons or property over such bridge or bridges or other highway crossing or the approaches thereto.

New section

SEC. 16. A new section, to be numbered 16¼, is hereby added to said act, to read as follows:

Transportation over additional transportation facilities regulated by Toll Bridge Authority

Sec. 16¼. The California Toll Bridge Authority is hereby authorized and empowered to prescribe the terms and conditions upon which any person, or firm, or group of persons, or public or municipal corporation, or any district or political subdivision may transport any person or property over the additional transportation facilities constructed or acquired in accordance with section 5¾ hereof, connecting or coordinated with the transportation facilities of any toll bridge or bridges or other toll highway crossing acquired or constructed or to be acquired or constructed or in course of acquisition or construc-

tion in accordance with the provisions of this act, and no person, firm, or group of persons, or private, public or municipal corporation, or any district or political subdivision shall transport any person or property over, or use or operate such additional transportation facilities unless first authorized so to do by the California Toll Bridge Authority and in accordance with such authorization.

Authority may contract

The California Toll Bridge Authority is hereby further authorized and empowered to contract with respect to the use or operation of such additional transportation facilities in the same manner and subject to the same limitations as set forth in section 16 hereof.

New section

SEC. 17. A new section, to be numbered section 16½, is hereby added to said act to read as follows:

Privilege of transporting not element of value in condemnations.

SEC. 16½. Every contract or permit which the California Toll Bridge Authority enters into with or grants to any person or firm, or group of persons, or private, public or municipal corporation, or any district or political subdivision, for the transportation of persons or property by such person or firm, or group of persons, or private, public or municipal corporation, or district or political subdivision over any toll bridge or bridges, or other toll highway crossing, or over the additional or coordinating transportation facilities of any toll bridge or bridges, or other toll highway crossing, shall contain a provision that no privilege or contract rights acquired by such person, firm, group of persons, private, public or municipal corporation, district or political subdivision, with regard to the transport of persons or property over any such toll bridge or with regard to additional or coordinating transportation facilities, as defined by section 5¾ of this act, shall be an element of value in any subsequent condemnation proceeding against any such person, firm, group of persons, private, public or municipal corporation, district or political subdivision. No privilege, permit or contract right acquired by any such person, firm, group of persons, private, public or municipal corporation, district or political subdivision, with regard to the transport of persons or property over any such toll bridge or bridges or other toll highway crossing or with regard to use of or passage over any additional or coordinating transportation facilities, as defined by section 5¾ of this act, shall constitute an element of value in any condemnation proceeding.

Authority may operate transportation facilities

The California Toll Bridge Authority is hereby authorized and empowered, in behalf of the State of California, by itself or its agents or assigns, or through the Department of Public Works or its agents or assigns to operate the transportation facilities of any toll bridge or bridges or other highway crossing constructed or acquired pursuant to the provisions of this act, and the additional transportation facilities, authorized to be constructed or acquired pursuant to section 5¾ hereof, connecting or coordinated with the transportation facilities of any such toll bridge or bridges or other highway crossing. The power herein given to the California

Toll Bridge Authority may be exercised by it upon default of any party contracting under sections 16 or 16¼ hereof with the California Toll Bridge Authority for the transportation of persons or property for hire over any toll bridge or bridges or other toll highway crossing and the approaches to each end thereof, or upon the termination or cessation of any such contract or agreement entered into pursuant to section 16 or 16¼ hereof, or in the absence of such contract or agreement; provided, however, that prior to the operation of any such transportation facilities by the California Toll Bridge Authority or its agents or assigns or by the Department of Public Works or its agents or assigns, California Toll Bridge Authority shall first determine that the operation thereof is advisable or necessary for the financing of such bridge or bridges or other toll highway crossing, or for the proper or necessary use of such bridge or bridges or other toll highway crossing, and is for the best interests of the State. Conditions

SEC. 18. Section 20 of said act is hereby amended to read as follows: Stats 1929 p. 1501.

Sec. 20. The right of way is hereby given, dedicated and set apart upon which to locate, construct and maintain bridges or approaches thereto or other highway crossings, and transportation facilities thereof or thereto, through, over or across any of the lands which are now or may be the property of this State, including highways, and through, over or across the streets, alleys, lanes and roads within any city, city and county, or incorporated city or town, public or municipal corporation, district, or political subdivision of the State. If any property belonging to any city, city and county, or incorporated city or town, public or municipal corporation, district, or political subdivision of the State, is required to be taken for the acquisition or construction of any such bridge or other toll highway crossing or approach thereto or the railroad facilities thereon or thereto, or should any such property be injured or damaged by such acquisition or construction, such compensation therefor as may be proper or necessary and as shall be agreed upon may be paid by the California Toll Bridge Authority to the particular county, city and county or incorporated city or town, public or municipal corporation, district, or political subdivision of the State owning such property, or eminent domain proceedings under section 9, 9½ and 9¾ hereof may be brought for the determination of such compensation. Right of way over State lands granted. Compensation.

SEC. 19. Section 22½ of said act is hereby amended to read as follows: Stats 1933, p 35

Sec 22½. The California Toll Bridge Authority, the officials thereof and all State officials are empowered to do such acts and make such agreements not inconsistent with law as may be necessary or desirable in connection with the duties and powers conferred upon them respectively by law regarding the construction, maintenance, operation and insurance of such toll bridges or other highway crossings and the transportation facilities thereof or thereto or the safeguarding General powers and duties

of the funds and revenues required for such construction and the payment of the indebtedness incurred therefor. The California Toll Bridge Authority and the Department of Public Works shall keep full, complete and separate accounts of each toll bridge or other highway crossing, and annually shall prepare balance sheet and income and profit and loss statements showing the financial condition of each such toll bridge or other highway crossing, which statement shall be open to the inspection of holders of bonds issued by said authority at all reasonable times.

Annual financial statements.

Urgency.

SEC. 20. This act is hereby declared to be an urgency measure within the meaning of section 1, Article IV, of the Constitution of the State of California, and it is deemed necessary for the immediate preservation of the public peace, health, and safety that this law shall go into immediate effect. The construction of a toll bridge and approaches thereto over the bay of San Francisco from the City and County of San Francisco to the county of Alameda and the provision for the transportation thereto and thereover of persons and property are essential to complete and make effective the system of State highways. It is necessary for the preservation of the public peace, health, and safety that greater facilities for travel and transportation across the bay of San Francisco be immediately afforded by the construction of such toll bridge and the approaches thereto and the transportation facilities thereon and thereto; this act is necessary in order to enable and assure the immediate financing and construction of said toll bridge and transportation facilities. There now exists unemployment in this State to such an extent that the public peace, health, and safety are threatened and endangered. The immediate construction of said toll bridge and the approaches thereto, with the transportation facilities thereon and thereto, will do much to relieve the present unemployment situation, by furnishing employment for thousands of people. It is therefore essential that this act go into immediate effect, and the Legislature so determines that it shall become effective immediately.

CHAPTER 229.

Stats. 1917, p. 207, amended

An act to amend sections 1 and 3 and the title of an act entitled "An act prohibiting employers of labor from coercing employees in the purchase of things of value, and prescribing a penalty for the violation of the provisions hereof," approved April 26, 1917 (Stats. 1917, Chap. 141), relative to requiring employees and applicants for employment to patronize any person or firm in the purchase of any thing of value, and relative to the penalty therefor.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows: Stats. 1917, p. 207.

An act prohibiting the compelling, coercing or requiring of employees and applicants for employment to purchase things of value, directly or indirectly, and prescribing a penalty for the violation thereof. Title amended.

SEC. 2. Section 1 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1917, p. 207.

Section 1. No employer of labor, or agent or officer thereof, or other person, shall compel, coerce or require, directly or indirectly, any employee, or applicant for employment, to patronize his employer, or any other person, firm, association or corporation, in the purchase of any thing of value; provided, however, that nothing herein contained shall be interpreted as prohibiting any employer of labor from prescribing the weight, color, quality, texture, style, form and make of uniforms required to be worn by his employees. Coercion of employee's patronage prohibited.

SEC 3. Section 2 of the said act is hereby amended to read as follows: Stats. 1917, p 208.

Sec. 2. Any person, whether as an individual, or as an agent or employee of a firm, or as an officer, agent or employee of a corporation, who violates any provision of this act shall be guilty of a misdemeanor, punishable by a fine of not exceeding five hundred dollars or by imprisonment for not exceeding six months or by both. Penalty.

CHAPTER 230.

An act to add section 487.5 to the Fish and Game Code, relating to the use of certain bait to take fish, and declaring the urgency thereof, and that this act shall take effect immediately. Stats. 1933, p. 394.

[Approved by the Governor May 27, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 487 5 is hereby added to the Fish and Game Code to read as follows: New section

487.5. It is unlawful to use fresh trout roe or spawn for the purpose of taking any fish. Use of fresh trout roe or spawn prohibited

SEC. 2. This act is declared to be an urgency measure within the meaning of section 1 of Article IV of the Constitution necessary for the immediate preservation of the public peace, health and safety and as such shall take effect immediately. The following is a statement of facts constituting such necessity: The use of fresh trout roe or spawn as bait is found to be rapidly depleting the fish supply in several localities in this State, and it is therefore necessary that this act shall take effect immediately. Urgency

CHAPTER 231.

An act granting to the city of Pacific Grove the title to certain portions of the water front of said city together with certain submerged lands in the bay of Monterey contiguous thereto.

[Approved by the Governor May 27, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Grant to Pacific Grove of certain State lands

SECTION 1. The State of California does hereby cede, grant and relinquish, forever unto the city of Pacific Grove, a municipal corporation organized and existing under the laws of said State, all the right, title interest, and estate, of said State of California, of, in or to, all of the real estate, lands and property, contiguous to said city of Pacific Grove and bordering on or in the bay of Monterey, and bounded and described, as follows, to wit:

Description

Beginning at the point of intersection of the southeasterly corporate limit line of the city of Pacific Grove produced, and the line of mean high tide of the bay of Monterey; thence northwesterly along said line of mean high tide to the intersection with the westerly corporate limit line of said city produced; thence N. 19° 22′ E. along said westerly corporate limit line produced, to the point in the bay of Monterey where the depth of water in said bay is sixty (60) feet measured from the level of mean low tide; thence southeasterly along the line in said bay which line is at a constant depth of sixty (60) feet measured from the level of mean low tide, to the intersection with the southeasterly corporate limit line of said city produced; thence S. 58° 58′ W. along said southeasterly corporate limit line produced, to the point of beginning.

Reservations

Provided, however, that the rights of any and all persons, if any exist, under any title derived from said State of California, in and to any part of said property and premises hereby ceded and granted, be and the same are, hereby reserved from the operation of this act.

Prohibited uses

Provided, however, that, except as hereinafter set forth, no part of said real property shall be used, employed, leased or disposed of in any manner whatsoever for commercial, industrial or revenue producing uses or purposes.

Permitted uses

Provided, however, that all or any part of said real property may be used, employed, leased or disposed of except as hereinafter provided, solely for public amusement and pleasure purposes including the use thereof for boat and yacht harbors, boating and yachting, swimming tanks and other like or kindred purposes.

SEC. 2. The entire water front and lands hereby granted shall be held by the city of Pacific Grove and its lawful successors forever, for the use and benefit of said city, and shall not be subject to execution upon any judgment against said city; provided, however, that the following described portion of the real property hereby granted to said city and herein-

Leases permitted

above described, may from time to time be let or leased for a term not exceeding twenty-five years, or for such less period as said city or its successors may deem to be most advantageous to said municipality, to wit: That portion of the above described lands lying within the following limits: Beginning at the intersection of the southeasterly corporate limit line of the said city of Pacific Grove with the mean high tide line of the bay of Monterey and running thence northwesterly along said tide line five hundred feet, thence leaving said tide line, north sixty degrees east to an intersection with a line projected north from the point of beginning, thence south to the point of beginning. Any lease made at any time for a term in excess of said maximum term hereinbefore prescribed shall be wholly void; provided, however, that not more than three hundred of said five hundred feet frontage of said water front last above described may be leased to any one lessee; and provided, further, that any and all vessels shall have the right to dock, land and discharge passengers or merchandise in, at and upon any wharf or pier erected or built upon property so leased as last above described upon the payment to any such lessee or lessees of reasonable dockage and wharfage fees and charges. Such fees and charges shall be regulated and prescribed in each such lease as from time to time may be determined by ordinance of said city of Pacific Grove or by statute of the State of California.

Description.

Limitations on leases.

SEC. 3. Except as in this act otherwise prescribed, all valid rights of any and all persons, if such exist, in or to any part of said real property hereby ceded and granted to said city of Pacific Grove shall be and the same are hereby excepted and omitted from the provisions hereof.

Vested rights.

SEC. 4. The purpose of this act is to correct an omission in the description of the lands described in that certain act of the Legislature of the State of California entitled "An act granting to the city of Pacific Grove the title to the water front of said city, together with certain submerged lands in the bay of Monterey contiguous thereto." Approved by the Governor, June 9, 1931.

Purpose of act.

Stats 1931, p. 1428.

SEC. 5. All acts and portions of acts in conflict herewith are hereby repealed.

Repeals

CHAPTER 232.

An act to amend section 6.90a of the School Code, relating to junior college buildings.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 6.90a of the School Code is hereby amended to read as follows:

Sch C., 1929, p 338.

Dormitories for junior college pupils.

6.90a. The governing board of any junior college district shall have the power, when in its judgment it is deemed necessary, to construct and maintain dormitories in connection with any junior college within the district for use and occupancy by pupils in attendance at such junior college and shall fix the rates to be charged such pupils for quarters therein.

CHAPTER 233.

An act to add section 3653.5 to the Political Code, relating to county assessors.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 3653.5 is hereby added to the Political Code to read as follows:

Inspection of county assessor's records.

3653.5. The records of the assessor are at all times, during office hours, open to the inspection of any person charged with the duty of assessing property for any governmental unit levying a tax or assessment on property within the county.

CHAPTER 234.

An act to amend section 683 of the Civil Code, relating to joint tenancy.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1931, p. 2205.

SECTION 1. Section 683 of the Civil Code is amended to read as follows:

Joint interest defined

683. A joint interest is one owned by two or more persons in equal shares, by a title created by a single will or transfer, when expressly declared in the will or transfer to be a joint tenancy, or by transfer from a sole owner to himself and others, or from tenants in common to themselves, or to themselves and others, or from a husband and wife when holding title as community property or otherwise to themselves or to themselves and others when expressly declared in the transfer to be a joint tenancy, or when granted or devised to executors or trustees as joint tenants. A joint tenancy in personal property may be created by a written transfer, instrument or agreement. Provisions of this section shall not restrict the creation of a joint tenancy in a bank deposit as provided for in the Bank Act.

Stats. 1909, p. 87.

CHAPTER 235.

An act to add section 3.401 to the School Code, relating to tuition fees of students in junior colleges.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the School Code to be numbered 3.401 and to read as follows: New section

3.401. The governing board of any junior college district may require a tuition fee annually of each student enrolled in the junior college of the district, and for the education of whom the district is not entitled by any other law to receive from any other source an amount equal to at least the maximum tuition fee herein provided for. The amount of the tuition fee shall be determined by the governing board of the district, but shall not exceed the total cost to the district of educating such pupil, exclusive of the moneys apportioned to the district from the State junior college fund, on account of such pupils attendance during the year for which such tuition is charged. Junior college tuition fee

The tuition fees collected under the provisions of this section shall be used by the junior college board for the maintenance and operation of the junior college. Use of fees

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CHAPTER 236.

An act to amend sections 2.870, 2.871, 2.872, 2.885, 2.887, 2.890, 2.911, 2.917, 2.940, 2.941, 2.1055, 2.1090, 2.1152 and 2.1199 of the School Code of the State of California, to amend and renumber section 2.990 thereof to be section 2.991, and to add thereto section 2.781, relating to election of school governing boards.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 2.870 of the School Code is hereby amended to read, as follows: Sch. C., 1929, p. 77.

2.870. An election for school trustees must be held in each school district on the first Friday of June of each year, at the district schoolhouse, if there is one, and if there is none, at the place to be designated by the board of trustees. Election for school trustees

SEC. 2. Section 2.871 of the School Code is hereby amended to read, as follows: Sch. C., 1929, p. 77.

2.871. In a new school district the school trustees shall be elected on the first Friday of June subsequent to the formation of the district, to hold office for one, two and three Election of new school district trustees

years, respectively, from the first day of July next succeeding their election.

Sch. C., 1929, p. 77

SEC. 3. Section 2.872 of the School Code is hereby amended to read, as follows:

Term of trustees

2.872. Except as otherwise provided in this article, one trustee shall be elected annually, to hold office for three years from the first day of July next succeeding his election, or until his successor shall be elected or appointed and qualified.

Sch. C., 1929, p. 79

SEC. 4. Section 2.885 of the School Code is hereby amended to read, as follows:

Official poll list

2.885. The superintendent of schools of the county shall furnish with the official ballots required in this article, official poll and tally lists. The heading of the poll list shall read: "Official poll list of _____ school district for the school election held on the _____ day of June, 19____." Under this heading shall be arranged three columns. The first column shall have printed as its heading: "Write your name as it appears on the great register of this county." The second column shall have printed as its heading: "Write your residence, street and number, town or city, and school district." The third column shall have printed as its heading the question: "Are you a qualified registered voter in this school district?" The person offering to vote at a school election shall write his name in the first column of the poll list, give his residence in the second, and, in the third shall write the word "yes" or "no."

Sch. C., 1929, p. 79

SEC. 5. Section 2.887 of the School Code is hereby amended to read, as follows:

Official tally list.

2.887. The tally list provided for in this article shall have printed as its heading: "An official tally list of _____ school district for the school election held on _____ day of June, 19____." It shall be arranged in lines so as to give room for at least five candidates and shall be vertically ruled, providing for counting the votes under a tally system. The final column shall have as its heading: "Total votes cast for each candidate." At the bottom of the page shall be provided a space for the signatures of the election officers and over these signatures shall be printed the words: "We hereby certify that this is a correct report of the election held in _____ school district on _____ of June, 19____."

Sch. C., 1929, p. 80.

SEC. 6. Section 2.890 of the School Code is hereby amended to read, as follows:

Election returns envelope

2.890. The superintendent of schools of the county shall furnish with the ballots and poll and tally list an envelope on which shall be printed the name and address of the superintendent of schools of the county, and in the lower left-hand corner the words: "Returns of election held in _____ school district, _____ county, on June _____, 19____."

Sch. C., 1929, p. 80.

SEC. 7. Section 2.911 of the School Code is hereby amended to read, as follows:

2.911. When any union or joint union school district is formed, the superintendent or superintendents of schools who may have jurisdiction over the same, shall, within fifteen days thereafter, appoint a board of school trustees of five members for the union or joint union school district. Each member so appointed shall hold office until the first day of July next succeeding his appointment. Trustees New union or joint union district

SEC. 8. Section 2.917 of the School Code is hereby amended to read, as follows: Sch C., 1929, p 81.

2.917. At the first election for members of the board of school trustees of the union or joint union school district one member shall be elected to hold office for one year, two members for two years, and two members for three years from the first day of July next succeeding. Thereafter, the successors shall be elected as hereinbefore provided. Same First election and tenure

SEC. 9. Section 2.940 of the School Code is hereby amended to read, as follows: Sch C, 1929, p 82.

2 940. When joint districts are formed, three trustees shall be elected at the regular school election next succeeding the formation thereof, to hold office for one, two, and three years respectively, from the first day of July next succeeding their election. Joint district trustees Election and tenure

SEC. 10. Section 2.941 of the School Code is hereby amended to read, as follows: Sch C, 1929, p 82

2 941. The terms of the trustees in the districts uniting to form the joint district shall expire on the formation of the district, and the superintendent of the county, in which lies the district having the greater average daily attendance, shall appoint two trustees, and the superintendent of the county in which the other district lies shall appoint one trustee, to hold office until the first day of July next succeeding the formation of the joint district. New joint district Trustees' appointment and tenure

SEC. 11. Section 2 990 of the School Code as added by Chapter 837, Statutes of 1931, is hereby amended and renumbered to be section 2 991 and to read as follows: Stats 1931, p. 1721

2.991. The governing board of any elementary school district having an average daily attendance therein of one thousand or more pupils and an assessed valuation of twenty million dollars or more may, and upon petition signed by twenty-five per centum of the heads of families resident in the district, must call an election to determine whether or not, the board shall have the rights, powers and duties of a city board of education and the district shall for all purposes be deemed to be a district governed by a city board of education. Elementary district board: Change in powers

Notice and proceedings of such election shall be in accordance with the provisions of this code relating to the election for school trustees, so far as applicable, and there shall be elected at such election, to take office if the change in the rights, powers and duties of the board is approved by majority vote of the qualified electors in the district, two additional members to the board, one to hold office until the first of July next succeeding the election and one to hold office until one Election

year after the first of July next succeeding the election and until the election and qualification of their respective successors who shall hold office for three years. Thereafter, if the change in the rights, powers and duties of the board is approved, the number of school trustees for any such elementary school district shall be five, and they shall be elected in the same manner and for the same term as provided by law for trustees of elementary school districts, except that two trustees may be elected at the same time when the terms of their predecessors terminate in the same year. If the change is approved by a majority vote of the qualified electors of the district, the board shall have the rights, powers and duties of a city board of education, and the district shall for all purposes be deemed to be a district governed by a city board of education.

Number, tenure and powers of board after change.

Sch. C., 1929, p. 86.

SEC. 12. Section 2.1055 of the School Code is hereby amended to read, as follows:

High school board Election and tenure

2.1055. One member of the high school board shall be elected to hold office from the day of receiving his certificate of election until the first day of July next succeeding; two members shall be elected to hold office from the day of receiving their certificates of election until the first day of the second succeeding July; and two members shall be elected to hold office from the day of receiving their certificates of election until the first day of the third succeeding July. Thereafter their successors shall be elected in the same manner as are boards of trustees of union and joint union high school districts.

Stats. 1931, p. 1518.

SEC. 13. Section 2.1090 of the School Code is hereby amended to read, as follows:

Organization of high school boards

2.1090. District, union, and joint union high school district governing boards shall meet on the first day of July of each year at twelve o'clock noon, and organize by electing a president from their own number, and a clerk.

Stats. 1931, p. 1519.

SEC. 14. Section 2.1152 of the School Code is hereby amended to read, as follows:

Organization of junior college boards.

2.1152. Junior college boards shall meet on the first day in July of each year at eleven o'clock a.m., and organize by electing a president from their own number, and a secretary.

Sch. C., 1929, p 91

SEC. 15. Section 2.1199 of the School Code is hereby amended to read, as follows:

New elementary districts Trustees

2.1199. To appoint trustees in new elementary school districts to hold office until the first day of July next succeeding their appointment.

New section.

SEC. 16. A new section is hereby added to the School Code to be numbered 2.781, and to read as follows:

School district board· Limitation on terms

2.781. The term of office of any member of the governing board of a school district whose term of office did not expire on the first day of May, 1935, shall expire on the first day of July next succeeding the day upon which such term would otherwise expire.

CHAPTER 237.

An act to add a new section to the School Code to be numbered 3.232, relating to the establishment of junior high schools.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the School Code to be numbered 3.232 and to read as follows:

New section

3.232. The governing board of any high school district comprising a single elementary school district and not governed by a city or city and county board of education may establish a junior high school or junior high schools when at an election called for that purpose in the same manner as the election for the formation of the high school district, a majority of the qualified electors voting thereat shall vote in favor thereof. The ballots used at the election shall contain the words "Junior High School—Yes" and "Junior High School—No." The result of the election shall be determined and certified to the superintendent of schools as provided in the case of the election for the formation of the district.

Junior high school establishment by high school board.

CHAPTER 238.

An act to amend section 3480d of the Political Code, relating to reclamation districts, declaring the urgency thereof and providing that this act shall take effect immediately.

[Approved by the Governor June 1, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 3480d of the Political Code is hereby amended to read as follows:

Stats 1933, p. 1456

3480d. If a call of an installment of any assessment of a reclamation district shall have been made to pay the principal, or the interest, or the principal and interest, on any outstanding bonds of said district, payment of which is secured by, or is payable out of such assessment, and thereafter the bonds of such maturity, or any thereof, have been refunded, or otherwise canceled in the manner provided by law, or not less than ninety per cent of the holders of all of the outstanding bonds of said district shall have entered into and executed a plan for refunding said outstanding bonds, or for the surrender and cancellation thereof, and by reason of any such facts the payment of the principal of such maturity of such outstanding bonds for which such call, in part or wholly, was levied to pay, is not required, then said call so made shall be deemed can-

Cancellation of calls of reclamation district assessments.

celed and annulled to the extent not required, and upon the filing of a certified copy of resolutions adopted by the board of trustees of the district declaring such cancellation and annulment in the office of the county treasurer of the main county in which such district is located, as main county is defined in section 3480 of the Political Code, said treasurer shall make such entry or entries as shall be necessary in the records of his office to evidence the cancellation of such call; provided, however, that the cancellation and annulment of any such call or calls shall not be construed as in anywise reducing the assessment against any tract of land within the district; and provided, further, that in the event any landowner shall have paid to the county treasurer the whole, or any part of said call or calls so canceled and annulled, the county treasurer shall, upon demand of such landowner, refund to him the portion of the amount so paid in not so required or if no such demand shall be made, the county treasurer shall hold said portion of said amount as a credit to said landowner on future calls against his land under said assessment.

Stats 1923, p 1219.

Refund or credit when call previously paid

Applicability of section

This section shall be applicable to all bonds which may be exchanged for refunding bonds, or otherwise canceled, either before or after the respective maturity dates of the bonds so exchanged or canceled and to any sale for delinquency as to which the period of redemption has not expired and to all parcels of land heretofore or hereafter bid in and purchased by a county treasurer as trustee of the district in the manner provided by law as to which the period of redemption has expired, and to all calls of installment of assessments heretofore or hereafter paid and in all such respects shall be both prospective and retroactive in its operation.

Urgency.

SEC. 2. This act is hereby declared to be an urgency measure within the meaning of section 1, Article IV, of the Constitution of the State of California, and it is deemed necessary for the immediate preservation of the public peace and safety that this law shall go into immediate effect.

The following is a statement of facts constituting such necessity: Due to the agricultural depression which has existed for the past several years, many landowners in reclamation districts in the State have been unable to meet their installments upon assessments with the result that their land has been sold to the district. The heavy penalties necessary to be paid as now provided by law, and which continually increase, make it impossible for the landowners to redeem their land and thousands of landowners are now threatened with the loss of their land. If the land is not redeemed and it is deeded to the district, it then becomes nonassessable for district purposes, and the burden becomes all the heavier on the other landowners in the district, causing more delinquency and loss. Many reclamation districts have proceeded and are proceeding to refund their outstanding bonds. In such proceedings such outstanding bonds have been and will be deposited and exchanged for

later maturing bonds issued or to be issued by said districts or will be sold to the Reconstruction Finance Corporation or other agency of the government of the United States. Pursuant to law calls of installments of assessments have been made to meet the payment of such outstanding bonds exchanged and to be exchanged or otherwise canceled as provided by law. Said calls have become delinquent and have been and are being and will be enforced and collected in the manner provided by law. Owing to the said refunding proceedings heretofore had and now in process or which will hereafter be had, or through loans granted by the Reconstruction Finance Corporation, the collection and the enforcement of the payment of said calls has been, is and will be unnecessary for the reason that the payment of neither the principal nor interest of said maturities of said outstanding bonds for which said calls were levied to pay is not and will not be required. The Legislature hereby declares that the welfare of the State requires that the landowners in these districts be not unnecessarily dispossessed of their land, and that the land be redeemed so as to thenceforth bear its just proportion of taxation.

CHAPTER 239.

An act to add a new section to the Political Code to be known as section 3663d, relating to the assessment of property by the State Board of Equalization and the allocation of the assessed value of such property to the various taxing jurisdictions of the State and to provide that this act shall take effect immediately.

[Approved by the Governor June 1, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. A new section to be numbered 3663d is hereby added to the Political Code to read as follows: New section.

3663d. In assessing property pursuant to section 3663a of this code the State Board of Equalization shall determine and assess at its actual value the average amount of rolling stock which is habitually in this State. The amount of rolling stock located in any county, city and county, city or district of this State shall be determined by the average amount of such rolling stock which is habitually in such county, city and county, city or district. Stats. 1933, p. 2687 Assessment on rolling stock.

The average amount of rolling stock habitually in this State and in any county, city and county, city or district of this State shall be determined upon the basis of car mileage, track mileage or such other factors or combination thereof as are reasonably calculated to establish the situs of such rolling stock.

"Rolling stock" defined.

The term "rolling stock" means cars, engines or other equipment operated or designed for operation on rails, and includes motor vehicles which are operated between fixed termini or over a regular route.

"Between fixed termini or over a regular route" defined.

The words "between fixed termini or over a regular route" mean termini or route between or over which rolling stock is usually or ordinarily operated even though there may be departures from said termini or route whether such departures be periodic or irregular.

Urgency.

SEC. 2. This act is hereby declared an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1, Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such urgency:

In 1933 amendments to the Constitution were adopted by the people substantially changing the tax system of the State. These amendments provided among other things that properties of certain companies formerly taxed exclusively for State purposes should on and after January 1, 1935, be assessed by the State Board of Equalization and be subject to taxation to the same extent and in the same manner as other property Unless such properties are assessed and taxed as required by the Constitution the revenue system of the State and its political subdivisions will be disrupted and the orderly functioning of government will be seriously jeopardized.

Among the properties so required to be assessed by said board are large amounts of rolling stock. The present law relating to the assessment of such rolling stock is ambiguous and inconsistent in many respects. Since said board must complete its work of assessment and equalization as of its current assessment date prior to a date which will be ninety days after the adjournment of the present session of the Legislature, it is essential that this act take effect immediately in order to make certain that such properties will be assessed and taxed as required by the Constitution.

CHAPTER 240.

An act to add two new sections to the School Code to be numbered 6.223 and 6.224, relating to the sale of property of a school district, declaring the urgency thereof, and providing that this act shall take effect immediately.

[Approved by the Governor June 1, 1935. In effect immediately.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the School Code to be known as section 6.223, and to read as follows:

6.223. The governing board of any school district shall have power to, and may in its discretion, dispose of personal property belonging to the district for the purpose of replacement by providing in the notice calling for bids for furnishing new materials, articles or supplies that each bidder shall agree in his bid to purchase said property being replaced and to remove the same from the school grounds and to state in his bid the amount which he will deduct from the price bid for furnishing new materials, articles or supplies as the purchase price for said personal property being purchased from the district and the board shall let the contract to the bidder whose net bid is the lowest, after deducting the amount bid for the purchase of said property, provided said bidder is a responsible person.

School district board: Disposal of personal property to be replaced

SEC. 2. A new section is hereby added to the School Code to be known as section 6.224, and to read as follows:

New section.

6.224. The governing board of any school district shall have power to, and may in its discretion, when calling for bids and letting contracts for repairing, altering, adding to or reconstruction of existing school buildings, require each bidder for the erection and completion of said work to agree in his bid to purchase and to remove from the school grounds all old materials required by the specifications to be removed from said school building or buildings and not needed in the execution of the contract proposed to be let and to state in his bid the amount which he will deduct from the price bid for the work as the purchase price of said old materials, and the board shall let said contract to the bidder whose net bid is the lowest after deducting the amount bid for the purchase of said old materials, provided said bidder is a responsible person.

Same: Disposal of material not needed in new work.

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and shall, therefore, go into immediate effect.

Urgency

The facts constituting the necessity are as follows: The Legislature of the State of California has enacted Chapter 59 of the Statutes of 1933, relating to the safety of construction of public school buildings which has resulted in the condemning and closing of many structurally unsafe school buildings in the State of California. Until school buildings can be erected, constructed and reconstructed in accordance with the above mentioned act, a large number of school children and teachers are being housed in temporary shacks or are attending school part time only, which endangers the health and safety of such school children and teachers of the State of California. Where buildings must be altered or reconstructed, large amounts of materials must be removed which are not suitable for reuse. Under sections 6.220 and 6.221 of the School Code property which a school district desires to dispose of for the purposes of replacement can only be disposed of by selling the same for cash to the highest bidder. These proposed sections will allow a school district to call for bids for the reconstruc-

Stats 1933, p. 352

Sch C, 1929, p 277.

tion of school buildings and require the contractor to deduct from the price he bids for the work, the amount which he will allow for old material salvaged from the building. This will accomplish three purposes: first, secure the removal of old material with the least possible damage to the material and to the building; second, net the district the largest return for this salvaged material; and third, provide for the speedy removal of material not needed in the reconstruction of the building from school premises.

The proposed sections of this bill will facilitate speedy replacement of condemned and closed school buildings and result in a large saving of money to school districts at a time when the funds of school districts in the State of California are severely taxed by unusual demands.

It is therefore necessary that the provisions of this act become effective at once in order that the health and safety of school children and teachers of the State of California be protected.

CHAPTER 241.

Stats 1933, p 60.

An act to add Chapter 10 to Division IV of the Agricultural Code, relating to the stabilization and marketing of fluid milk and fluid cream, declaring the urgency of this act, to take effect immediately.

[Approved by the Governor June 1, 1935. In effect immediately.]

The people of the State of California do enact as follows:

New chapter

SECTION 1. A new chapter is hereby added to Division IV of the Agricultural Code to be numbered 10 and to read as follows:

Fluid milk and cream

CHAPTER 10. STABILIZATION AND MARKETING OF FLUID MILK AND FLUID CREAM.

Article 1. General Provisions.

Business affected with a public interest

735. The production and distribution of fluid milk and of fluid cream and the dissemination of accurate, scientific information as to the importance of milk and other dairy products in the maintenance of a high level of public health, is hereby declared to be a business affected with a public interest. The provisions of this chapter are enacted in the exercise of police powers of this State for the purpose of protecting the health and welfare of the people of this State.

Purpose of chapter

735.1. The purpose of this chapter is to enable the dairy industry with the aid of the State to correct existing evils, develop and maintain satisfactory marketing conditions, and

bring about a reasonable amount of stability and prosperity in the production and marketing of fluid milk and fluid cream and provide means for carrying on essential educational activities. It is the intent of the Legislature that the powers herein conferred shall be liberally construed. Nothing in this chapter shall be construed as permitting or authorizing the development of conditions of monopoly in the production or distribution of fluid milk or fluid cream. In the establishment of the terms and conditions under which fluid milk and fluid cream shall be purchased from producers, and under which distributors and retail stores shall sell and distribute the same, such terms and conditions shall be those which will, in the several localities and markets of the State and under the varying conditions of production and distribution insure an adequate and continuous supply of pure fresh wholesome fluid milk and fluid cream to consumers thereof at fair and reasonable prices.

Director to enforce.

735.2. The director shall enforce the provisions of this chapter and any stabilization and marketing plan or marketing agreement initiated pursuant to the provisions of this chapter, and for that purpose may make such rules and regulations as he deems necessary.

Definitions

735.3. As used in this chapter:

(a) "Board" means any local control board created as herein authorized.

(b) "Fluid milk" includes any milk meeting the health requirements of the place where sold, which has been produced for human consumption as milk, and any such milk until sold as cream, or sold to be used in the manufacture of any dairy product.

(c) "Fluid cream" includes any cream produced from milk which meets the health requirements of the place where sold, which has been produced for human consumption as cream, and which also meets the health requirements for cream for human consumption of the place where sold and any such cream until sold to be used in the manufacture of any dairy product.

(d) "Dairy products" includes any product manufactured from milk or any derivative or product of milk.

(e) "Producer" means any person who operates a dairy herd or herds for the purpose of producing milk to be sold as fluid milk or fluid cream.

(f) "Distributor" means any person, other than a retail store, irrespective of whether he is also a producer who acquires and sells fluid milk or fluid cream at wholesale or retail.

(g) "Retail store" means any person or persons owning or operating a retail grocery store, restaurant, confectionary or other similar business where fluid milk or fluid cream in original packages or containers are sold at retail to the general public.

(h) "Marketing area" is any area within this State declared to be such in the manner described in this chapter.

(i) "Stabilization and marketing plan" means any plan providing for the control of marketing, processing, distribution, or sale of fluid milk or fluid cream within an area, which is formulated as prescribed in this chapter.

(j) "Marketing agreement" means any marketing agreement formulated under the provisions of this chapter.

(k) "Consumer" means any person who buys milk, cream or dairy products for consumption by himself or his household.

Hearings and investigations.

Stats. 1921, p. 1023.

735.4. The director shall have and may exercise all the powers conferred by section 353 of the Political Code upon the head of a department of the State in relation to hearings and investigations under this chapter.

Records.

735.5. A full and accurate record of business or acts performed or of testimony taken by the director in pursuance of the provisions of this chapter shall be kept and placed on file in the office of the director.

Court review.

Limitation.

735.6. Any order of the director hereunder substantially affecting the rights of any interested party may be reviewed by any court of competent jurisdiction. Any such action must be commenced within thirty days after the effective date of the order complained of or within thirty days after the injurious effect complained of becomes reasonably apparent.

Injunctions.

735.7. The director may bring an action to enjoin the violation or the threatened violation of any provision of this chapter or of any order made pursuant to this chapter in the superior court in the county in which such violation occurs or is about to occur. There may be enjoined in one proceeding any number of defendants alleged to be violating the same provisions or orders, although their properties, interests, residence, or place of business, may be in several counties and the violations separate and distinct. Any proceeding brought hereunder shall be governed in all other respects by the provisions of Chapter III of Title VII of Part II of the Code of Civil Procedure.

Cooperative agreements.

735.8. The director upon application and approval of the board may confer, enter into agreements, or otherwise arrange with the constituted authorities of this State, other States, or agencies of the United States with respect to plans relating to the stabilization and distribution of fluid milk and fluid cream within this State or as between this State and other States or the United States, and may exercise his powers hereunder to effectuate and enforce such plans.

Disposition of money.

735.9. All money received by the director hereunder shall be paid monthly into the State treasury to the credit of the "Department of Agriculture fund."

Article 2. Control of Fluid Milk.

Stabilization and marketing plan. Local control board.

736. Sixty-five per cent or more of the producers who are producing fluid milk commercially for sale within any marketing area, and who produce not less than sixty-five per cent of the total volume of fluid milk produced commercially

for such marketing area, may make application to the director for the appointment of a local control board, for the purpose of formulating and administering a stabilization and marketing plan for marketing fluid milk. The percentage of volume shall be determined on the basis of the quantity of fluid milk produced or by the number of pounds of milk fat produced, at the option of the applicants. A nonprofit cooperative association of producers may make application on behalf of such members. Each member of such cooperative association providing milk for such marketing area shall be counted as an individual in determining the total number of producers producing milk for such marketing area. The application shall state the boundaries of the marketing area sought to be established, and such other information as may be necessary under the provisions of this chapter and as the director may prescribe.

Application.

Accompanying each application shall be sufficient funds to reimburse the director for such expenses as he may incur in carrying out necessary preliminary investigations.

Preliminary expenses

736.1. Upon the receipt of such application, the director shall determine whether the area sought to be established as a marketing area is such that conditions of production, distribution and sale are reasonably uniform and susceptible to the application of the stabilization and marketing plan. If the director determines that the boundary of the marketing area described in the application should be changed or other modifications made, said application may be amended to incorporate such changes as are deemed necessary by the director.

Marketing area: Feasibility of plan.

736.2. If and when the director determines that the application is properly made, and that the area involved is such that a stabilization and marketing plan is feasible, he shall within thirty days after the date of receiving such application call a meeting of the producers supplying fluid milk to the marketing area at which meeting such producers shall nominate in a manner prescribed by the director, candidates for a local control board. The director from such nominees shall appoint a local control board which shall consist of seven members whose major interests in the dairy industry is the production of fluid milk for said marketing area; provided, that in such cases in which the director is of the opinion that seven members will not give adequate representation to all factors in the marketing area the board may be increased to not more than thirteen members of like qualifications.

Local control board nomination and appointment.

Number.

The terms of members of the board shall be two years but the term of three members of the first board shall expire at the end of the first year. Board members shall hold office until the election and qualification of their successors. The members at their first meeting shall determine by lot the relative order in which their terms expire. Vacancies shall be filled by appointment by the director for the unexpired term. The members of the board shall receive no compensation for their services but

Terms of office.

shall be allowed their necessary traveling and other expenses incurred in the performance of their official duties.

Elements of plan

736.3. The board shall formulate a stabilization and marketing plan not inconsistent with the provisions of this chapter. No distributor within such marketing area shall purchase milk from producers who do not comply with the provisions of this chapter and such plan. No such plan shall involve a limitation upon the production of fluid milk or fluid cream.

Price to be paid producers

Subject to the approval of the director, the board may establish the minimum prices to be paid producers. In establishing the prices to be paid producers, due consideration shall be given to the economic relationship of butter and other dairy products to the price of fluid milk. In establishing prices the board shall ascertain, as far as feasible, what prices for fluid milk in the marketing area involved will best protect the dairy industry and insure consumers a sufficient quantity of pure and wholesome milk in the public interest.

Prohibited trade practices

736.4. Any stabilization and marketing plan shall include standards of fair trade practices. In such standards of fair trade practices the following practices shall be prohibited and are hereby declared unlawful:

(a) The payment or allowance of rebates, refunds, commissions or unearned discounts to any customer, whether in the form of money or otherwise.

(b) The giving away of milk or dairy products for the purpose of securing business, except to bona fide charities.

(c) The extension to certain purchasers of special prices or privileges not extended to all purchasers on like terms and conditions.

Stats 1933, p 2481

(d) Any false or misleading advertising, as defined in section 654a of the Penal Code.

(e) Any discrimination between wholesale customers or between consumers as to prices at which fluid milk or fluid cream are sold.

Educational program

The plan may provide means for educational and sales stimulation programs, provided that such educational activities or programs are not unfairly detrimental to other products; and may contain such other provisions as may be necessary to effectuate the provisions of this chapter.

Approval of plan.

736.5. Upon its formulation, the plan shall be submitted to the director for his approval. If he finds that the plan is in conformity with the provisions of this chapter and will reasonably effectuate the purposes thereof, he shall declare the plan in effect without unnecessary delay.

Such plan when established may be amended by the board from time to time, but no such amendment shall take effect until approved by the director.

Board's powers

The board may do all things that are necessary for the purposes of carrying out the provisions of the plan. The director may order the board to desist from any course of conduct which is not in accordance with the provisions and purposes of this chapter.

736.6. The board may assess fees to be paid by producers of fluid milk for the marketing area. Fees

From such assessments there shall be paid to the director such sum, not to exceed one mill per pound of milk fat as may be necessary to defray the expenses incurred by the director in carrying out the provisions of this article. The balance of such fees shall be retained by the board to be used by it to carry out the provisions of the plan.

736.7. Any person aggrieved by any order or regulation made effective by a board may appeal to the director. Upon such appeal, the director shall make an order granting the redress sought, either in whole or in part or denying the appeal. A failure on the part of the director to grant the redress sought within thirty days shall be deemed a denial of the appeal. Appeal to director

Any plan formulated under the provisions of this chapter, and all orders and regulations respecting the same shall be annulled by the director upon application of fifty-one per cent or more of such persons and volume as could have initiated such plan. Majority protest

Article 3. Control of Fluid Cream.

737. The production and marketing of fluid cream may be subject to a marketing agreement as provided in this article. In the absence of such agreement, fluid cream may be controlled under a stabilization and marketing plan for fluid milk. Fluid cream marketing agreement

737.1. In order to carry out the policy of this chapter, the director is empowered to enter into marketing agreements with producers, associations of producers or distributors of fluid cream for any marketing area.

737.2. Sixty-five per cent or more of the persons engaged in, and who represent sixty-five per cent of the volume of production and distribution of fluid cream for any marketing area, may make application to formulate a marketing agreement. Application.

If the director determines that the application is properly made and that the area involved is such that a control plan is feasible, the director shall authorize such applicants to formulate a marketing agreement upon prepayment to him by applicants of preliminary expenses of the director. Formulation of plan

737.3. Such marketing agreement shall contain such provisions as may be necessary to carry out the policy of this chapter, and may include provisions: Permissible provisions.

1. For the appointment of local control boards with such powers as are specified in this agreement.

2. For the raising of funds, derived equitably from all producers and distributors participating in any marketing agreement, for the purposes specified in the marketing agreement, including means for educational and sales stimulation activities but in no case shall any assessment levied against any person exceed five mills per pound milk fat handled by him.

From such assessments, there shall be paid to the director such sum, not to exceed one mill per pound milk fat as may be necessary to defray the expenses incurred by the director in carrying out the provisions of this article. The balance of such fees shall be retained by the local control board to be used by it to carry out the marketing agreement.

3. For the establishment of minimum wholesale prices for fluid cream in the area.

4. For the establishment of a code of fair practices.

5. Method by which agreement may be annulled.

Order effecting or rejecting agreement.

737.4. Upon the signing of such marketing agreement it shall be forwarded to the director. Upon receipt of such agreement, the director shall determine if the agreement has been properly signed and is in accordance with the provisions and purposes of this chapter. If he determines that it is in such accordance, the director shall make an order establishing a marketing agreement in the area affected, whereupon such an agreement shall become effective. If the director determines that the agreement is not in such accordance, he shall reject it without prejudice to the formulation of a new agreement. Such agreement, when effective, may be amended in such manner as may be provided in such marketing agreement. After taking effect, the provisions of such agreement shall establish the standard of conduct for all persons engaged in any occupation or business regulated by such agreement.

Effect of agreement

Article 4. Licenses.

Licenses

737.5. After thirty days after the effective date of such marketing agreement or stabilization and marketing plan, no person shall act as a distributor in the area affected without first having obtained a license from the director. The application shall state the name and address of the applicant and such other information as the director may require and be accompanied by an annual fee of three dollars.

Application and fee

"Producer" defined.

A "producer" who supplies milk only to distributors for processing or distribution, and a retail store as defined in this chapter, shall not be classed as a distributor and is not required to obtain a license.

Violations

737.6. The violation of any provisions of this chapter, or of any provision of any stabilization and marketing plan or marketing agreement formulated under the provisions of this chapter, is a misdemeanor.

Distributors' reports.

737.7. All such distributors shall make and file with the director at least once each month such reports as the director may require to enable him to enforce the provisions of this chapter.

Reports confidential

737.8. Any record or report made to the director pursuant to the provisions of this article shall be confidential and shall not be divulged except when necessary for the proper determination of any court proceedings or hearing before the director.

737.9. The director, or his authorized agents, shall at all times during regular business hours, have access to all records pertaining to receipts and sales of fluid milk of distributors within any marketing area and in addition shall have access to all milk plants, warehouses or other buildings in which fluid milk is processed or handled. Access to records and plants

Such information so obtained shall be kept confidential except in any judicial proceeding or hearing before the director.

737.10. Any person who violates any provision of a stabilization and marketing plan or marketing agreement shall be liable civilly in the sum of five hundred dollars for each and every violation to be recovered by the director in any court of competent jurisdiction. All sums recovered under this section shall be deposited in the State treasury to the credit of the Department of Agriculture fund. Penalty

737.11. The director may revoke the license of any distributor who has been convicted of a misdemeanor under this chapter or against whom a judgment has been rendered in any court of competent jurisdiction under this chapter. Revocation of license

737.12. The director shall, within thirty days prior to each regular session of the Legislature, submit to the Governor a full and true report of the transactions under this chapter during the preceding biennium, including a complete statement of receipts and expenditures during such period. Report to Governor

SEC. 2. If any provision of this act, or the application thereof to any person or circumstance is held invalid, the remainder of this act, or the application of such provision to any other person or circumstance, shall not be affected. Constitutionality.

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and shall therefore go into immediate effect. The statement of the facts constituting such necessity is as follows: Urgency.

The economic conditions of fluid milk producers throughout the State are such as to require immediate relief if their purchasing power and taxpaying ability are to continue and their morale and standard of living are not to be undermined. Such relief can be afforded only by the orderly production and marketing of fluid milk and fluid cream. The provisions herein contained are necessary in order to prevent the further demoralization of the fluid milk and fluid cream industries.

CHAPTER 242.

An act to amend section 73a, of the Code of Civil Procedure, relating to superior courts.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 641.

SECTION 1. Section 73a of the Code of Civil Procedure is hereby amended to read as follows:

Expenses when court held other than at county seat.

73a. Whenever, under the provisions of sections 73, 73b and 142 of this code, any session of the superior court is required to be held in any city or town other than the county seat, the judge and clerk, or deputy clerk, and one court reporter of such court shall be allowed their necessary expenses in going to, returning from, and attending upon the business of such court. Such expense shall be a charge against the treasury of the county and paid out of the general fund thereof.

CHAPTER 243.

An act to amend section 4312 of the Political Code, relating to the place of offices of certain county officers.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1931, p 1994.

SECTION 1. Section 4312 of the Political Code is hereby amended to read as follows:

Required location of county offices.

4312. Sheriffs, clerks, recorders, treasurers and auditors, must have their offices at the county seat, in the courthouse, hall of records, jail or other buildings, provided by the county through the board of supervisors, and keep them open for the transaction of business continuously from nine o'clock a.m. until five o'clock p.m. every day in the year except Sundays and holidays; provided, that in each city containing a population of not less than forty-five thousand as ascertained by the last preceding census taken under the authority of the Congress of the United States or the Legislature of the State of California, wherein the city hall of said city is not less than eight miles distant from the site of the county courthouse, sheriffs and clerks must also have offices in each such city at a place provided by the county through the board of supervisors and keep them open for the transaction of business continuously from nine o'clock a.m. until five o'clock p.m. every day in the year except Sundays and holidays. In any city or town containing a population of not less than twenty

thousand as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, wherein the city hall is not less than thirty miles distant from the county courthouse, sheriffs and clerks must open offices provided by the county through the board of supervisors and keep them open for the transaction of business continuously from nine o'clock a.m. until five o'clock p.m. every day in the year except Sundays and holidays.

In any city or town containing a population of not less than seven thousand, as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, wherein the city hall of said city is not less than fifty-five miles distant from the site of the county courthouse, sheriffs and clerks must open offices provided by the county through the board of supervisors and keep them open for the transaction of business continuously from nine o'clock a.m. until five o'clock p.m. every day, except Sundays and holidays, during the period for which the superior court is in session in such city or town. And the words "transaction of business" as used herein shall be construed to mean that during the said hours named there shall be present in each of said offices at least one person qualified and prepared to transact the business that may properly come into said office.

"Transaction of business" defined

The auditor shall not draw his warrant for the salary of any such officer for any month until the latter shall first have presented him with an affidavit setting forth that he has complied with the provisions of this section, and the making of a false affidavit by any of said officers shall subject the party making the same to prosecution for the crime of perjury and to be punished for the same.

Affidavit of compliance

The affidavit required herein of the auditor shall be filed with the county clerk, and be and remain a record of the office of said clerk; and the affidavits of the other officers required herein, shall be filed with the county auditor and be and remain a record of his office; provided, that if any of the officers named herein are absent from their office on official business they shall be excused from attendance at their said respective offices during the time they are absent on such business; and provided further, that

Filing affidavit.

Absence on official business.

In all cases where any officer named herein has no regularly appointed deputy provided by this title and paid by the county at the same time and in the same manner that his principal is paid, he shall be permitted to close his office during the hour from twelve o'clock noon to and until one o'clock p.m.

Closing of office during noon hour

The judges of the superior court must have chambers at the county seat and must establish such rules and hours for official business as may be necessary for the dispatch thereof.

Judges of superior court.

CHAPTER 244.

An act to amend sections 4.750 and 4.751 of the School Code, relating to the computation of average daily attendance of school districts, declaring the urgency thereof and providing that this act shall take effect immediately.

[Approved by the Governor June 1, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Stats 1931, p 2578.

SECTION 1. Section 4.750 of the School Code is hereby amended to read as follows:

Average daily attendance Emergency computation.

4.750. The Superintendent of Public Instruction shall estimate the average daily attendance in any school or classes the attendance records of which shall have been lost or destroyed, thus making it impossible for local school officials to render an accurate report on average daily attendance for any school year, commencing with the school year ending June 30, 1935. Such estimated average daily attendance shall be employed as the actual average daily attendance for that school year for all apportionment purposes.

Stats 1931, p. 2578.

SEC. 2. Section 4.751 of the School Code is hereby amended to read as follows:

Same Credit for normal attendance.

4.751. The average daily attendance of any school or district in which the average daily attendance shall have been materially decreased during any school year, commencing with the school year ending June 30, 1935, because of conflagration, impassable roads or other public calamity or because of epidemic of unusual duration and prevalence, shall be estimated by the Superintendent of Public Instruction in such manner as to credit to the school or district for apportionment purposes approximately the total average daily attendance which would have been earned therein had the conflagration or other public calamity or epidemic not occurred.

Urgency.

SEC. 3. This measure is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and as such shall take effect immediately.

The reasons constituting such necessity are as follows:

Stats. 1931, p. 2578.

Under School Code section 4.750 as it now exists, whenever the records of a school district for any school year have been lost or destroyed, or the average daily attendance thereof has been materially affected by a public calamity, the average daily attendance of the district is determined by adding to or subtracting from the average daily attendance of the district for the preceding school year the average yearly increase or decrease, as the case may be, for the next preceding three school years. In no case has the average daily attendance for any year in a district been decreased by the operation of the existing law. The attendance in practically every school district increases yearly. Under the existing law, if the

attendance of a district is materially affected by a public calamity for two or more successive school years there is a pyramiding of the attendance computed under the present law. During the current school year 1934–1935 the school districts comprising one school system alone received about $1,039,000 more from State funds than it would normally have been entitled to receive. This sum was taken from the general fund of the State. To prevent a recurrence of this situation during the next school year 1935–1936, which begins July 1, 1935, and thereafter, it is necessary that this measure take effect immediately.

CHAPTER 245.

An act to add a new section to the Insurance Code to be numbered 10113, relating to life and disability insurance policies.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 246.

An act to amend section 10111 of the Insurance Code, relating to life and disability insurance.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 247.

An act to prohibit marathons, marathon dances, walkathons, skatathons, and other mental and physical endurance contests and prescribing penalties for the violation thereof.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The word "person" as used herein shall include any firm, copartnership, corporation, association, society, club or individual. General provisions

SEC. 2. Words used herein in the singular shall include the plural and words used in the neuter shall include the masculine and feminine.

Human endurance exhibitions prohibited

SEC. 3. It shall be unlawful for any person, firm, corporation or association of persons to conduct, carry on, manage or maintain, or to cause or permit to be conducted, carried on, managed or maintained, or for any person to participate in, or to cause or permit to be participated in, or to aid or assist in the conducting or maintenance of, any public so-called "marathon dance," "walkathon," "endurathon," "speedathon," or any public human endurance dancing, walking, running, skipping, jumping, sliding, gliding, rolling, or crawling contest or exhibition, under any other designation or name, or any similar public exhibition or contest of human endurance in dancing, walking, running, skipping, jumping, sliding, gliding, rolling or crawling, within the State of California.

Exemptions.

SEC. 4. Nothing contained in this act shall be construed to apply to amateur or professional athletic events or contests or to high school, college or intercollegiate athletic contests or sports, or to any events or contests licensed by the State or by any board, commission or officer thereof.

Penalty.

SEC. 5. Any person, firm, corporation, or association of persons violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine of not to exceed five hundred dollars ($500.00) or by imprisonment in the county jail for not to exceed six (6) months or by both such fine and imprisonment. Each separate day or any portion thereof during which any violation of this act occurs or continues shall be deemed to constitute a separate offense and upon conviction therefor shall be punishable as herein provided.

Constitutionality

SEC. 6. If any section, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause and phrase hereof irrespective of the fact that any one or more sections, sentences, clauses or phrases be declared unconstitutional.

CHAPTER 248.

An act to regulate the production and distribution of serums, vaccines, bacterial cultures, and viruses, to provide for the licensing of persons manufacturing and preparing the same, and to provide penalties for the violation of the provisions of this act.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Distribution of unapproved serums, etc., prohibited.

SECTION 1. It is unlawful to sell or distribute any serum, vaccine, bacterial culture or virus not produced by a laboratory approved by the Bureau of Laboratories of the Depart-

ment of Public Health. Products produced in laboratories under license of the United States Public Health Service and of the Bureau of Animal Industry, United States Department of Agriculture, shall be deemed to meet all of the require ments of the Bureau of Laboratories.

SEC. 2. The State Board of Public Health shall make rules and regulations for the production, labeling, storage and transportation of all serums, vaccines, bacterial cultures, bacterial products, or viruses within this State, excepting those produced by laboratories specifically approved and licensed by the United States Public Health Service and the Bureau of Animal Industry, United States Department of Agriculture. Regulations

SEC. 3. The State Board of Public Health shall issue a license to any person, firm, corporation or association engaged in the business of preparing serum, vaccines, bacterial culture or viruses within this State. The application for such a license shall contain such information as the State Board of Public Health requires The application must be accompanied with the sum of five dollars, which shall be the license fee for the first year. The license shall be annually renewable upon the payment of a renewal fee of two dollars. Licenses.

SEC. 4. The State Board of Public Health may fix reasonable charges for the work of analyzing and testing the products of a licensee; and may make such rules and regulations, not inconsistent herewith as may be necessary to carry out the provisions of this act. Charges for analyzing.

SEC. 5. The license may be revoked or suspended by the State Board of Public Health after notice and hearing for the violation of any provision of this act or any rule or regulation made under the authority of this act. Revocation or suspension of license.

SEC. 6 All moneys collected under the provisions of this act shall be paid into the State treasury and credited to the general fund. Disposition of money.

SEC. 7. The violation of any provision of this act is a misdemeanor and punishable by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than ten days, or by both. Penalty.

CHAPTER 249.

An act to amend section 601 of the Code of Civil Procedure, relating to peremptory challenges in civil cases.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 601 of the Code of Civil Procedure is hereby amended to read as follows: Stats. 1933, p. 1874.

Challenge to jurors

601. Either party may challenge the jurors, but where there are several parties on either side, they must join in the challenge before it can be made. The challenges are to individual jurors, and are either peremptory or for cause. Each side is entitled to six peremptory challenges. If no peremptory challenges are taken until the panel is full, they must be taken by the sides alternately, commencing with the plaintiff, and each side shall be entitled to have the panel full before exercising any peremptory challenge.

CHAPTER 250.

An act to amend sections 4.161 and 4.221 of the School Code, all relating to unapportioned county school funds.

[Approved by the Governor June 1, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 2699.

SECTION 1. Section 4.161 of the School Code is hereby amended to read as follows:

Unapportioned county elementary school fund: Estimate

4.161. The county superintendent of schools shall include in his estimate of the amount of the unapportioned county elementary school fund such sums as shall be necessary to meet the expenses charged elsewhere in this code against such fund, together with such amounts as he shall estimate as necessary for emergency apportionments to the elementary school districts of the county. The total amount so estimated shall be subject to the approval of the Superintendent of Public Instruction and shall in no event exceed an amount equal to ten per cent of the moneys apportioned to the county during the preceding school year from the State school fund.

Stats. 1933, p. 2700.

SEC. 2. Section 4.221 of the School Code is hereby amended to read as follows:

Unapportioned high school fund Estimate

4.221. The county superintendent of schools shall include in his estimate of the amount of the unapportioned county high school fund such sums as shall be necessary to meet the expenses charged elsewhere in this code against such fund, together with such amounts as he shall estimate as necessary for emergency apportionments to the high school districts of his county. The total amount so estimated shall be subject to the approval of the Superintendent of Public Instruction and shall in no event exceed a sum equal to ten per cent of the amount apportioned to the county during the preceding school year from the State high school fund.

CHAPTER 251.

An act relating to the registration of vessels and requiring a tax clearance as the prerequisite for registration.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. As used in this act the term "vessel" includes all watercraft capable of self-propulsion or propulsion by wind, except vessels of more than fifty tons burden registered at any port in this State and engaged in the transportation of freight or passengers. "Vessel" defined

This act shall not apply to boats propelled by portable outboard motors, or to boats less than twenty feet in length equipped with stationary motors. Exemptions.

The term "assessor" means the county assessor of the county in which the vessel is subject to assessment. "Assessor" defined.

SEC. 2. No vessel shall be operated within the limits of the inland or territorial waters of the State of California unless said vessel is registered as provided for in this act. Registration.

SEC. 3. Every owner of one or more vessels operated within the inland or territorial waters of the State of California shall annually file between January 1 and January 31 of each year with the assessor a statement of his name, residence, and post-office address, and a description of each vessel owned by him, and shall give such other information pertaining to such vessels as shall be required by the assessor. The assessor shall register each vessel assigning to it a distinguishing number, and shall issue to each owner a certificate of registration which shall contain the name of the owners and the number supplied to the vessel and such other matters as the assessor may prescribe. The certificate shall at all times be carried upon such vessel and shall be subject to examination by any official charged with the duty of assessing property, or by any officer or employee of the assessor.

SEC. 4. Upon the transfer of ownership of a vessel the person in whose name the vessel is registered shall return the certificate of registration to the assessor with a notice stating the date of such transfer and the name, place of residence and post-office address of the new owner, whereupon the certificate shall be transferred to the new owner. The registration of every vessel expires at midnight on the thirty-first day of December of each year. Transfer of registration. Registration period.

SEC. 5. No vessel required to be registered by the provisions of this act shall be registered, nor shall any certificate of registration be transferred, unless the application for registration or transfer shows by appropriate annotation or endorsement, that all taxes for the then current fiscal year authorized by law to be levied against such vessel in the county, city and county, or municipality in which said vessel was subject to assessment have been paid in full, or that the amounts Tax clearance.

thereof have been entered upon the appropriate assessment roll as a lien against real property.

Same Certificates

SEC. 6. It is the duty of the county, city and county, and city assessors, upon proper showing to execute such tax clearance certificates as are required by this act. In case the vessel is subject to taxation only by the State the Controller shall execute the proper tax clearance certificates.

SEC. 7. The assessor shall prescribe the form of the tax clearance certificate, and shall cause it to be printed upon the back of the certificate of registration.

Penalty.

SEC. 8. Any person who operates a vessel subject to registration under the provisions of this act, which is not registered as required by this act, is guilty of a misdemeanor.

Exemption.

SEC. 9. The provisions of this act shall not apply to any vessel owned by, or operated under the authority of, the United States or the State of California.

CHAPTER 252.

Stats. 1933, p. 60

An act to amend section 478 of the Agricultural Code, relating to cream.

[Approved by the Governor June 1, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 134.

SECTION 1. Section 478 of the Agricultural Code is hereby amended to read as follows:

Cream

478. (a) Cream is that portion of milk, rich in milk fat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. It shall be fresh and clean, and shall contain not less than twenty per cent of milk fat and not more than seven and eight-tenths per cent of milk solids not fat in cream containing twenty per cent of milk fat and correspondingly less solids for greater percentages of milk fat.

Ratio of fat and solids not fat.

The ratio of fat and solids not fat in cream shall be in the following proportions:

Fat, per cent	Solids not fat, per cent, not more than
20.0 to 30.0	7.8
30.1 to 35.0	7.5
35.1 to 40.0	7.0
40.1 and above	6.5

Production of cream

(b) Cream shall be produced from nonreacting tuberculin tested cows as determined by a test applied by an approved veterinarian under the supervision of the director, or shall be pasteurized and shall otherwise conform to the rules and regulations adopted by the director.

(c) Cream for manufacturing purposes may be classified and graded in accordance with standards established in the rules and regulations adopted by the director. Cream for manufacturing purposes may be repasteurized once. Cream for manufacturing purposes.

(d) Cream for manufacturing purposes, when pasteurized, may be sold by a creamery to persons from whom the creamery purchases cream, and such cream, so sold, shall not be considered market cream. Such cream shall not be resold by such purchasers.

CHAPTER 253.

An act to amend sections 1150 and 1151 of the Insurance Code, relating to purchasing, holding and conveying of real estate by insurers.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 254.

An act to amend section 1241 of the Code of Civil Procedure, relating to the taking of property under proceedings in eminent domain.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1241 of the Code of Civil Procedure is hereby amended to read as follows: Stats 1933, p. 1200.

1241. Before property can be taken, it must appear:

1. That the use to which it is to be applied is a use authorized by law; Facts necessary for condemnation.

2. That the taking is necessary to such use; provided, when the board of directors of an irrigation district, of a public utility district, or of a water district or the legislative body of a county, city and county, or an incorporated city or town, shall, by resolution or ordinance, adopted by vote of two-thirds of all its members, have found and determined that the public interest and necessity require the acquisition, construction or completion, by such county, city and county, or incorporated city or town, or irrigation, public utility, or water district, of any proposed public utility, or any public improvement, and that the property described in such resolution or ordinance is necessary therefor, such resolution or ordinance shall be conclusive evidence; (a) of the public necessity of such proposed public utility or public improvement; (b) that such property is necessary

therefor, and (c) that such proposed public utility or public improvement is planned or located in the manner which will be most compatible with the greatest public good, and the least private injury; provided, that said resolution or ordinance shall not be such conclusive evidence in the case of the taking by any county, city and county, or incorporated city or town, or irrigation, public utility, or water district, of property located outside of the territorial limits thereof.

Property already appropriated to public use.

3. If already appropriated to some public use, that the public use to which it is to be applied is a more necessary public use; provided, that where such property has been so appropriated by any individual, firm or private corporation the use thereof for a public street or highway of the State, a county, city and county, or any incorporated city or town, or joint highway district, or the use thereof by the State, a county, city and county, or any incorporated city or town, or joint highway district, or a municipal water district or an irrigation district, a public utility district, or a water district for the same purposes to which it has been appropriated or for any public purpose, shall be deemed a more necessary use than the public use to which such property has been already appropriated; and provided, further, that property of any character, whether already appropriated to public use or not, including all rights of any nature in water, owned by any person, firm or private corporation may be taken by a county, city and county, or any incorporated city or town or by a municipal water district, or an irrigation district, a public utility district, or a water district, for the purpose of supplying water, or electricity for power, lighting or heating purposes to such county, city and county, or incorporated city or town, or municipal water district, or an irrigation district, a public utility district, or a water district, or the inhabitants thereof, or for the purpose of supplying any other public utility, or for any other public use. And such taking may be made, either to furnish a separate and distinct supply of such water, and such electricity for power, lighting or heating purposes, or to provide for any such separate and distinct other public utility or other public use; to furnish such a supply or provide for any such other public utility or other public use in conjunction with any other supply or with any other public utility or other public use that may have been theretofore provided for or that may thereafter be provided for in so supplying or providing for such county, city and county, or incorporated city or town, or municipal water district or an irrigation district, a public utility district, or a water district, or the inhabitants thereof; or in conjunction with any other supply or with any other public utility or other public use that may have been theretofore determined upon or that may thereafter be determined upon in accordance with law by the people of any such county, city and county, incorporated city or town or municipal water district or an irrigation district, a public utility district, or a water district. Nothing herein contained

shall be construed as in any way limiting such rights as may be given by any other law of this State to counties, cities and counties, incorporated cities or towns or municipal water districts or irrigation districts, public utility districts, or water districts.

But private property appropriated to the use of any county, city and county, incorporated city or town, or municipal water district, or irrigation district, or public utility district, or water district, may not be taken by any other county, city and county, incorporated city or town, or municipal district, or irrigation district, or public utility district, or water district, while such property is so appropriated and used for the public purposes for which it has been so appropriated. Private property appropriated to public use.

CHAPTER 255.

An act to amend sections 970, 972 and 974 of the Insurance Code, relating to security for the payment of taxes and other obligations of insurers.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 256.

An act to amend an act of the Legislature of the State of California entitled "An act providing for the formation, government and operation of harbor districts for the improvement or development of harbors, the calling and conducting of elections in such districts, the issuance and disposal of the bonds thereof, and the assessment and levy of taxes for the payment of such bonds, principal and interest, and for the ordinary expenses of such districts," approved April 20, 1927, as amended, by adding a new section thereto to be numbered section 21 relating to the expenditure of the proceeds of harbor district bonds by the United States of America or any department, officer or agency thereof, and validating expenditures of such bond funds and work by the United States of America or any department, officer or agency thereof. Stats. 1927, p. 362, amended.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. That the act designated in the title hereof be amended by adding thereto a new section to be numbered section 21 and to read as follows: New section.

Harbor district bond proceeds. Expenditure by Federal agencies

Sec. 21. Notwithstanding anything to the contrary in this act, where the objects and purposes for which the harbor district bonds were voted are being or shall be carried out by cooperation or agreement between the United States of America or any department, officer or agency thereof, and the harbor district, the proceeds of the harbor district bonds may be turned over to the United States of America, or any department, officer or agency thereof, to be expended by it in the performance of the improvement or development work for which the bonds were voted. And where any of the improvement or development work for which the bonds of the harbor district were voted is to be done jointly with the United States of America, or any department, officer or agency thereof, the portion of the cost thereof to be borne by such harbor district may be turned over to the United States of America, or any department, officer or agency thereof, to be expended by it in the performance of said improvement or development work, and any and all such cooperative arrangements or agreements heretofore entered are hereby validated, legalized and confirmed, and the payment and turning over to the United States of America or to any department, officer or agency thereof, heretofore or hereafter of the proceeds of any harbor district bonds for expenditure by the United States of America, or any department, officer or agency thereof, in the performance of the improvement or development work for which the bonds were voted is hereby validated, legalized and confirmed for all purposes and the performance of said work by or under the supervision of the United States of America, or any department, officer or agency thereof, is hereby validated, legalized and confirmed.

Federal cooperation validated

CHAPTER 257.

An act to amend section 1989 of the Code of Civil Procedure, relating to witnesses.

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1915, p. 330.

SECTION 1. Section 1989 of the Code of Civil Procedure is hereby amended to read as follows:

Attendance of witnesses outside county of residence.

1989. A witness is not obliged to attend as a witness before any court, judge, justice, or any other officer, out of the county in which he resides, unless the distance be less than one hundred miles from his place of residence to the place of trial.

CHAPTER 258.

An act to accept the provisions of an act of the Congress of the United States effective June 6, 1933, entitled "An act to provide for the establishment of a National employment system and for cooperation with the States in the promotion of such system, and for other purposes."

[Approved by the Governor June 1, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Acceptance act of Congress of June 6, 1933.

SECTION 1. The State of California hereby accepts the provisions of an act of the Congress of the United States effective June sixth, 1933, entitled "An act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes" in conformity with section 4, thereof, and will observe and comply with the requirements of said act.

Powers and duties of Division of State Employment Agencies

SEC. 2. The Division of State Employment Agencies of the Department of Industrial Relations is hereby designated as the agency of the State as required by such act of Congress hereinbefore specified in section 1 and as such agency is hereby authorized, empowered and directed to cooperate with the United States employment service under and pursuant to the terms, conditions, provisions and requirements of such act and the chief of said division shall have and exercise all powers necessary therefor. The Chief of the Division of State Employment Agencies is hereby further authorized, empowered and directed to take such steps as may be necessary or appropriate to obtain for and on behalf of the State the full benefits, advantages and privileges derivable under and pursuant to such act of Congress.

Fund created.

SEC. 3. The Division of State Employment Agencies of the Department of Industrial Relations is hereby authorized and empowered to receive from the Federal government any and all funds allocated or apportioned to the State under said act of Congress. Such moneys shall be placed in a special fund in the State treasury entitled the "United States employment service fund," which fund is hereby created, and shall be expended in accordance with law by the Chief of the Division of State Employment Agencies.

California Employment Service

SEC. 4. For the purpose of cooperating with the United States Employment Service in bringing about uniformity in the names of State employment agencies, the Division of State Employment Agencies may be called, "California Employment Service."

CHAPTER 259.

An act to amend section 3663b of the Political Code, relating to the assessment of property by the State Board of Equalization and to provide that this act shall take effect immediately.

[Approved by the Governor June 1, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Stats 1933, p. 2638.

SECTION 1. Section 3663b of the Political Code is hereby amended to read as follows:

Equalization of assessments.

3663b. The board shall have the power to equalize the assessments made by it pursuant to section 3663a of this code, of property located in any city where property is not assessed for city purposes by the assessor of the county in which such city is located, with the assessed value of other property therein. Such equalized value shall be set forth upon the assessment roll transmitted by the board to the auditor or other chief accounting officer of such city pursuant to section 3663a of this code. Immediately following the close of the period for equalizing assessments of property in each city where property is not assessed for city purposes by the assessor of the county in which such city is located, it shall be the duty of the city auditor or other chief accounting officer of such city to notify the State Board of Equalization of the total assessed value of property assessed by the city assessor, after equalization by the city equalization body. Notice shall be given by the board to such city of the final date for the filing with said board of such total assessed value. In case the board is not so notified of such assessed values in any such city prior to such final date the board need not equalize the assessments made by it of property in such city with such assessed values.

Notice.

Urgency.

SEC. 2. This act is hereby declared an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1, Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such urgency:

In many cities in the State of California, the ratio between the assessed value as determined for the purposes of municipal taxation and the true value of the taxable property differs materially from the corresponding ratio of the assessed value as determined by the county assessor. Under section 14 of Article XIII of the Constitution of this State the State Board of Equalization is required to assess certain property for all tax purposes and unless said board is authorized to equalize such assessments with the assessed value of other property subject to municipal taxation, serious inequalities will result threatening the revenues of many cities of the State. Since said board must complete its work of assessment and equalization as of the current assessment date prior to a date which

will be ninety days after the adjournment of the present session of the Legislature, it is essential that this act take effect immediately in order to avert such consequences which will be subversive of the public peace, health and safety.

CHAPTER 260.

An act to amend section 3663a of the Political Code, relating to the assessment of property by the State Board of Equalization and to provide that this act shall take effect immediately.

[Approved by the Governor June 1, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 3663a of the Political Code is hereby amended to read as follows: Stats. 1933, p. 2687.

3663a. The State Board of Equalization shall assess all the property required to be assessed by it under the provisions of section 14 of Article XIII of the Constitution of this State at its actual value on the first Monday in March at twelve o'clock meridian; provided, however, that in the case of property situated within the limits of any city having an assessment date other than the first Monday in March, the board shall also assess such property at its actual value on the assessment date of such city. Assessment of property

In assessing notes and solvent credits and equitable or legal interests therein, not secured by mortgage, deed of trust, contract or other obligation, where land situated within this State is pledged as security therefor, a deduction from the assessed value shall be made of such debts including notes, unsecured by mortgage, deed of trust, contract or other obligation, where land situated within this State is pledged as security therefor, as may be owing by such person, firm, corporation or association to bona fide residents of this State. Notes, solvent credits, etc.

The State Board of Equalization must exact from each person, firm, copartnership, association, estate, trust, business trust, receiver, syndicate, company or corporation owning, claiming, possessing, using, controlling or managing any of the property mentioned in this section, a statement under oath, setting forth specifically on forms prescribed by the board whatever information the State board may require to make an assessment of such property. Such statement shall be filed with the board; at any time during the year the board may require and it shall be furnished with such information or records for examination as may be required by it to make an assessment of such property. No assessment shall hereafter be rendered invalid by reason of the failure of the board to demand or secure the statement required by this section. If such statement is not furnished as above provided, the assess- Statement of owner

ment made by the board upon the property of the person, firm, copartnership, association, estate, trust, business trust, receiver, syndicate, company or corporation failing to furnish such statement is conclusive and final.

Reports of county and city auditors.

The board shall have the power, and it is hereby authorized to require the assessor of any county, city and county or incorporated city or town of this State to report to it at such times and on such forms as the board may prescribe, any information in his possession concerning the actual value of any of the property required to be assessed by the board.

Aid from State agencies.

The board is hereby authorized and empowered to call upon any State department, board, bureau or commission or personnel thereof, for such assistance, cooperation, information and service as it may render to the board.

Completion of assessments

The board shall complete the assessment of all property required to be assessed by it as of the first Monday in March of any year, on or before the first Monday in August of said year. Between the first Monday in August and the third Monday in August of each year, the assessments made by the board shall be open for inspection by all persons interested. At any time prior to the third Monday in August the owner of any property assessed by the board, or the one to whom it is assessed may be heard by the board upon a petition for reassessment.

Transmission of assessment rolls to auditors

Immediately after the third Monday in August the board shall transmit to the auditor of each county and city and county an assessment roll showing the assessments made by the board upon all property located in such county or city and county and in each district, and city in such county or city and county.

The board shall also immediately transmit to the auditor or other chief accounting officer of each city the assessment date of which is the first Monday in March an assessment roll showing the assessments made by the board upon all property located in such city and in each district in such city.

Notice of assessment.

In the case of property situated within the limits of any city having an assessment date other than the first Monday in March, the board, upon the completion of the assessment of such property as of such other assessment date, shall give notice to those to whom it is assessed either by mail, in the manner prescribed by section 1013 of the Code of Civil Procedure, or by publication in a newspaper of general circulation published in the municipality where such property is located, that the assessment of such property as of such other assessment date has been completed and the time when, and place where, those to whom such property is assessed may be heard on a petition by them for reassessment of such property. Immediately after the time specified in such notice the board shall transmit to the auditor or other chief accounting officer of such municipality an assessment roll showing the assessment made by the board upon all property located in such city.

All such property shall be subject to taxation to the same extent and in the same manner as other property.

Property escaping assessment.

In the event that any property required to be assessed by the board escapes assessment for any year, such property when discovered shall immediately be assessed by the board, and a statement of the value of such property shall be transmitted by the board to the officer of the county, city and county, or city required by the law to assess property escaping assessment. The property so assessed by the board and returned to such officer shall thereupon be entered upon the assessment roll of such county, city and county, or city and shall be subject to the same taxes and assessment levies with the same penalties added thereto as if such property had been assessed by such officer.

Employees

To carry out the provisions of this section, the board shall employ such assistants as it may deem necessary to serve for such time and for such compensation as the board may determine.

Urgency

SEC. 2. This act is hereby declared an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such urgency.

Several cities within California have, under special charter provisions, assessment dates other than the first Monday in March. Unless the law is immediately amended to permit the State Board of Equalization to assess such property as is required to be assessed by such board under the provisions of section 14 of Article XIII of the Constitution of this State as of the same date as other property subject to municipal taxation in such cities, grave inequalities in tax burden will result threatening the stability of the public revenues for such cities. Under existing law said board is required to complete all assessments under said section of the Constitution by the third Monday in June. Said board is also required to equalize its assessments with those made locally, and since equalization of local assessments is not completed normally until August, it would be impossible to provide for an equitable assessment of property by the State Board of Equalization unless the existing law requiring the board to complete its assessments by the third Monday in June should be amended. Consequently, unless this act goes into effect immediately grave inequalities in assessments for tax purposes will result, since an act which would not become effective until ninety days following adjournment of the Legislature could not accomplish the necessary changes in time to correct the injustices which would otherwise occur.

CHAPTER 261.

An act to amend the title of Part I of Division V of the School Code, and to amend sections 5.1, 5.2, 5.10, 5.61 and 5.101 thereof, relating to State colleges.

[Approved by the Governor June 4, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Sch C., 1929, p. 218.

SECTION 1. The title of Part I, of Division V of the School Code is hereby amended to read as follows:

Heading amended.

Part I—State Colleges.

Sch. C., 1929, p. 218.

SEC. 2. Section 5.1 of the School Code is hereby amended to read as follows:

State colleges.

5.1. The State normal schools or teachers colleges now established or hereafter established by the Legislature shall be known as "State colleges." Where in this code the terms "State normal school" or "teachers college" are used, they shall hereafter be understood to mean "State college."

Sch. C., 1929, p. 218.

SEC. 3. Section 5.2 of the School Code is hereby amended to read as follows:

Enumeration of State colleges.

5.2. The State normal schools located at San Jose, Chico, San Diego, San Francisco, Santa Barbara, Fresno, and Arcata, and any normal or teacher-training school established by the Legislature of the State of California after the first day of January, one thousand nine hundred and twenty-one, shall hereafter be known as "State colleges" and shall be designated respectively San Jose State College, Chico State College, San Diego State College, San Francisco State College, Santa Barbara State College, Fresno State College and Humboldt State College.

Sch C., 1929, p. 218

SEC. 4. Section 5.10 of the School Code is hereby amended to read as follows:

Functions of State colleges

5.10. The primary function of the State colleges is the training of teachers, and there shall be no extension of the curriculum of any State college which will carry it into any other field of higher education; provided, that as a secondary function courses in liberal arts may be given, but such courses shall be only such as are appropriate as courses of instruction for students intending to enter the teaching profession.

Sch C., 1929, p. 220.

SEC. 5. Section 5.61 of the School Code is hereby amended to read as follows:

Admission

5.61. Students shall be admitted to the State colleges in accordance with the rules and regulations of the State Board of Education as provided in this article; provided, that no applicant or student shall be required as a condition to admission or attendance to make a declaration that it is his intention to become a teacher or any declaration to like effect.

Sch. C., 1929, p. 222.

SEC. 6. Section 5.101 of the School Code is hereby amended to read as follows:

5.101. The determination of the time and standards for graduation from the State colleges; provided, that no student who is not a candidate for a teaching credential shall be required as a condition to graduation or otherwise to enroll in more than six units of pedagogy. Standards for graduation.

CHAPTER 262.

An act to add section 444.5 to the Political Code, relating to the repayment of moneys withdrawn from funds in the State treasury and providing that this act shall take effect immediately.

[Approved by the Governor June 5, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. A new section to be numbered 444.5 is hereby added to the Political Code to read as follows: New section

444.5. If and when any State revenue mentioned in section 15 of Article XIII of the Constitution, other than revenue payable into the general fund of the State, is or has been set apart to be applied by the State to the support of the public school system and the State university, the amount set apart shall be repaid into the fund or funds into which such revenue would otherwise have been paid or from which such revenue was set apart. There is hereby specifically appropriated out of the State general fund such amounts as may be necessary to make such repayments. Except as otherwise provided in this section, such repayments shall be made from the first moneys accruing to the general fund over and above those then necessary to provide for payments for the support of the public school system and the State university, and over and above those moneys, if any, which under the Constitution of California must first be applied to the payment of obligations of the State existing at the time such revenues were set apart. In the event money has been set apart from more than one such revenue, and moneys available are insufficient for repayment in full, repayments shall be made in the proportions in which such revenues so set apart are then unpaid. Reimbursement of special funds from general fund. Priority.

In the event that any claim against any appropriation made from any special fund for the support of any State department, office, board, commission, or other State agency, can not be paid out of such special fund by reason of the depletion of such special fund as a result of any such setting apart of revenues therefrom, or of revenues which would otherwise have been paid thereinto, such claim or claims shall be paid from the appropriation hereby made out of the general fund to the extent only of the sum or sums so set apart. It is the intention of the Legislature to provide to the fullest extent of its power for priority of such repayments and to prevent the Payment of special fund claims. Intent

interruption of the performance of any State function by providing an alternative method of repayment by use of general fund registered warrants, when and if necessary.

Urgency.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The facts constituting such urgency are as follows: The general fund of the State treasury is depleted and certain revenues of the State, other than those going into the general fund, may be set apart for the support of the public school system and the State university under the provisions of section 15 of Article XIII of the Constitution. It is imperative that if such funds are set apart that they be repaid at the earliest possible moment for the reason that the ordinary functions of the State could not otherwise be carried out. This bill will permit such a return of funds and will enable the State government to continue to function.

CHAPTER 263.

An act to amend section 27 of the Streets and Highways Code, relating to the maintenance of highways.

[Approved by the Governor June 6, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 264.

Stats. 1883, p. 93, amended.

An act to amend an act entitled "An act to provide for the organization, incorporation and government of municipal corporations," approved March 13, 1883, by adding a new section thereto numbered section 2a, providing for securing the written consent of political subdivisions owning sixty per cent or more in area or value of the lands to be incorporated.

[Approved by the Governor June 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. That an act entitled "An act to provide for the organization, incorporation and government of municipal corporations," approved March 13, 1883, be and the same is hereby amended by adding thereto a new section to be numbered 2a, and to read as follows:

Sec. 2a. Whenever a petition for the incorporation of unincorporated areas is filed with the board of supervisors of any county, and the holder of title, or evidence of title, to sixty (60%) per cent or more of the lands situated within the limits of the proposed corporation, or the holder of title, or evidence of title, of lands within the limits of the proposed corporation representing sixty (60%) per cent or more of the value of the lands included within said limits, as the value thereof is shown on the last equalized assessment roll of such county, is any county, city and county, or municipality of this State, the written consent of such county, city and county, or municipality, given by the board of supervisors in the case of such county, or city and county, and the principal legislative body of any municipality, to the inclusion of its lands within the limits of the proposed corporation shall be filed with said board of supervisors prior to the publication of such petition as provided for herein.

Consent to inclusion of lands owned by county or municipality.

CHAPTER 265.

An act to amend section 423 of the Agricultural Code, relating to live stock on highways.

Stats. 1933, p. 60.

[Approved by the Governor June 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 423 of the Agricultural Code is hereby amended to read as follows:

Stats. 1933, p. 129.

423. No person owning, or controlling the possession of, any live stock, shall wilfully or negligently permit any such live stock to stray upon or remain unaccompanied by a person in charge or control thereof upon a public highway, both sides of which are adjoined by property which is separated from such highway by a fence, wall, hedge, sidewalk, curb, lawn or building. No person shall drive any such live stock upon, over or across any public highway between the hours of sunset and sunrise without keeping a sufficient number of herders on continual duty to open the road so as to permit the passage of vehicles. In any civil action brought by the owner, driver or occupant of a motor vehicle, or by their personal representatives or assignees, or by the owner of live stock, for damages caused by collision between any motor vehicle and any domestic animal or animals on a highway, there is no presumption or inference that such collision was due to negligence on behalf of the owner or the person in possession of such live stock.

Live stock upon the highways.

CHAPTER 266.

An act to amend section 4041.11 of the Political Code, relating to powers and duties of boards of supervisors.

[Approved by the Governor June 6, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1171.

SECTION 1. Section 4041.11 of the Political Code is hereby amended to read as follows:

Powers and duties of boards of supervisors: Pounds.

4041.11. (1) Under such limitations and restrictions as are prescribed by law, and in addition to jurisdiction and powers otherwise conferred, the boards of supervisors, in their respective counties, shall have the jurisdiction and powers to maintain, regulate and govern public pounds, fix the limits within which animals shall not run at large, and appoint pound-keepers, who shall be paid out of the fines imposed and collected from the owners of impounded animals, and from no other source.

Protection of sheep.

(2) To provide for the prevention of injuries to sheep by dogs, and to tax dogs and direct the application of the tax.

Destruction of pests.

(3) To provide for the destruction of gophers, squirrels, other wild animals, noxious weeds, plant diseases, and insects injurious to fruit or fruit trees, or vines, or vegetable or plant life.

Fruit, nut and vegetable standards

(4) To provide for the enforcement of the provisions of the Agricultural Code relating to fruit, nut, and vegetable standards, and for this purpose may enter into cooperative agreements with the Director of Agriculture whereby county funds may be expended for the enforcement of said provisions within or outside of the county.

CHAPTER 267.

An act to amend sections 4.280b and 4.281b of the School Code, relating to revolving funds of school districts for warehouse stock.

[Approved by the Governor June 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1312.

SECTION 1. Section 4.280b of the School Code is hereby amended to read as follows:

Revolving fund for warehouse stock.

4.280b. The governing board of any elementary school district, high school district or junior college district may, if such school district maintains a stock of merchandise for school use, establish a revolving fund for budget control and stock accounting purposes, by adopting a resolution setting forth the necessity for such revolving fund, the purpose for which

the fund shall be used and the amount thereof. Three certified copies of such resolutions shall be submitted to the county superintendent of schools, who, if he approves the establishment of such a fund, shall indorse his consent upon such resolution, return one copy thereof to the governing board of the school district and transmit one copy to the county auditor.

Whenever two or more school districts have governing boards of identical personnel, said boards may, if such school districts maintain a stock of merchandise for school use, establish a common revolving fund for budget control and stock accounting purposes, by adopting a resolution of each district setting forth the necessity for such revolving fund, the purpose for which the fund shall be used and the amount thereof. Three certified copies of such resolutions shall be submitted to the county superintendent of schools, who, if he approves the establishment of such fund, shall indorse his consent upon such resolution, return one copy thereof to the governing board of the school districts and transmit one copy to the county auditor.

SEC. 2. Section 4281b of the School Code is hereby amended to read as follows: Stats 1933, p. 1312.

4.281b. The amount of the revolving fund shall be determined as follows: The inventory of stores on hand of each school district at the time of the establishment of the fund, such stores having been paid for from school district funds and reported to the county superintendent as such, shall be the amount to constitute the revolving fund of each district. Where a common revolving fund has been established for two or more school districts governed by governing boards of identical personnel, the amount thereof shall be determined as follows: The inventory of stores on hand of each school district at the time of the establishment of the fund, such stores having been paid for from school district funds and reported to the county superintendent of schools as such shall be the amount to constitute the revolving fund and each district shall retain such equity in the common fund. The fund is established through the sale of stores to the school districts, paid by warrant in the same manner as is provided by law for such payments, such warrants to be made payable to the "revolving fund of _____." (Here insert name or names of the school district or school districts establishing the fund.) Amount.

CHAPTER 268.

Stats. 1933, p. 394.

An act to amend sections 699, 702, 703, 708, 709, 711 and 712 of the Fish and Game Code, relating to fish in district 4¾.

[Approved by the Governor June 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 459.

SECTION 1. Section 699 of the Fish and Game Code is hereby amended to read as follows:

Black bass

699. The bag limit on black bass is 15 per day except in districts 4¾ and Clear Lake where it is 10 per day.

Stats 1933, p. 459.

SEC. 2. Section 702 of the Fish and Game Code is hereby amended to read as follows:

Calico bass.

702. Calico bass may be taken only by anglers with hook and line between May 1 and November 30, except in Clear Lake and also district 4¾ where calico bass may be so taken at any time.

Stats 1933, p. 459.

SEC. 3. Section 703 of the Fish and Game Code is hereby amended to read as follows:

Bag limit on calico bass.

703. The bag limit on calico bass is 25 per day except in Clear Lake, where it is 10 per day and in district 4¾ where it is 15 per day.

Stats. 1933, p. 459.

SEC. 4. Section 708 of the Fish and Game Code is hereby amended to read as follows:

Crappie.

708. Crappie may be taken by anglers with hook and line between May 1 and November 30, except in Clear Lake and in district 4¾ where crappie may be so taken at any time.

Stats 1933, p 459.

SEC. 5. Section 709 of the Fish and Game Code is hereby amended to read as follows:

Bag limit on crappie.

709. The bag limit on crappie is 25 per day except in Clear Lake where it is 10 per day and in district 4¾ where it is 15 per day.

Stats 1933, p 460.

SEC. 6. Section 711 of the Fish and Game Code is hereby amended to read as follows:

Sunfish.

711. Sunfish may be taken by anglers with hook and line between May 29 and November 30 except in district 4¾ where sunfish may be so taken at any time.

Stats 1933, p 460.

SEC. 7. Section 712 of the Fish and Game Code is hereby amended to read as follows:

Bag limit on sunfish

712. The bag limit on sunfish is 25 per day, except in district 4¾ where it is 15 per day. No sunfish may be sold or purchased and not more than one daily bag limit of sunfish may be possessed by any person during one day.

CHAPTER 269.

An act to amend section 4223 of the Political Code, relating to admission to county hospitals.

[Approved by the Governor June 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4223 of the Political Code is hereby amended to read as follows: Stats 1907, p. 413.

4223. The board of supervisors in each county may establish and maintain a county hospital, prescribe the rules for the government and management thereof, and appoint a county physician and the necessary officers and employees thereof, who shall hold office during the pleasure of the board. County hospitals

In any county where a county hospital has been established, any expectant mother who is unable to pay for her necessary care, must be admitted to such county hospital and the cost of her maintenance and care shall be paid by and be a proper charge against the county of her residence. Expectant mothers.

CHAPTER 270.

An act to add a new section to be numbered 18.5 to the "Improvement Act of 1911," approved April 7, 1911, relating to contributions of moneys or materials, declaring the urgency thereof and providing that this act shall take effect immediately. Stats 1911, p. 730, amended

[Approved by the Governor June 6, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. A new section to be numbered 18.5 is hereby added to the act cited in the title hereof to read as follows: New section

Sec. 18.5. Should any fiscal agent of the United States government contribute any moneys or materials to be used in the construction of any work provided for in this act, the requirements of the agency contributing such moneys or materials may be incorporated in the contract. Federal contributions.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall go into effect immediately. Urgency.

The following is a statement of facts constituting such necessity: the public peace, health and safety require the construction of streets, avenues, lanes, alleys, courts, places, sidewalks, rights of way and other public improvements, and such public funds are not available to defray the entire cost and

expense of such improvements. Legislation is necessary to authorize the contribution of moneys, materials, supplies or equipment, or any of them, by governmental agencies. Federal funds are now available for such purpose. Therefore, this bill providing for contributions of moneys or materials to pay a portion of such cost and expense is urgently necessary and shall go into effect immediately.

CHAPTER 271.

An act to amend sections 73 and 142 of the Code of Civil Procedure, relating to sessions of the superior court.

[Approved by the Governor June 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 1809.

SECTION 1. Section 73 of the Code of Civil Procedure is hereby amended to read as follows:

Sessions of the superior court.

73. The superior courts shall hold their sessions at the county seats of the several counties, or cities and counties, except as otherwise provided by section 142 of this code. They shall hold regular sessions, commencing on the first Mondays of January, April, July and October, and special sessions at such other times as may be prescribed by the judge or judges thereof; provided, that in the City and County of San Francisco the presiding judge shall prescribe the times of holding such special sessions; provided also, that a session of the superior court shall be held at each city containing a population of not less than thirty-five thousand as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, wherein the city hall of said city is not less than eight miles distant from the site of the county courthouse; provided further, that in such of said cities as have a population of more than one hundred twenty-five thousand, as ascertained by such census, at least three regular sessions of the superior court shall be held concurrently; and a majority of the judges of the superior court of said county, may, by an order filed with the county clerk, and published as they may prescribe, provide for, and direct the holding of, additional sessions in each of said cities, when they deem such additional sessions necessary or convenient.

A session of the superior court may be held for a period not exceeding two weeks in any one month, at each city or town containing a population of not less than seven thousand, as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, wherein the city hall of said city or town is not less than fifty-five miles distant from the site of the county courthouse.

SEC. 2. Section 142 of the Code of Civil Procedure is hereby amended to read as follows: Stats. 1933, p. 1825.

142. The judge or judges, justice or justices, authorized to hold or preside at a court appointed to be held in a particular place in a city and county, county, township, city or town, may, by an order filed with the city and county, or county clerk, and published as he or they may prescribe, direct that the court be held or continued at any other place in the city and county, county, township, city or town than that appointed, when war, insurrection, pestilence, or other public calamity, or the danger thereof, or the destruction or danger of the building appointed for holding the court may render it necessary; and may in the same manner revoke the order, and in his or their discretion, appoint another place in the same city and county, county, township, city, or town, in which such court is established, for holding the court. The judge or judges of the superior court may, in the same manner, in his or their discretion, whenever such judge or judges deem it necessary or advisable, direct that the court be held or continued at any other place in the county, not less than one hundred twenty miles distant from the county seat; and may also, in the same manner in his or their discretion, whenever such judge or judges deem it necessary or advisable, direct that the court be held or continued at any other city or town within the county containing a population of not less than seven thousand as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California wherein the city hall of said city or town is not less than fifty-five miles distant from the site of the county courthouse; provided further, that at least one session of the superior court shall be held in each city containing a population of not less than thirty-five thousand as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, wherein the city hall of said city is not less than eight miles distant from the site of the county courthouse; and provided further, that in any of said cities, the city hall of which is not less than eight miles distant from the site of the county courthouse, which has a population of more than one hundred twenty-five thousand, as ascertained by such census, at least three regular sessions of the superior court shall be held concurrently. Places for holding sessions of the superior court.

CHAPTER 272.

An act to amend section 1 of an act entitled "An act providing for the supervision and regulation of the transportation of property for compensation over any public highway by auto trucks; defining transportation companies and providing for the supervision and regulation thereof by Stats. 1917, p. 330, amended.

the Railroad Commission; providing for the enforcement of the provisions of this act and for punishment of violations thereof; and repealing all acts inconsistent with the provisions of this act," approved May 10, 1917, relating to the determination of the operation of auto trucks by transportation companies.

[Approved by the Governor June 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1919, p. 1895

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Definitions

Section 1. (a) The term "corporation" when used in this act means a corporation, a company, an association or a joint stock association.

(b) The term "person" when used in this act, means an individual, a firm or copartnership.

(c) The term "transportation company" when used in this act, means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing, any auto truck used in the business of transportation of property, or as a common carrier of property, for compensation, over any public highway in this State between fixed termini or over a regular route, and not operating exclusively within the limits of an incorporated city or town or of a city and county; provided, that nothing in this act shall apply to the transportation of baggage and express when transported incidental to the transportation of passengers by a passenger stage corporation as defined in section 2¼ of the Public Utilities Act.

(d) The term "public highway," when used in this act, means every public street, road or highway in this State.

(e) The words "between fixed termini or over a regular route," when used in this act, mean the termini or route between or over which any transportation company usually or ordinarily operates any auto truck even though there may be departures from said termini or route, whether such departures be periodic or irregular. Whether or not any auto truck is operated by a transportation company "between fixed termini or over a regular route" within the meaning of this act shall be a question of fact and the findings of the Railroad Commission thereon shall be subject to review.

CHAPTER 273.

An act providing for contracts for fire protection between county fire protection districts and municipalities and relating to liability in connection therewith.

[Approved by the Governor June 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. In addition to all powers otherwise conferred, the governing board or board of directors of any county fire protection district shall have the power to contract with any municipality or municipalities contiguous to such county fire protection district, for the furnishing of fire protection to such district by such municipality or municipalities and the legislative body of any municipality in this State shall have jurisdiction and power to contract for the furnishing of such fire protection to such district or districts in such manner and to such extent as such legislative body may deem advisable. Contracts for fire protection.

SEC. 2. All of the privileges and immunities from liability which surround the activities of any municipal fire fighting force or department when performing its functions within the territorial limits of such municipality shall apply to the activities of any such municipal fire fighting force or department while furnishing fire protection outside of such municipality under any contract provided for in section 1 of this act. Immunity from liability.

CHAPTER 274.

An act to amend sections 251, 304, 307, 323, 348, 364, 374, 463 and 465 of the Streets and Highways Code, relating to State highways.

[Approved by the Governor June 6, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 275.

An act to amend the title and sections 4, 4a, 5, 8, 10, 11, 12, 13, 15, 16, 18, 19, 20, 21, 23, 24, 25, 26, 27, 29, 30, 31 and 35 of the Bank and Corporation Franchise Tax Act, relating to bank and corporation taxes, including the extension of the provisions of said act to the companies taxable hereunder and their franchises, other than insurance com- Stats 1929, p. 19, amended.

panies and their franchises, specified in section 14 of Article XIII of the Constitution of this State.

[Approved by the Governor June 6, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Stats. 1929, p. 19.

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows:

Title amended See Stats 1935, Ch 353

An act to carry into effect the provisions of sections 14 and 16 of Article XIII of the Constitution of the State of California, relating to bank and corporation taxes.

Stats. 1933, p. 870.

SEC. 2. Section 4 of said act is hereby amended to read as follows:

See Stats 1935, Ch 352

Financial corporation to pay tax

Sec. 4. (1) Every financial corporation doing business within the limits of this State, taxable under the provisions of section 16 of Article XIII of the Constitution of this State, shall annually pay to the State for the privilege of exercising its corporate franchises within this State, a tax according to or measured by its net income, to be computed, in the manner hereinafter provided, upon the basis of its net income for the next preceding fiscal or calendar year at the rate provided for in section 4a hereof.

Offsets.

(2) Each such financial corporation shall be entitled to an offset against said franchise tax, in the manner hereinafter provided, in the amount of taxes paid upon its personal property to any county, city and county, city, town or other political subdivision of the State; provided, however, that the tax on such financial corporation after the allowance of offset shall not be less than two per centum of its net income for the preceding fiscal or calendar year or less than twenty-five dollars.

Corporations, other than financial, doing business in State to pay tax

(3) With the exception of financial corporations, every corporation doing business within the limits of this State and not expressly exempted from taxation by the provisions of the Constitution of this State or by this act, shall annually pay to the State, for the privilege of exercising its corporate franchises within this State, a tax according to or measured by its net income, to be computed, in the manner herein after provided, at the rate of two per centum upon the basis of its net income for the next preceding fiscal or calendar year. In any event, each such corporation shall pay annually to the State, for the said privilege, a minimum tax of twenty-five dollars.

Minimum tax.

Holding corporations

(4) Any corporation organized to hold the stock or bonds of any other corporation or corporations and not trading in such stock or bonds or other securities held, and engaging in no other activities than the receipt and disbursement of dividends from such stock or interest from such bonds, shall not be considered a corporation doing business in this State for the purposes of this act.

Other corporations to pay tax.

(5) Every corporation not otherwise taxed in pursuance of this section and not expressly exempted by the provisions of

this act or the Constitution of this State shall pay annually to the State a tax of twenty-five dollars.

(6) In any event any corporation organized for religious, charitable, social, cemetery, scientific, educational, recreational, literary, fraternal or civic purposes if its organization or activities are not designed for, and do not result in financial or pecuniary gain or profit to the stockholders or members thereof, shall not be taxed under this act. Certain corporations not taxed

(7) Taxes under this section and under sections 1 and 2 of this act shall accrue on the first day of the "taxable year," as defined in section 11 hereof. When taxes due.

(8) The provisions of this subdivision, and of all other amendments to this act enacted during the year 1935, shall apply to taxable years beginning after December 31, 1934. Provided, however, that the tax for taxable years beginning prior to January 1, 1935, and ending during the calendar year 1935, shall be adjusted in accordance with the provisions of subdivision (d) of section 12 of this act. Any tax, for a taxable year specified in this subdivision, in addition to that disclosed by the return, made necessary solely by amendments to this act, shall accrue on January 1, 1935, and shall be due and payable within ten days from the date of notice and demand from the commissioner, or on or before the fifteenth day of the ninth month following the close of the income year, as defined in section 11 of this act, whichever is later. If not so paid, interest shall be added thereto pursuant to the provisions of subdivision (c) of section 24 of this act. Such tax shall not be considered a deficiency assessment within the meaning of section 25 of this act. When 1935 amendments apply.

Whenever any tax is paid under this act, and by reason of amendments to this act, such payment exceeds the amount properly payable, such excess shall be refunded or credited to the bank or corporation, as provided in section 27 of this act. Refunds.

SEC. 3. Section 4a of said act is hereby amended to read as follows: Stats 1933, p 871

Sec. 4a. The rate of tax on national banking associations and other banks and financial corporations mentioned in sections 1, 2 and 4 of this act shall be a percentage equal to the percentage of the total amount of net income, allocable to this State, of every corporation taxable under subdivision (3) of section 4 of this act, for the next preceding calendar year or fiscal years ended during such calendar year, required to be paid to this State as franchise taxes according to or measured by such net income, and required to be paid to this State or its political subdivisions as personal property taxes during the preceding calendar year or fiscal years ended in such calendar year; provided, however, that said rate of tax shall not exceed six per centum. The percentage of the net income of every corporation taxable under subdivision (3) of section 4 of this act, required to be paid to this State or its political subdivisions in personal property taxes shall be determined by ascertaining the ratio which the total amount of such personal property See Stats. 1935, Ch 353 Rate of tax Personal property taxes

taxes, less two per cent thereof, bears to the total amount of net income of such corporations, allocable to California, increased by the amount of such personal property taxes; provided, however, that if any such corporation sustains a net loss allocable to California the personal property taxes required to be paid by such corporation to this State or its political subdivisions during the preceding calendar year or fiscal years ended during such calendar year shall be considered for the purpose of determining such ratio only to the extent which such personal property taxes exceed such net loss allocable to California.

Net loss

Determination and notice of tax.

The commissioner, after public hearing and opportunity given to examine the data on which his determination is based, shall determine not later than the thirty-first day of December of each year the average percentage of net income above specified, and shall forthwith mail notice of his determination and the amount of tax payable on the basis of such determination to all banks and financial corporations affected thereby, but such determination shall not be considered a deficiency assessment within the meaning of section 25 hereof.

Higher tax rate than authorized

If it be judicially determined that the rate of tax on any bank or corporation is higher than is authorized by law such bank or corporation shall be relieved of liability for any tax imposed by this act only to the extent of the excess beyond that legally authorized.

Stats 1933, p. 694.

SEC. 4. Section 5 of said act is hereby amended to read as follows:

See Stats 1935, Ch 353

Definitions: "Corporation"

Sec. 5. The term "corporation," as herein used, shall include every corporation, other than a bank or banking association, and other than those expressly exempted from the tax by the provisions of this act or the Constitution of the State of California.

"Bank."

The term "bank," as hereinafter used, shall include national banking associations.

"Doing business."

The term "doing business," as herein used, means actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

Stats 1933, p 687. See also Stats 1935, Ch 281.

SEC. 5. Section 8 of said act is hereby amended to read as follows:

Sec. 8. In computing "net income" the following deductions shall be allowed:

Deductions allowed Expenses

(a) All the ordinary and necessary expenses paid or incurred during the income year in carrying on business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and rentals or other payments required to be made as a condition to the continued use or possession for business purposes of property to which the taxpayer has not taken or is not taking title or in which it has no equity.

Interest.

(b) All interest paid or accrued during the income year on indebtedness of the taxpayer.

(c) Taxes or licenses paid or accrued during the income year, other than taxes paid to the State under this act and other than taxes on or according to or measured by income or profits paid or accrued within the income year imposed by the authority of (1) the government of the United States or any foreign country, (2) any State, Territory, county, city and county, school district, municipality, or other taxing subdivision of any State or Territory, and other than taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this shall not exclude the allowance as a deduction of so much of said taxes assessed against local benefits as is properly allocable to maintenance or interest charges; provided, however, that the deduction of personal property taxes shall be subject to the provisions of section 26 hereof. Taxes on licenses

(d) Losses sustained during the income year and not compensated for by insurance or otherwise, except that such losses may, with the consent of the Franchise Tax Commissioner, hereinafter designated "commissioner," be accounted for as of a different period. In the case of any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities where it appears that within thirty days before or after the date of such sale or other disposition, the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substantially identical property and the property so acquired is held by the taxpayer for any period after such sale or other disposition, no deduction for the loss shall be allowed unless the claim is made by a taxpayer, a dealer in stocks or securities, and with respect to a transaction made in the ordinary course of its business. If such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of the loss shall be disallowed. Upon the subsequent sale or disposition of shares of stock or securities, in respect of which a loss has been disallowed, the basis for measuring gain or loss in the case of the property so acquired shall be the basis in the case of the stock or securities so sold or disposed of, except that if the repurchase price was in excess of the sale price such basis shall be increased in the amount of the difference, or if the repurchase price was less than the sale price such basis shall be decreased in the amount of the difference. Uncompensated losses.

(e) Debts ascertained to be worthless and charged off within the income year, or, in the discretion of the commissioner, a reasonable addition to a reserve for bad debts. When satisfied that a debt is recoverable in part only, the commissioner may allow such debt to be charged off in part. Bad debts

(f) Exhaustion, wear and tear and obsolescence of property to be allowed upon the basis provided in sections 113 and 114 of that certain act of the Congress of the United States known as the "Revenue Act of 1934," which are for the purposes of Depreciation

this subdivision hereby referred to and incorporated with the same force and effect as though fully set forth herein.

Depletion

(g) In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements according to the peculiar conditions in each instance, such reasonable allowance in all cases to be made under the rules and regulations to be prescribed by the commissioner.

Computation of depletion

In the case of leases the deduction shall be equitably apportioned between the lessor and the lessee.

The basis upon which depletion is to be allowed in respect of any property and the amount of depletion allowable shall be as provided in sections 113 and 114 of the said Revenue Act of 1934, which are, for the purposes of this subdivision, hereby referred to and incorporated with the same force and effect as though fully set forth herein.

Dividends from income of intrastate business

(h) Dividends received during the income year from a bank or corporation doing business in this State declared from income arising out of business done in this State; but if the income out of which the dividends are declared is derived from business done within and without this State, then so much of the dividends shall be allowed as a deduction as the amount of the income from business done within this State bears to the total business done. The provisions of this subdivision shall not apply to dividends received from banks or corporations not taxable under Article XIII of the Constitution of this State.

The burden shall be on the taxpayer to show that the amount of dividends claimed as a deduction has been received from income arising out of business done in this State.

Return paid by mutual building and loan associations

(i) In the case of a building and loan association, organized and operating wholly or partly on a mutual plan, the return paid or credited on or apportioned to the withdrawable shares of such associations, but not exceeding the return such shares would receive computed at the average rate paid by all such associations in this State, or by such associations in a particular locality, as the Building and Loan Commissioner of this State may determine, on money borrowed or obtained through the issue during the income year of the association of all classes of notes and investment certificates not evidencing any proprietary interest in the association, such rate to be determined by the Building and Loan Commissioner and certified by him to the Franchise Tax Commissioner on or before the first day of March of each year.

Interest paid by mutual savings banks.

(j) In the case of a mutual savings bank, the entire amount of interest paid to depositors possessing no proprietary interest in the institution or in its surplus, and interest on their deposits to members possessing a proprietary interest in the institution or in its surplus at a rate determined by the State Superintendent of Banks to be the going rate of interest upon savings deposits in the State during the calendar year preceding the taxable year, such rate to be certified by him to

the commissioner on or before the first day of March of each year.

Income of farmers' cooperatives

(k) In the case of farmers, fruit growers, or like associations organized and operated in whole or in part on a cooperative or a mutual basis, (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, which may include reasonable reserves, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing, or producing, supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses, all income resulting from or arising out of such business activities for or with their members carried on by them or by their agents; or when done on a nonprofit basis for or with nonmembers.

Income of other cooperatives

(l) In the case of other associations organized and operated in whole or in part on a cooperative or a mutual basis, all income resulting from or arising out of business activities for or with their members, or with nonmembers, done on a nonprofit basis.

Effect of deduction adjudged discriminatory

(m) If any deduction provided for in this section is finally adjudged discriminatory against a national banking association contrary to section 5219 of the Revised Statutes of the United States, or is for any reason finally adjudged invalid, in that event the tax of the favored taxpayer shall be recomputed by the Tax Commissioner for the taxable year in question, as of the time of allowance of the deduction, by disallowing the deduction, and any difference between the amount of the tax as recomputed and the amount of the tax as originally computed shall be subject to the provisions hereof relating to original computations.

Stats 1931, p 2226

SEC. 6. Section 10 of said act is hereby amended to read as follows:

Computation of tax on intrastate business.

Sec. 10. If the entire business of the bank or corporation is done within this State, the tax shall be according to or measured by its entire net income; and if the entire business of such bank or corporation is not done within this State, the tax shall be according to or measured by that portion thereof which is derived from business done within this State. The portion of net income derived from business done within this State, shall be determined by an allocation upon the basis of sales, purchases, expenses of manufacturer, pay roll, value and situs of tangible property, or by reference to these or other factors, or by such other method of allocation as is fairly calculated to assign to the State the portion of net income reasonably attributable to the business done within this State and to avoid subjecting the taxpayer to double taxation

If the commissioner reallocates net income upon his examination of any return, he shall, upon the written request of the taxpayer, disclose to him the basis upon which his reallocation has been made.

Stats 1929, p 25.

SEC. 7. Section 11 of said act is hereby amended to read as follows:

Definition "Income year"

Sec. 11. (a) The term "income year," as herein used, means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed herein. "Income year" includes, in the case of a return made for a fractional part of a year, the period for which such return is made.

"Taxable year."

(b) The term "taxable year," as herein used, means the calendar year, or the fiscal year ending during such calendar year, for which the tax is payable. A "taxable year" may constitute a period of twelve months or of less duration.

"Fiscal year"

(c) The term "fiscal year," as herein used, means an accounting period of twelve months or less ending on the last day of any month other than December.

"Paid or incurred" "Paid or accrued"

(d) The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed hereunder.

Stats 1933, p 695

SEC. 8. Section 12 of said act is hereby amended to read as follows:

Computation of net income

Sec. 12. The net income shall be computed upon the basis of the taxpayer's annual accounting period, fiscal year or calendar year as the case may be, in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of said commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year, or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year.

Same When accounting period changed

If the taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income, shall with the approval of the commissioner, be computed on the basis of such new accounting period subject to the following provisions:

(a) If a taxpayer, with the approval of the commissioner, changes the basis of computing net income from fiscal year to calendar year, a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the beginning of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the beginning of the new fiscal year.

(b) Where a separate return is made under paragraph (a) on account of a change in the accounting period then the income shall be computed on the basis of the period for which separate return is made. The due date of the separate return for such period is the fifteenth day of the third month following the close of that period.

(c) If a separate return is made under paragraph (a) on account of a change in the accounting period, the net income, computed on the basis of the period for which separate return is made, shall be placed on an annual basis by multiplying the amount thereof by twelve and dividing by the number of months included in the period for which separate return is made. The commissioner shall compute the amount of a tax on the income placed on such annual basis, and shall allow the offset provided for in section 26 from such tax. The tax due under this section (which shall not be subject to offset) shall be such part of the tax (less the offset allowed) computed on such annual basis as the number of months in such period is of twelve months.

(d) The tax on any bank or corporation for a period beginning in one calendar year (hereinafter in this section called "first calendar year") and ending in the following calendar year (hereinafter in this section called "second calendar year") where the law applicable to the computation of taxes for calendar year banks or corporations for the second calendar year is different from the law applicable to computation of taxes for calendar year banks or corporations for the first calendar year, shall be the sum of: (1) the same proportion of a tax for the entire period, determined under the law applicable to the first calendar year and at the rates for such year, which the portion of such period falling within the first year is of the entire period; and (2) the same proportion of a tax for the entire period, determined under the law applicable to the second calendar year and at the rates for such year, which the portion of such period falling within the second calendar year is of the entire period.

SEC. 9. Section 13 of said act is hereby amended to read as follows: Stats 1933, p 872

Sec. 13. (a) Every bank and corporation shall, within two months and fifteen days after the close of its income year, transmit to the commissioner a return in a form prescribed by him, specifying, for the income year, all such facts as he may by rule, or otherwise, require in order to carry out the provisions of this act. Returns

(aa) On or before March 15, 1935, all companies taxable hereunder mentioned in section 14 of Article XIII of the Constitution of this State, other than insurance companies, with a fiscal year ended during the calendar year 1934 shall file a return covering such fiscal year, and its tax for the months of the year 1935, corresponding to the months of the year 1934 which fall within the fiscal year ended during the year 1934, shall be according to or measured by such proportionate part

of the net income of that fiscal year as the number of months falling within the calendar year 1934 bears to the total number of months in the fiscal year ended during that calendar year.

Installments

One-half the amount of tax disclosed by the return, shall be due and payable as a first installment of the tax on such companies, on or before the due date for filing the return, as provided herein, or the due date as extended by the commissioner. The balance of the tax shall be due and payable as a second installment on or before September 15, 1935. All the provisions of this act relating to delinquent taxes shall be applicable to any tax computed and levied hereunder, pursuant to this subdivision, on such companies.

Prepayment of tax.

(b) A bank which locates or commences to do business within the limits of this State, and a corporation which commences to do business in this State, after the effective date of this act, shall thereupon prepay the minimum tax hereunder, which prepayment must be made before the bank or corporation files with the Secretary of State its articles of incorporation or duly certified copy thereof as the case may be. Upon the filing of its return within two months and fifteen days after the close of its first taxable year its tax for that year shall be adjusted upon the basis of the net income received during that taxable year, at the rate applicable to that year, a credit being allowed for the prepayment of the minimum tax. Said return shall also, in accordance with sections 23 to 26 inclusive, be the basis for the tax of said bank or corporation for its second taxable year, if its first taxable year is a period of twelve months. In every case in which the first taxable year of a bank or corporation constitutes a period of less than twelve months, said bank or corporation shall pay as a prepayment of the tax for its second taxable year an amount equal to the tax (after the offset allowance has been computed) for its first taxable year, the same to be due and payable at the same times and in the same manner as if that amount were the entire amount of its tax (after the offset allowance has been computed) for that year; and upon the filing of its tax return within two months and fifteen days after the close of its second taxable year it shall pay a tax for said year, at the rate applicable to that year, based upon its net income received during that year, allowing a credit for the prepayment; but in no event shall the tax for the second taxable year be less than the amount of the prepayment for that year, and said return for its second taxable year shall also, in accordance with sections 23 to 26 inclusive, be the basis for the tax of said bank or corporation for its third taxable year.

Tax for first and second taxable years

(c) The provisions of subdivision (b) of this section relative to the method of computation of taxes for the first and second taxable years shall be applied to each succeeding taxable year constituting a period less than twelve months, prior to the close of a taxable year of twelve months duration.

(d) When any bank or corporation commences to do business in this State for the first time in any taxable year other than the year of incorporation or qualification, its tax for that taxable year and for the succeeding taxable year shall be computed in accordance with the provisions of subdivision (b) of this section relative to first and second taxable years, a credit being allowed for any tax payable under subdivision (5) of section 4 hereof, for the year in which it commences to do business.

Tax when business commenced in year other than of incorporation or qualification

(e) The adjusted tax, as provided in subdivisions (b), (c) and (d) of this section, for any taxable year in excess of the prepayment for that year, shall be due and payable in one amount on or before the fifteenth day of the third month following the close of that taxable year, or on or before the expiration of the period of extension where an extension has been granted by the commissioner under the provisions of section 15 of this act, and, if not so paid, interest shall be added thereto in the manner and at the rate or rates provided in section 24 of this act.

Adjusted tax payable

(f) In the case of a bank or corporation taxable in the manner provided in subdivisions (b), (c) and (d) of this section, reporting income from any source on a deferred basis, the commissioner is authorized to distribute or apportion such income, or deductions applicable thereto, if he determines that such distribution or apportionment is necessary in order to prevent avoidance of taxes or clearly to reflect the income of such a bank or corporation.

Deferred income.

(g) Subdivisions (b), (c), (d), and (e) of this section shall not apply to a bank or corporation which commences to do business in this State, pursuant to a reorganization or consolidation as provided in subdivisions (h), and (i) of this section.

Reorganized banks and corporations.

(h) Where a bank or corporation commences to do business in this State pursuant to a reorganization of a bank or corporation, it shall pay no tax for its first taxable year, but its tax for its second taxable year shall be computed upon the basis of its net income for its first taxable year and the net income of the bank or corporation so reorganized for the months of the taxable year prior to the reorganization. Every such bank or corporation in its return filed for its first taxable year shall specify all such facts with respect to the bank or corporation so reorganized for the months of the taxable year prior to the reorganization as the commissioner may require in order to carry out the provisions of this paragraph. The term "reorganization" as herein used means (1) a transfer by a bank or corporation of all or a part of its assets to another bank or corporation if immediately after the transfer the transferor or its stockholders or both are in control of the bank or corporation to which the assets are transferred; or (2) a recapitalization; or (3) a mere change in identity, form or place of organization however effected. As used in this paragraph the term "control" means the ownership of at least 80

"Reorganization" defined

"Control" defined.

per centum of the voting stock and at least 80 per centum of the total number of shares of all other classes of stock of the bank or corporation.

Consolidated banks and corporations.

(i) Where a bank or corporation commences to do business in this State pursuant to a consolidation of two or more banks or corporations, it shall pay no tax for its first taxable year but its tax for its second taxable year shall be computed upon the basis of its net income for its first taxable year and the net income of the banks or corporations so consolidated for the months of their taxable years prior to the consolidation. Every consolidated bank or corporation in its return filed for its first taxable year shall specify all such facts with respect to the banks or corporations so consolidated for the months of their taxable years prior to the consolidation as the commissioner may require in order to carry out the provisions of this paragraph.

Merged banks and corporations.

(j) Where a bank or corporation or two or more banks or corporations merge with another bank or corporation, the tax of the surviving bank or corporation for its taxable year succeeding its taxable year in which the merger occurs shall be computed upon the basis of its net income for its preceding taxable year and the net income of the merged banks or corporations for the months of their taxable years prior to the merger. Every such surviving bank or corporation in its return for its taxable year in which the merger occurs, shall specify all such facts with respect to the merged banks or corporations for the months of their taxable years prior to the merger as the commissioner may require in order to carry out the provisions of this paragraph.

Applicable rate of tax.

(k) Whenever it is provided in this section that the tax on any reorganized, consolidated, or surviving bank or corporation shall be measured in part by any of the net income of a bank or corporation so reorganized, consolidated, or merged, the same rate of tax shall apply to such income as would have applied to such income had the reorganization, consolidation, or merger not occurred, and had the reorganized, consolidated, or merged bank or corporation continued doing business in this State.

Offset.

(l) The tax for the second taxable year of a bank or corporation doing business in this State pursuant to a reorganization or consolidation, and the tax of a surviving bank or corporation, in the case of a merger, for its first taxable year succeeding the merger, shall, in addition to any other offset allowed by this act, be subject to offset in the amount of personal property taxes paid by such of the corporations reorganized, consolidated, or merged, as are financial corporations, upon their property to any county, city and county, city, town or other political subdivision of the State during the taxable year in which the reorganization, consolidation or merger occurred; provided, however, that the offset herein provided for shall be allowed subject to the conditions and limitations set forth in sections 4 and 26 of this act.

(m) Any bank or corporation which is dissolved and any foreign corporation which withdraws from the State during any taxable year shall pay a tax hereunder only for the months of such taxable year which precede the effective date of such dissolution or withdrawal, according to or measured by such proportionate part of the net income of the preceding income year as the number of months of the taxable year prior to the effective date of such dissolution or withdrawal bears to the entire preceding income year; provided, however, that in the case of any bank or corporation which is dissolved, or which withdraws from the State during any taxable year, the offset from the tax for the months of such taxable year prior to the effective date of such dissolution or withdrawal shall not exceed that proportion of the offset computed under section 26 which the number of said months prior to the effective date of such dissolution or withdrawal bears to the number of months of the preceding income year; and provided, further, that the taxes levied under this act shall not be subject to abatement or refund because of the cessation of business or corporate existence of any bank or corporation pursuant to a reorganization, consolidation, or merger. In any event, each such corporation shall pay a minimum tax not subject to offset of twenty-five dollars for such period.

Dissolved banks and corporations

Offset

Abatement or refund

Minimum tax.

(n) When a bank or corporation discontinues doing business within the State during any taxable year and does not dissolve or withdraw from the State during that year, and does not resume doing business during the succeeding taxable year, its tax for the year in which it resumes doing business shall be computed upon the basis of the net income for the year in which it discontinued doing business, a credit being allowed for any tax payable under subdivision (5) of section 4 of this act. One-half the amount of such tax shall be due and payable at the time the bank or corporation resumes doing business, or on or before the fifteenth day of the third month following the close of its income year, whichever is later, and the balance shall be due and payable within six months of the time the bank or corporation resumes doing business, or on or before the fifteenth day of the ninth month following the close of its income year, whichever is later, but, in no event shall the balance of the tax be due and payable later than the close of the taxable year in which it resumes doing business. All the provisions of this act relating to delinquent taxes shall be applicable to such tax if it is not paid on or before its due date

Bank or corporation discontinuing business

(o) The tax of any bank or corporation which has suffered the suspension or forfeiture provided in section 32 of this act, and which revives in any taxable year other than the taxable year in which suspension or forfeiture occurred, but did not transact business, as defined in section 5 of this act, during the period of such suspension or forfeiture, shall be computed in the same manner as provided in subdivisions (b) and (d) of this section relative to the computation of taxes of banks, and corporations commencing to do business for the first time after

Banks and corporations which revive

Tax prepayment

incorporation or qualification. Such a bank or corporation shall, in addition to the taxes, penalties, and interest specified in section 33 of this act, prepay a tax of twenty-five dollars as a condition precedent to the issuance of a certificate of revivor.

Tax not a deficiency assessment

(p) Any tax, imposed pursuant to this section, based on the net income as disclosed by the return, shall not be considered a deficiency assessment within the meaning of section 25 of this act.

Taxable year

(q) The tax liability imposed under this act shall attach whether a bank or corporation has a taxable year of twelve months or of less duration.

Stats 1933, p. 41.

SEC. 10. Section 15 of said act is hereby amended to read as follows:

Form of returns

Sec. 15. Every return required by this act to be filed with said commissioner shall be verified by an executive officer of the bank or corporation. Blank forms of return shall be furnished by said commissioner on application but failure to secure such a form shall not release any taxpayer from the obligation of making a return hereunder.

Extension of time for filing

A reasonable extension of time for filing the return may be granted by said commissioner whenever in his judgment good cause exists. Requests for extensions shall be in writing, shall specify the name of each bank or corporation and must be made on or before the due date for filing the return. The commissioner is hereby required to keep a record of each extension and the reason therefor. No such extension or extensions shall aggregate more than six months from the due date for filing the return.

Stats 1929, p 27.

SEC. 11. Section 16 of said act is hereby amended to read as follows:

Computation in absence of return

Sec. 16. If any return required by this act is not made, it shall be the duty of the commissioner to make an estimate of the net income, from any available information, and to compute and levy the amount of tax due under this act. All the provisions of this act relative to delinquent taxes shall be applicable to the tax computed and levied hereunder.

Stats 1929, p 27

SEC. 12. Section 18 of said act is hereby amended to read as follows:

Penalties for failing to file, or filing false returns.

Sec. 18. Any bank or corporation failing or refusing to furnish any return hereby required to be made or failing or refusing to furnish a supplemental return or other data required by the commissioner, or rendering a false or fraudulent return, shall be guilty of a misdemeanor and subject to a fine of not exceeding five thousand dollars ($5,000) for each such offense.

Any person required to make, render, sign, or verify any report, as aforesaid, who makes any false or fraudulent return, with intent to defeat or evade the assessment required by law to be made, shall be guilty of a misdemeanor, and shall for each such offense be fined not less than three hundred dollars ($300) and not more than five thousand dollars ($5,000), or be imprisoned not exceeding one year in the county jail of

the county where said return was verified, or be subject to both said fine and imprisonment, in the discretion of the court. The district attorney of the county in which the violation occurred, must prosecute such offense.

SEC. 13. Section 19 of said act is hereby amended to read as follows: Stats 1933, p. 691

Sec. 19. For the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition of property, real, personal or mixed, the basis shall be determined in accordance with the provisions of section 113 of the Federal Revenue Act of 1934 which are hereby referred to and incorporated for the purpose of this section with the same force and effect as though fully set forth herein. Computation of profit or loss from disposition of property

(a) Except as otherwise provided in this section the gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the basis herein provided and the loss shall be the excess of such basis over the amount realized.

(b) In computing the amount of gain or loss under subdivision (a) of this section proper adjustment shall be made for any expenditure, receipt, loss or other item properly chargeable to capital account.

(c) The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market price or value of the property (other than money) received.

(d) In the case of a sale or exchange, the extent to which the gain or loss determined under this section shall be recognized shall be determined under the provisions of section 20. Sale or exchange.

(e) Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payments in installments) the inclusion in gross income of that portion of any installment payment representing gain or profit in the year in which such payment is received. Installment sales.

(f) Amounts distributed in complete liquidation of a bank or corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a bank or corporation shall be treated as in part or full payment in exchange for the stock. Liquidation of bank or corporation

The gain or loss to the distributee resulting from such exchange shall be determined under this section but shall be recognized only to the extent provided in section 20.

(g) If any distribution (not in partial or complete liquidation) made by a bank or corporation to its shareholders is not out of earnings or profits, then the amount of such distribution shall be applied against and reduce the basis of the stock and if in excess of such basis, such excess shall be included in gross income in the same manner as a gain from the sale or exchange of property. The provisions of this subdivision shall also apply to distributions from depletion reserves based on discovery value of mines. Other distribution by bank or corporation

Stats 1933, p 699.

SEC. 14. Section 20 of said act is hereby amended to read as follows:

Computation of profit from sale or exchange

Sec. 20. Upon the sale or exchange of property the entire amount of the gain or loss, determined under the preceding section shall be recognized, with the exceptions provided for in section 112 of said "Revenue Act of 1934," which are hereby referred to and incorporated with the same force and effect as though fully set forth herein.

In the case of installment sales the taxpayer may elect to proceed in the manner provided in section 44 of the said "Revenue Act of 1934," in which case the taxpayer shall account for profits on installments received subsequent to December 31, 1927, on sales made prior thereto. If the taxpayer elects to proceed otherwise, the transaction will be deemed to have been closed when the sale was made.

Stats 1933, p 699.

SEC. 15. Section 21 of said act is hereby amended to read as follows:

Basis as to certain property.

Sec. 21. In the case of property acquired in a manner described in section 113 (a) (2) to (a) (14) of the Federal Revenue Act of 1934 the basis shall be determined in accordance with the provisions of section 113 of the Federal Revenue Act of 1934 which are hereby referred to and incorporated for the purpose of this section with the same force and effect as though fully set forth herein.

Stats 1933, p. 875.

SEC. 16. Section 23 of said act is hereby amended to read as follows:

See Stats. 1935, Ch 353.

Time for payment of taxes.

Sec. 23. On or before the fifteenth day of the third month following the close of the income year, as defined in section 11 hereof, there shall be due and payable, from every national banking association, every other bank, and every financial corporation, of the classes mentioned in sections 1, 2, and 4 of this act, as a first installment of the tax on such banks and financial corporations, a percentage of their net income as disclosed by the return, which is equal to that percentage of the net income of corporations of the classes referred to in subdivision (3) of section 4 of this act, which is required to be paid to the State as a franchise tax according to or measured by net income, except that the first installment of the tax on financial corporations shall not be less than the minimum of twenty-five dollars.

On or before the fifteenth day following the mailing of notice of the commissioner's determination of the average percentage of net income of corporations of the classes referred to in subdivision (3) of section 4 of this act, required to be paid to the State or its political subdivisions in franchise and personal property taxes as provided in section 4a of this act, or on or before the fifteenth day of the ninth month following the close of the income year as defined in section 11 hereof, whichever is later, there shall be due and payable from every such banking association, bank, and financial corporation, as a second installment of the tax on such banks and financial corporations, a percentage of their net income as disclosed by the

return which is equal to the percentage of the net income of corporations of the classes referred to in subdivision (3) of section 4 of this act required to be paid to the State or its political subdivisions as personal property taxes as determined by the commissioner; provided, however, that the sum of the first and second installments shall not exceed six per centum of the net income of each such banking association, bank, and financial corporation. The offset herein provided for shall be applied to such second installment.

Limitation on sum

Offset.

In the case of corporations of the classes referred to in subdivision (3) of section 4 of this act, one-half the amount of tax disclosed by the return, shall be due and payable as a first installment of the tax on such corporations, on or before the fifteenth day of the third month following the close of the income year, as defined in section 11 hereof. The balance of the tax shall be due and payable as a second installment, on or before the fifteenth day of the ninth month following the close of the income year. A tax imposed by this act or any installment thereof may be paid at the election of the taxpayer, prior to the date prescribed for its payment.

Time for payment of taxes.

Where an extension of time for filing returns has been granted by the commissioner under the provisions of section 15 of this act, the first installment shall be paid prior to the expiration of such extension.

Returns

If the first installment of the tax is not paid on or before its due date, or the due date as extended by the commissioner, it shall be delinquent and a penalty of fifteen per centum added thereto. If the second installment is not paid at the time it is due and payable, it shall be delinquent and a penalty of five per centum added thereto. At the time of the delinquency of the second installment an additional penalty of five per centum shall be added to the first installment unless that installment has theretofore been paid.

Delinquency and penalties

All taxes and interest imposed under this act must be paid to the commissioner at Sacramento in the form of remittances payable to the Treasurer of the State of California, and he shall transmit said payments daily to the State Treasurer.

Place of payment

All moneys received by the State Treasurer shall be deposited by him in a special fund in the State treasury, to be designated the bank and corporation franchise tax fund, and moneys in said fund shall, upon the order of the State Controller, be transferred into the general fund of the State, or drawn therefrom for the purpose of refunding to taxpayers hereunder.

"Bank and corporation franchise tax fund"

SEC. 17. Section 24 of said act is hereby amended to read as follows:

Stats 1931, p 66.

SEC. 24. (a) Interest upon the amount determined as a deficiency under the provisions of section 25 of this act shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the commissioner, and shall be collected as a part of the tax, at the rate of six per centum per annum from the date prescribed for the payment of the tax

Interest on unpaid taxes

(or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed.

(b) If the time for the payment of the tax or any installment thereof has been extended, under the provisions of section 23 of this act, there shall be collected as part of such tax, interest thereon at the rate of six per centum per annum from the date upon which such payment should have been made if no extension had been granted, until the date the tax is paid.

(c) If the tax imposed by this act, or any installment thereof, or any part of such amount or installment is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of one per centum a month from the date prescribed for its payment until it is paid.

(d) When an extension of time for payment of the amount so determined as the tax by the taxpayer, or any installment thereof, has been granted, and the amount, the time for payment of which has been extended, and the interest thereon, determined as provided hereinabove, is not paid in full prior to the expiration of the period of the extension, then, in addition to the interest provided for in subdivision (b) of this section, interest at the rate of one per centum a month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(e) Where a deficiency, or any interest or penalties assessed under this act have not been paid in full within ten days from the date of notice and demand from the commissioner, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of one per centum a month from the date of such notice and demand until such assessment is paid.

Stats 1933, p 699.

SEC. 18. Section 25 of said act is hereby amended to read as follows:

Examination of returns.

SEC. 25. As soon as practicable after the return is filed, the commissioner shall examine it and shall determine the correct amount of the tax. If the commissioner determines that the tax disclosed by the original return is less than the tax disclosed by his examination he shall mail notice to the taxpayer at its post-office address (which must appear on its return) of the additional tax proposed to be assessed against it. Such notice shall set forth the details of the proposed additional assessment and of computing said tax.

Notice of additional tax

Protest

Within sixty days after the mailing of said notice the taxpayer may file with the commissioner a written protest against the levy of the proposed additional tax, as computed by the commissioner, specifying therein the grounds upon which the protest is based. The protest must be under oath.

Hearing.

If no such protest is so filed the amount of the tax shall be final upon the expiration of said sixty-day period. If a protest is so filed it shall be the duty of the commissioner to reconsider the computation and levy of the tax complained of, and if the taxpayer has so requested in its protest, it shall be the

duty of the commissioner to grant said taxpayer, or its authorized representatives, an oral hearing. After consideration of the protest and the evidence adduced in the event of such oral hearing, the commissioner's action upon the protest shall be final upon the expiration of thirty days from the date when he mails to the taxpayer notice of his action, unless within that thirty-day period the taxpayer appeals in writing from the action of the commissioner to the State Board of Equalization. The appeal must be addressed and mailed to the State Board of Equalization at Sacramento, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination, and the reasons therefor. Such determination shall be final, unless, within sixty days from the time of such determination, the commissioner shall apply to the Supreme Court of the State for a writ of certiorari or review for the purpose of having the lawfulness of the decision of the State Board of Equalization inquired into and determined.

Appeal to State Board of Equalization

When a deficiency has been determined and the tax has become final under the provisions of this section, the commissioner shall mail notice and demand to the taxpayer for the payment thereof, and such tax shall be due and payable at the expiration of ten days from the date of such notice and demand.

Demand for payment of deficiency

A certificate by the commissioner or of said board as the case may be, of the mailing of the notices specified in this section shall be prima facie evidence of the computation and levy of the deficiency in tax and of the giving of said notices.

Except in the case of a fraudulent return, every notice of additional tax proposed to be assessed hereunder shall be mailed to the taxpayer within three years after the return was filed and no deficiency shall be assessed or collected with respect to the year for which such return was filed unless such notice is mailed within such period. For the purposes of this paragraph a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

Limitation

SEC. 19. Section 26 of said act is hereby amended to read as follows:

Stats 1933, p 876

Sec. 26. A financial corporation subject to the tax herein provided for shall receive an offset against said tax, subject to the limitations provided in section 4 hereof, for personal property taxes paid upon its property to any county, city and county, city, town or other political subdivision of the State during the income year. At the time of payment of the first installment of tax under the provisions of section 23 of this act, each taxpayer claiming an offset against the tax shall submit to the commissioner evidence in such form as he shall prescribe in support of such claims.

Offsets for local taxes

If a financial corporation in paying the tax provided for in this act desires to claim an offset in the computation of its tax, the rate provided in section 4a hereof for financial corporations shall be applied to such offset and the amount so computed shall be added to and included in the tax of such corporation.

If any real or personal property taxes are at any time refunded to any bank or corporation taxable under this act and said bank or corporation has been allowed an offset for such taxes against any tax imposed under this act, said bank or corporation shall pay a tax not subject to offset in an amount equivalent to any offset which has been allowed against any tax at any time imposed under this act on account of such refunded real or personal property taxes. Such bank or corporation shall report such real or personal property taxes in its return for the income year in which same are refunded. The tax herein provided for shall be due and payable in one amount on or before the due date, or the due date as extended by the commissioner, for filing the return. The provisions of this act relating to delinquent first installment taxes shall be applicable to such tax if it is not paid on or before its due date.

Stats 1933, p. 701

SEC. 20. Section 27 of said act is hereby amended to read as follows:

Refunds

Sec. 27. If in the opinion of the commissioner, or said board, as the case may be, a tax has been computed in a manner contrary to law or has been erroneously computed by reason of a clerical mistake on the part of the commissioner or said board, such fact shall be set forth in the records of the commissioner, and the amount of the illegal levy shall be credited on any taxes then due from the taxpayer under this act, and the balance shall be refunded to the taxpayer or its successor through reorganization, merger or consolidation, or to stockholders upon dissolution.

If any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected, or has been erroneously or illegally computed, the commissioner shall certify to the State Board of Control the amount collected in excess of what was legally due, from whom it was collected, or by whom paid, and if approved by that board, the same shall be credited on any taxes then due from the taxpayer under this act and the balance shall be refunded to the taxpayer, but no such credit or refund shall be allowed or made after three years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer. Every claim for refund must be in writing under oath and must state the specific grounds upon which the claim is founded.

Limitation

Claims for refunds.

Disallowance of refunds.

If the commissioner disallows any claim for refund he shall notify the taxpayer accordingly. Within thirty days after the mailing of such notice, or if the commissioner does not act upon any claim for a refund within six months from the time the claim was filed, then within thirty days after the

expiration of said six months, the commissioner's action upon the claim shall be final, unless within such thirty-day period the taxpayer appeals in writing from the action of the commissioner to the State Board of Equalization. The appeal must be addressed and mailed to the State Board of Equalization at Sacramento, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination. Such determination shall be final, unless, within sixty days from the time of such determination, the commissioner shall apply to the Supreme Court of the State for a writ of certiorari or review for the purpose of having the lawfulness of the decision of the State Board of Equalization inquired into and determined.

Appeal

Review.

Interest shall be allowed and paid upon any overpayment of any tax, if the overpayment was not made because of an error or mistake on the part of the taxpayer, at the rate of six per centum per annum as follows:

Interest on overpayments of taxes.

(1) In the case of a credit, from the date of the overpayment to the date of the allowance of the credit. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this act.

(2) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund warrant by not more than thirty days, such date to be determined by the commissioner.

Any refund or any portion thereof which is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be recovered, together with interest at the rate of six per centum per annum from the date the refund was made or the credit allowed, in an action brought by the Controller of the State in a court of competent jurisdiction in the county of Sacramento in the name of the people of the State of California, and such actions shall be tried in the county of Sacramento unless the court with the consent of the Attorney General, order a change of place of trial. The Attorney General must prosecute such action, and the provisions of the Code of Civil Procedure, relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for.

Recovery of erroneous refunds

In the event that a tax has been illegally levied against a taxpayer the commissioner shall certify such fact to the State Board of Control and said board shall authorize the cancellation of the tax upon the records of the commissioner.

Cancellations.

SEC. 21. Section 29 of said act is hereby amended to read as follows:

Stats. 1933, p. 703

Sec. 29 The taxes levied under this act shall constitute a lien upon all property of the taxpayer, which lien shall attach on the first day of the "taxable year," except that in the case of a bank or corporation incorporated under the laws of this State or a foreign bank or corporation qualified to do

Tax liens.

business within the limits of this State, after the effective date of this amendment, the lien of taxes for the first taxable year of such a bank or corporation shall attach at the time of such incorporation or qualification. Notwithstanding any other provision in this act to the contrary the amendments to this section shall only apply to taxes accruing on or after the effective date of such amendments; provided, however, in no event shall taxes accruing prior to such effective date attach as a lien later than such date and; provided further, that taxes resulting solely from amendments to this act shall attach as a lien on such date Every tax herein provided for has the effect of a judgment against the taxpayer, and every lien has the effect of an execution duly levied against all property of the delinquent, and the judgment is not satisfied nor the lien removed until the tax, and the penalties, and interest are paid, or the property sold for the payment thereof. No decree of dissolution shall be made and entered by any court, nor shall the county clerk of any county or the Secretary of State file any such decree, or file any other document by which the term of existence of any taxpayer shall be reduced or terminated, nor shall the Secretary of State file any certificate of the surrender by a foreign corporation of its right to do intrastate business in this State until the tax, penalties, and interest shall have been paid.

Effective date of amendments.

Stats. 1933, p 703

SEC. 22. Section 30 of said act is hereby amended to read as follows:

Actions to recover taxes paid under protest.

Sec. 30 Any taxpayer claiming that the tax computed and levied against it is void in whole or in part may pay its tax under protest and bring an action against the State Treasurer for the recovery of the whole or any part of the amount paid. The protest must be in writing and must state the grounds upon which the claim is founded. Such action must be filed within ninety days from the date of mailing the notice of final determination of the tax under section 25 hereof or the tax rate under section 4a hereof; provided, that no action shall be filed for the recovery of a deficiency assessment unless the taxpayer has made protest to the commissioner of the computation and levy complained of under the provisions of section 25 hereof; and provided further, that no such action shall be filed to recover any deficiency assessment, or any part thereof, if the taxpayer has at any time appealed to the State Board of Equalization from the action of the commissioner in overruling the taxpayer's protest to the commissioner's proposal of the said deficiency assessment

Action for refunds

When a refund claim has been filed under the provisions of section 27 hereof, and the same has been denied or no action thereon has been taken by the commissioner within six months from the filing thereof, the taxpayer may bring an action against the State Treasurer on the grounds set forth in such claim for the recovery of the whole or any part of the amount claimed as an overpayment, but such action must be brought within ninety days from the date of the commissioner's final

action upon such claim; provided, that no action shall be filed if the taxpayer has appealed to the State Board of Equalization from the action of the commissioner with respect to any refund claim.

Procedure

Whenever under the provisions of this section an action is commenced against the State Treasurer, a copy of the complaint and the summons must be served upon the Treasurer, or his deputy. At the time the Treasurer demurs or answers, he may demand that the action be tried in the superior court of the county of Sacramento, which demand must be granted. The Attorney General must defend the action. The provisions of the Code of Civil Procedure, relating to pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. A failure to begin such action within the time herein specified shall be a bar against the recovery of such taxes In any such action the court shall have power to render judgment for plaintiff for any part or portion of the tax, interest, penalties or cost found to be void and so paid by plaintiff upon such assessment. The amount of the judgment shall first be credited on any taxes due from the plaintiff under this act, and the balance of the judgment shall be refunded to the plaintiff or its successor through reorganization, merger, or consolidation, or to its stockholders upon dissolution.

Review

Within sixty days after the determination of the State Board of Equalization of any appeal from the action of the commissioner the appellant may apply to the Supreme Court of the State for a writ of certiorari or review for the purpose of having the lawfulness of the decision or order of the board inquired into and determined. Such writ shall be made returnable not later than thirty days after the date of the issuance thereof, and shall direct the board to certify its record in the case to the court. On the return day, the cause shall be heard by the Supreme Court, unless for a good reason the same be continued. No new or additional evidence may be introduced in the Supreme Court, but the cause shall be heard on the record of the board as certified to by it. The review shall not be extended further than to determine whether the board has regularly pursued its authority, including a determination of whether the decision or order under review violates any provision of the Constitution of the United States or of the State of California. The findings and conclusions of the board on questions of fact shall be final and shall not be subject to review. The board and each party to the proceeding before the board shall have the right to appear in the review proceeding. Upon the hearing, the Supreme Court shall enter judgment either affirming or setting aside the order or decision of the board. The provisions of the Code of Civil Procedure of this State relating to the writs of review shall, so far as applicable and not in conflict with the provisions of this act, apply to proceedings instituted in the Supreme Court under the provisions of this section.

Interest

In any judgment of any court rendered for any overpayment in respect of any tax imposed by this act, interest shall be allowed at the rate of six per centum per annum upon the amount of the overpayment, from the date of the payment or collection thereof to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than thirty days, such date to be determined by the commissioner.

Stats 1933, p 705.

SEC. 23. Section 31 of said act is hereby amended to read as follows:

Actions to recover delinquent taxes.

Sec. 31. At any time within three years after the delinquency of any tax, penalties, and interest, or any installment thereof, the Controller of the State may bring an action in a court of competent jurisdiction in the county of Sacramento in the name of the people of the State of California to collect the amount delinquent, together with penalties, and interest, and such action shall be tried in the county of Sacramento unless the court, with the consent of the Attorney General, orders a change of place of trial. The Attorney General must prosecute such action, and the provisions of the Code of Civil Procedure, relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings, herein provided for. In such action a writ of attachment may be issued, and no bond or affidavit previous to the issuing of said attachment is required. In such action a certificate by the commissioner or by the Controller showing the delinquency shall be prima facie evidence of the levy of the tax, penalties, and interest, of the delinquency and of compliance by the commissioner and the State Board of Equalization with all the provisions of this act in relation to the computation and levy of the tax.

Seizure and sale of property for delinquent taxes.

At any time within which an action can be brought to collect any delinquent amounts as provided in the preceding paragraph, the Controller may collect the tax, together with penalties and interest, in the following manner: The Controller shall seize any property, real or personal, owned by the bank or corporation against whom the tax is assessed, and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the tax due hereunder, together with any interest, and any penalty or penalties imposed hereby for such delinquency, and any and all costs that may have been incurred on account of such seizure and sale. Notice of such intended sale and the time and place thereof, shall be given to such delinquent bank or corporation and to all persons appearing of record to have an interest in such property, in writing at least ten days before the date set for such sale by enclosing such notice in an envelope addressed to said bank or corporation at its last known place of business in this State if any, and, in the case of any person appearing of record to have an interest in such property, addressed to such person at the last known place of residence, if any, and depositing the same in the United States mail, postage pre-

Notice of sale.

paid, and by publication for at least ten days before the date set for such sale in a newspaper of general circulation published in the county or city and county in which the property seized is to be sold; provided, however, that if there be no newspaper of general circulation in such county or city and county, then by the posting of such notice in three public places in such county or city and county for said ten-day period. The said notice shall contain a description of the property to be sold, together with a statement of the amount of the taxes, interest, penalties and costs, the name of the bank or corporation, and the further statement that, unless such taxes, interest, penalties and costs are paid on or before the time fixed in said notice for such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

Contents of notice.

At any such sale, the property shall be sold by said Controller or his duly authorized agent in accordance with law and said notice, and the Controller shall deliver to the purchaser a bill of sale for the personal property, and a deed for any real property so sold, and such bill of sale or deed shall vest title in the purchaser. The unsold portion of any property so seized may be left at the place of sale at the risk of said bank or corporation. If, upon any such sale, the moneys so received shall exceed the amount of all taxes, interest, penalties and costs due the State from such bank or corporation, any such excess shall be returned to the bank or corporation and a receipt therefor obtained; provided, however, that if any person having an interest in or lien upon the property has filed with the Controller prior to any such sale notice of such interest or lien the Controller shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction.

Sale.

Excess

Interest in or lien on property

If, for any reason, the receipt of such bank or corporation shall not be available, the Controller shall deposit such excess moneys with the State Treasurer, as trustee for such owner, subject to the order of such bank or corporation or its successor through reorganization, merger, or consolidation, or its stockholders upon dissolution.

Deposit of excess.

It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by the Controller shall be or be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

State's remedies are cumulative

SEC. 24. Section 35 of said act is hereby amended to read as follows:

Stats 1931, p. 2229

Sec. 35. It shall be unlawful for the commissioner or any member of the State Board of Equalization or the State Controller or any person having an administrative duty under this act to divulge any information concerning the business affairs of banks or corporations reporting hereunder; provided, however, that the Governor may authorize examination of such returns by other State officers, in which event the

Secrecy as to returns

Exceptions

information obtained shall not be made public; provided, further, that such returns may be examined, with the consent of the Governor, by tax officers of another State or the Federal government, if a reciprocal arrangement exists; provided, further, that in the case of corporations doing business within and without this State, the commissioner may make available for persons, firms and corporations desiring such information for the purpose of filing their own returns the percentage of the net income of such corporations derived from business done within and without this State.

"Business affairs" defined

The term "business affairs," as herein used, means the details relative to the business activities of the corporation as disclosed by the return but shall exclude extraneous matters, such as the exact corporate title, corporate number, the date of commencement of business in this State, taxable year adopted, filing date of return, name, date and title of persons signing affidavit to the return, due date of taxes, taxes unpaid, taxpayer's address, private address of officers and directors.

Penalties

Any violation of the provisions of this section is a misdemeanor, punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding six months, or both.

Constitutionality

SEC. 25. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

Tax levy

SEC. 26. This act, inasmuch as it provides for tax levies for the usual current expenses of the State, shall, under the provisions of section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 276.

Stats. 1931, p. 1372, amended.

An act to amend section 10 of an act entitled "An act to limit the amount of special assessments for public improvements and acquisitions of property for public purposes; to provide for a preliminary investigation, report and hearing upon proposed public improvements and acquisitions of property for public purposes where the cost of such improvements or acquisitions is to be paid in whole or part by special assessments; to provide a basis for valuation of property for the purpose of establishing a special assessment limitation, and to authorize the payment of a part of the cost of such public improvements and acquisitions of property from any available public fund where a part of such cost is paid by special assessment on benefited property, and to provide

that a majority protest shall be a bar to any proceeding," approved June 8, 1931, relating to limitations on assessments.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 10 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933, p 1992

Sec. 10. If the report herein required to be prepared under section 3 hereof shall show that the estimated amount proposed to be assessed upon any lot or parcel of land for the proposed acquisition and/or improvement will exceed one-quarter of the true value of such lot or parcel as set forth in said report, or shall show that the total estimated cost of any proposed improvement and/or acquisition, less any amount to be paid towards such cost from any source other than special assessment upon the lands benefited by said acquisition and/or improvement, when added to the aggregate totals of all unpaid assessments and estimated assessments required to be stated in the report by paragraph (h) of section 3 of this act, as such totals are stated in such report, will exceed in total amount one-quarter of the total true value of all the lands proposed to be assessed, said proposed proceeding shall be abandoned or so modified that the amount to be specially assessed for the cost thereof will be less than the limits hereby established, unless the excess of said cost and indebtedness over one-quarter of said true value shall be paid from some source other than by special assessment on said lands, or unless the limitation herein provided shall be overruled as hereinafter provided. If the actual cost including incidental expenses of any improvement shall exceed the total estimated cost including incidental expenses thereof, as fixed by the total estimated cost stated in the report required under section 3 hereof and the separate estimate for changes (if any) in the things to be done as filed with the clerk by more than one-tenth of such estimated cost, no part of the excess over said one-tenth shall be assessed upon the lands to be assessed in the proceeding; but such excess may be paid from other funds as hereinafter provided; and provided, also, that the limitation next herein mentioned shall not be exceeded except as herein provided. The word "improvement" in the last preceding sentence shall not be construed so as to include or relate to any acquisition of property for public use.

Limitation upon cost

Payment from other funds

If the actual cost including incidental expenses of any acquisition and/or improvement, less any amount to be paid toward such cost from any source other than special assessment upon the lands benefited thereby, when added to the aggregate totals of all assessments and estimated assessments required to be stated in the report under paragraph (h) of section 3 of this act, as stated in such report, exceeds in total amount one-quarter of the total true value stated in the

Limitation upon assessments

report of all the lands to be assessed to pay any part of the cost of such acquisition and/or improvement, no part of such excess shall be assessed upon such lands.

Payment of excess cost.

In the case where the estimated or actual cost including incidental expenses of any acquisition and/or improvement exceeds the amounts that may be specially assessed upon benefited property, the legislative body having jurisdiction over the proceeding may in its discretion provide for the payment of such excess cost from any proper fund under its control and the balance shall then be specially assessed in accordance with the statute under which such proceeding is conducted; provided, however, that whenever an improvement contract has been awarded, the county or municipal corporation, the legislative body of which is conducting the proceeding, must, if the actual cost of the improvement, including incidental expenses, exceeds the amount that may be specially assessed upon benefited property, pay such excess cost from the general fund or from any other fund available for that purpose and the balance shall be specially assessed in accordance with the statute under which such proceeding is conducted. In case the property to be assessed is within the jurisdiction of more than one legislative body and consents to such proceeding have been given by all the legislative bodies within whose jurisdiction any portion of the land to be specially assessed is situated, any such legislative body whose consent has been given may appropriate all or any part of such excess cost from any proper fund under its control and may cause the amount so appropriated to be paid into the treasury of the county, city and county, or city whose legislative body has jurisdiction over the proceeding to be applied in payment of such excess cost.

Avoidance of limitation.

Notwithstanding anything in this act contained, if the legislative body conducting the proceedings, after the report or reports provided for herein have been filed and considered and prior to the adoption of the ordinance or resolution of intention in the proceeding, shall find by a four-fifths vote of all members thereof entered upon its minutes that the proposed project is feasible and that the lands to be assessed will be able to carry the burden of such proposed assessment, the limitations on the amounts of assessments herein provided may be exceeded and dispensed with both with respect to the limitation named with reference to the district as a whole and as to the limitation respecting individual specific assessments. In the event of such finding by said legislative body as in this paragraph provided none of the limitations upon the amounts of assessments in this act provided shall thereafter apply to any assessment or assessment proceedings thereafter had or taken; provided, however, that if at the hearing to be held under the provisions of sections 5 and 7 of this act, protests in writing are filed as provided in section 7 of this act by the owners (as defined in the act under which the acquisition and/or in improvement proceedings are to be

Exception: Majority protest.

taken) of a majority in area of the lands to be assessed, such limitations can not be exceeded. A finding and determination by such legislative body that the limitations on assessments herein provided may be exceeded or dispensed with shall when made be final and conclusive upon all persons in the absence of actual fraud.

CHAPTER 277.

An act to amend sections 10 and 17 of, and to add sections 3a, 5a, 18a and 21a to, the Improvement Act of 1911 relating to an alternative procedure for the doing of work under said act by receiving contributions of labor, materials or equipment from the United States government or other governmental agencies, declaring the urgency thereof and providing that this act shall take effect immediately.

Stats. 1911, p. 730, amended.

[Approved by the Governor June 7, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 3a is hereby added to the act cited in the title hereof, to read as follows:

New section

Sec. 3a. As an alternative procedure for the doing of work authorized under this act, the city council may pass a resolution of intention to do such work containing a provision that the work shall be done if any local, State or National agency or authority accepts the proposed work as a project for which a contribution of labor, or labor and any portion of materials, supplies or equipment will be made by such agency or authority. Under such alternative procedure the work to be done by the contractor shall consist of furnishing any or all of the materials, supplies or equipment necessary for the construction of the improvement. When such alternative procedure is adopted, the resolution of intention shall so state and shall recite what contribution is to be made and by whom. The resolution of intention shall also state what work shall be done by the contractor. In all other particulars, the resolution of intention shall be the same as any resolution of intention adopted pursuant to the provisions of section 3 of this act.

Alternative procedure. Contributions of labor or material

SEC. 2. Section 5a is hereby added to said act, to read as follows:

New section

Sec. 5a. If any contribution of labor, or labor and any portion of materials, supplies or equipment is to be made by any local, State or National agency or authority all notices required in said section 5 hereof shall so state and shall recite what contribution is to be made.

Notices.

SEC. 3. Section 10 of said act is hereby amended to read as follows:

Stats. 1929, p. 1654.

Bids

Sec. 10. Before the awarding of any contract by the city council for doing any work or for furnishing materials, supplies and equipment or any portion thereof, authorized by this act, the city council shall pass a resolution ordering the work. Notice shall be posted conspicuously for five days on or near the council chamber door of said council inviting sealed proposals or bids for doing the work ordered, or for furnishing materials, supplies and equipment or any portion thereof. Notice inviting such proposals, and referring to the specifications on file, shall be published twice in a daily, semiweekly, or weekly newspaper published and circulated in said city, designated by the council for that purpose, and in case there is no newspaper published in said city, then it shall only be posted as hereinbefore provided. The time fixed for the opening of the bids shall be not less than ten days from the time of the first publication or posting of said notice.

Time for opening bids

Bond or certified check

All proposals or bids offered shall be accompanied by a check payable to the city certified by a responsible bank, for an amount which shall not be less than ten per cent of the aggregate of the proposal, or by a bond for the said amount and so payable, signed by the bidder and two sureties, who shall justify, before any officer competent to administer an oath, in double the said amount, and over and above all statutory exemptions. Said proposals or bids shall be delivered to the clerk of the said city council, and said council shall, in open session publicly open, examine and declare the same; provided, however, that no proposal or bid shall be considered unless accompanied by said check or bond satisfactory to the council.

Opening of bids

Rejection of bids

The city council may reject any and all proposals or bids should it deem this for the public good, and also the bid of any party who has been delinquent or unfaithful in any former contract with the municipality, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work or improvement to the lowest responsible bidder at the prices named in his bid.

New bids

If the bids are rejected or no bids are received the city council may within six months thereafter readvertise for proposals or bids for the performance of the work as in the first instance, without further proceedings, and thereafter proceed in the manner in this section provided, and shall thereupon return to the proper parties the respective checks and bonds corresponding to the bid so rejected.

Disposal of checks.

But the checks accompanying such accepted proposals or bids shall be held by the city clerk of said city until the contract for doing said work, as hereinafter provided, has been entered into, either by said lowest bidder or by the owners of three-fourths part of the frontage, whereupon said certified check shall be returned to said bidder. But if said bidder fails, neglects or refuses to enter into the contract to perform said work or improvement, as hereinafter provided, then the certified check accompanying his bid and the amount therein

mentioned, shall be declared to be forfeited to said city and shall be collected by it and paid into the general fund, and any bond forfeited may be prosecuted, and the amount due thereon collected and paid into said fund.

Contributions of labor or materials

If any local, State or National agency or authority contributes the labor, or labor and any portion of the materials supplies or equipment necessary for the construction of any improvement authorized under this act, the contract shall be for only those items which are not contributed by any such agency or authority. If proposals or bids are invited only for the furnishing of materials, supplies and equipment or any portion thereof not furnished by such agency or authority, the notice shall contain a statement to the effect that the legislative body may cancel the order for any undelivered materials, supplies or equipment by giving the successful bidder twenty-four hours notice of said cancellation, in which event the successful bidder will be entitled to compensation for only so much of the material, supplies and equipment as has been used prior to the giving of such notice of cancellation at the prescribed unit rates stated in the contract, and that the contractor shall agree to accept the return of any and all materials and supplies not used prior to the giving of such notice.

Cancellation of order for undelivered material

SEC. 4. Section 17 of said act is hereby amended to read as follows:

Stats 1931, p. 1572.

Incidental expenses

Sec. 17. Before being entitled to a contract, the bidder to whom the award was made, or the owners who have elected to take the contract, must advance to the superintendent of streets, for payment by him, the cost of publication of the notices, resolutions, orders and matters required under the proceedings prescribed in this act, and of such other notices as may be deemed requisite by the city council, together with all other incidental expenses incurred up to the time of entering into the contract. And in case the work is abandoned by the city before work is actually started or before any materials, supplies or equipment have been furnished or used, the incidental expenses incurred previous to such abandonment shall be paid out of the city treasury, but such expenses for which the city is liable and which shall have been paid thereby may be charged as incidental expenses against the district benefited in any new proceeding had or taken for an improvement which shall include substantially the same thing or things to be done as those included in the abandoned proceedings.

New section

SEC. 5. Section 18a is hereby added to said act, to read as follows:

Cancellation of undelivered orders.

Sec. 18a. If a contribution of labor or of labor and any portion of materials, supplies or equipment is to be made by any local, State or National agency or authority, the contract shall contain a provision that the legislative body may cancel the order for any undelivered materials, supplies or equipment by giving the contractor twenty-four hours notice of

said cancellation, and require the contractor to accept the return of the unused materials and supplies, in which event the contractor will be entitled to compensation for only so much of the materials, supplies and equipment as has been used prior to the giving of such notice. The contract shall also contain a provision that no materials, supplies or equipment shall be delivered until a delivery permit signed by the superintendent of streets has been received by said contractor, and provided that if the city receives a contribution of labor or of labor and any portion of materials, supplies or equipment from any local, State or National agency or authority, the superintendent of streets is authorized in his official capacity to include in the contract for doing the work a provision that the contractor shall comply with each approved code of fair competition to which he is subject pursuant to the requirements of the National Industrial Recovery Act and all rules and regulations and orders made thereunder.

Delivery permits

New section

SEC. 6. Section 21a is hereby added to said act, to read as follows:

Assessment covering materials and equipment.

Sec. 21a. Whenever the resolution of intention declares that a contribution of labor or of labor and any portion of materials, supplies or equipment for the proposed work will be made by any local, State or National agency or authority, an assessment shall be made to cover the sum due for furnishing the materials, supplies or equipment as specified in said contract (including all incidental expenses). In all other particulars the assessment shall be made in conformity with the provisions of sections 20i and 21 of this act; provided, however, that if all of the work described in said resolution of intention is not completed because the agency or authority ceases to furnish the labor provided for in the resolution of intention, for a period of ninety days, the street superintendent shall notify the city council of such cessation in writing. Said city council may by resolution declare the contract terminated and order the superintendent of streets to make the assessment to cover the portions of work completed and incidental expenses incurred, in accordance with the benefits to be received by each of the several lots, portions of lots or subdivisions of land in said district, pursuant to the provisions of said sections 20i and 21.

Cancellation of contract.

Urgency

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall go into effect immediately.

The following is a statement of the facts constituting such necessity:

The public peace, health and safety require the immediate construction of sanitary sewers, storm drains, streets, highways and other public improvements, and public funds are not available to defray the entire cost and expense of such improvements Legislation is necessary to authorize the con-

tribution of labor, materials, supplies and equipment or any of them, by governmental agencies and to permit the levy of assessments against the property directly benefited by such improvements to defray the remaining cost and expense thereof. Federal funds are now available for such purpose. Therefore this bill, providing for the levy of assessments to pay a portion of such cost and expense, is urgently necessary and shall go into effect immediately.

CHAPTER 278.

An act to add Chapter 11 to Division IV of the Agricultural Code, relating to the production and marketing of manufactured dairy products. Stats. 1933, p. 60.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new chapter is hereby added to Division IV of the Agricultural Code to be numbered 11 and to read as follows: New chapter.

CHAPTER 11. PRODUCTION AND MARKETING OF MANUFACTURED DAIRY PRODUCTS. Manufactured dairy products

Article 1.

740. For the purposes of this chapter, "dairy products" includes dairy products enumerated in this code, and excludes market milk and market cream. "Dairy products" defined

741. The adequate and orderly production and distribution of manufactured dairy products is a matter impressed with a public interest and the provisions of this chapter are designed and intended to effectuate the policy of providing for such orderly production and distribution at prices equitable to producers, processors, manufacturers, retailers and consumers, in order to promote the welfare of the people of the State. Policy

743. In order to carry out the policy of this chapter, the director is empowered to enter into marketing agreements with manufacturers, processors, producers, associations of producers, distributors, and retailers of manufactured dairy products for any dairy product. Marketing agreements authorized

Nothing in this chapter contained shall control or otherwise affect any educational or other agency of the State engaged in teaching or research relating to agriculture. Exemptions

744. Sixty-five per cent of the persons engaged in, and such persons as represent sixty-five per cent of the volume of, production, manufacture or distribution of a dairy product, in any marketing area, may make application to formulate a marketing agreement. Application.

If the director determines that the application is properly made and that the area involved is such that a control plan is feasible, the director shall authorize such applicants to formulate a marketing agreement.

Marketing agreements Provisions

745. Such marketing agreement shall contain such provisions as may be necessary to carry out the policy of this chapter, and may include provisions:

1. For the appointment of local control boards with such powers as are specified in the agreement.

2. For the raising of funds, derived equitably from all producers, distributors and manufacturers participating in any marketing agreement, for the purposes of and to be used to the extent specified in the marketing agreement. From such assessments, there shall be paid to the director such sum, as may be necessary to defray the expenses incurred by the director in carrying out the provisions of this article.

3. For the establishment of price levels and margins, and the fixing of prices to be paid producers, and the fixing of resale prices, in such manner as the agreement may provide.

4. For the establishment of a code of fair practices.

5. For sales stimulation and educational activities.

Same. Establishment

746. Upon the signing of such marketing agreement by such persons as is provided for in section 744, the agreement shall be forwarded to the director. Upon receipt of such agreement, the director shall determine if the agreement has been signed by the proper number of persons and is in accordance with the provisions and purposes of this article. If it is determined that it is in such accordance, the director shall make an order establishing the marketing agreement, whereupon such an agreement shall become effective. If the director determines that the agreement is not in such accordance, he shall reject it without prejudice to the formulation of a new agreement. Such agreement, when effective, may be modified in such manner as may be provided in such marketing agreement. After taking effect, the provisions of such agreement shall establish the standard of conduct for all persons engaged in any occupation or business regulated by such agreement.

Effect

Licenses

747. The director shall license all persons subject to the terms of a marketing agreement. No person shall engage in any occupation or business regulated by a marketing agreement unless he holds a license. Any license so issued may be revoked by the director, after notice and opportunity to be heard, for a violation of any provision of such agreement. In addition to any other penalty, every person violating any provision of a marketing agreement is liable for a civil penalty of one hundred dollars for each day's violation.

Penalty

Disposition of money.

748. All money received by the director pursuant to the provisions of this chapter shall be placed in State treasury to the credit of the Department of Agriculture fund.

Report to Governor

The director shall, within thirty days prior to the regular session of the Legislature, submit to the Governor a full and

true report of transactions under this law during the preceding biennium, including a complete statement of receipts and expenditures during the period.

749. Any marketing agreement entered into pursuant to this chapter shall be revoked upon the application of fifty-one per cent or more of persons and production eligible to participate in the initiation of such agreement pursuant to section 744. Revocation of agreement

750. In any civil or criminal action or proceeding for violation of any of the following statutes, proof that the act complained of was done in compliance with the provisions of a marketing agreement to which the defendant was a party shall be a complete defense to such action or proceeding Such statutes are "An act to define trust and to provide for criminal penalties and civil damages, and punishment of corporations, persons, firms, and associations, a person connected with them and to promote free competition in commerce and all classes of business in this State," approved March 23, 1907. Defense to prosecution under certain statutes Stats 1907, p 984

"An act relating to unfair competition and discrimination, making certain unfair and discriminatory practices unlawful, defining the duties of the Attorney General in regard thereto, declaring certain contracts illegal and forbidding recovery thereon, providing for actions to enjoin unfair competition and discrimination and to recover damages therefor, making the violation of the provisions of this act a misdemeanor and providing penalties," approved June 10, 1913. Stats 1913, p 508

"An act to protect trade-mark owners, distributors and public against injurious and uneconomic practices in the distribution of articles of standard quality under a distinguished trade-mark, brand or name," approved May 8, 1931. Stats 1931, p 583.

750.5. The director may confer, enter into agreements, or otherwise arrange with the constituted authorities of California and other States and of the Agricultural Adjustment Administration, or other agencies, of the United States with respect to plans relating to the marketing of dairy products, within this State or as between this State and other States or the United States, and may effectuate and enforce such plans. Cooperative agreements

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CHAPTER 279.

An act to amend section 6 of an act entitled "An act to allow unincorporated towns and villages to equip and maintain a fire department and to assess and collect taxes, from time to time, for such purpose, and to create a board of Stats 1881, p 26, amended

fire commissioners," approved March 4, 1881, as amended, relating to the conduct of elections.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1909, p 1030

SECTION 1. Section 6 of the act cited in the title hereof is hereby amended to read as follows:

See Stats 1935, Ch 740

Conduct of elections

Sec. 6. The board of fire commissioners must appoint one inspector, one judge and one clerk to conduct elections, which elections must be held in all respects as nearly as practicable in conformity with the general election laws. However, no new registers shall be required, nor shall legal ballot paper be required; and the polls may be opened at one o'clock p.m. and closed at six o'clock p.m. on the day appointed for any election.

CHAPTER 280.

An act to provide for the registration of bonds and interest coupons unpaid for want of funds and the preference and payment thereof in the order of such registration, when funds are available.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Registration of bonds and interest coupons

SECTION 1. When any bond or any interest coupon, payable from funds in the custody of the county treasurer, is presented to the treasurer for payment and is not paid for want of funds, the treasurer must indorse thereon "Not paid for want of funds," with the date of presentation and a serial number indicating the order of presentation and sign or stamp his name thereon. Such bonds and/or coupons, so indorsed and numbered, are entitled to preference as to payment out of the first moneys received in the treasury properly applicable to the payment thereof, in the order in which they were so presented and registered.

Payment

SEC. 2. Upon receipt of moneys into the treasury applicable to the payment thereof, the treasurer must set apart the same, or so much thereof as is necessary, for the payment of such registered bonds and/or coupons. He must then give notice by registered mail to the owner or holder of such registered bonds and/or coupons, at the address last filed with the treasurer, stating therein that he is ready to pay such registered bonds and/or coupons.

Notice

Application of funds.

SEC. 3. Should such registered bonds and/or coupons not be presented for payment within thirty days from the date of mailing notice hereinbefore provided for, the fund set aside for the payment thereof must be applied by the treasurer to unpaid registered bonds and/or coupons next in order until all bonds and/or coupons so registered have been called.

CHAPTER 281.

An act to amend the title and sections 8, 14, 32 and 33 of the Bank and Corporation Franchise Tax Act, relating to bank and corporation taxes, including the extension of the provisions of said act to the companies taxable hereunder and their franchises, other than insurance companies and their franchises, specified in section 14 of Article XIII of the Constitution of this State.

Stats 1929, p 19, amended.

[Approved by the Governor June 7, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows:

Stats 1935, Ch 275 See Stats 1935, Ch 353

An act to carry into effect the provisions of sections 14 and 16 of Article XIII of the Constitution of the State of California, relating to bank and corporation taxes.

Title amended

SEC. 2. Section 8 of said act is hereby amended to read as follows:

Stats 1935, Ch 275

Sec. 8. In computing "net income" the following deductions shall be allowed:

Deductions allowed

(a) All the ordinary and necessary expenses paid or incurred during the income year in carrying on business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and rentals or other payments required to be made as a condition to the continued use or possession for business purposes of property to which the taxpayer has not taken or is not taking title or in which it has no equity.

Expenses

(b) All interest paid or accrued during the income year on indebtedness of the taxpayer.

Interest

(c) Taxes or licenses paid or accrued during the income year, other than taxes paid to the State under this act, and other than taxes on or according to or measured by income or profits paid or accrued within the income year imposed by the authority of (1) the government of the United States or any foreign country, (2) any State, Territory, county, city and county, school district, municipality, or other taxing subdivision of any State or Territory, and other than taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this shall not exclude the allowance as a deduction of so much of said taxes assessed against local benefits as is properly allocable to maintenance or interest charges; provided, however, that the deduction of personal property taxes shall be subject to the provisions of section 26 hereof.

Taxes or licenses

(d) Losses sustained during the income year and not compensated for by insurance or otherwise, except that such losses may, with the consent of the Franchise Tax Commissioner, hereinafter designated "commissioner," be accounted for as of a different period. In the case of any loss claimed to have been

Uncompensated losses

sustained in any sale or other disposition of shares of stock or securities where it appears that within thirty days before or after the date of such sale or other disposition, the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substantially identical property and the property so acquired is held by the taxpayer for any period after such sale or other disposition, no deduction for the loss shall be allowed unless the claim is made by a taxpayer, a dealer in stocks or securities, and with respect to a transaction made in the ordinary course of its business. If such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of the loss shall be disallowed. Upon the subsequent sale or disposition of shares of stock or securities, in respect of which a loss has been disallowed, the basis for measuring gain or loss in the case of the property so acquired shall be the basis in the case of the stock or securities so sold or disposed of, except that if the repurchase price was in excess of the sale price such basis shall be increased in the amount of the difference, or if the repurchase price was less than the sale price such basis shall be decreased in the amount of the difference.

Bad debts

(e) Debts ascertained to be worthless and charged off within the income year, or, in the discretion of the commissioner, a reasonable addition to a reserve for bad debts. When satisfied that a debt is recoverable in part only the commissioner may allow such debt to be charged off in part

Depreciation

(f) Exhaustion, wear and tear and obsolescence of property to be allowed upon the basis provided in sections 113 and 114 of that certain act of the Congress of the United States known as the "Revenue Act of 1934," which are for the purposes of this subdivision hereby referred to and incorporated with the same force and effect as though fully set forth herein.

Depletion.

(g) In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements according to the peculiar conditions in each instance, such reasonable allowance in all cases to be made under the rules and regulations to be prescribed by the commissioner.

Computation of depletion

In the case of leases the deduction shall be equitably apportioned between the lessor and the lessee.

The basis upon which depletion is to be allowed in respect of any property and the amount of depletion allowable shall be as provided in sections 113 and 114 of the said Revenue Act of 1934, which are, for the purposes of this subdivision, hereby referred to and incorporated with the same force and effect as though fully set forth herein.

Dividends from income of intrastate business

(h) Dividends received during the income year from a bank or corporation doing business in this State declared from income arising out of business done in this State; but if the income out of which the dividends are declared is derived from

business done within and without this State, then so much of the dividends shall be allowed as a deduction as the amount of the income from business done within this State bears to the total business done. The provisions of this subdivision shall not apply to dividends received from banks or corporations not taxable under Article XIII of the Constitution of this State.

The burden shall be on the taxpayer to show that the amount of dividends claimed as a deduction has been received from income arising out of business done in this State.

Return paid by mutual building and loan associations

(i) In the case of a building and loan association, organized and operating wholly or partly on a mutual plan, the return paid or credited on or apportioned to the withdrawable shares of such association, but not exceeding the return such shares would receive computed at the average rate paid by all such associations in this State, or by such associations in a particular locality, as the Building and Loan Commissioner of this State may determine, on money borrowed or obtained through the issue during the income year of the association of all classes of notes and investment certificates not evidencing any proprietary interest in the association, such rate to be determined by the Building and Loan Commissioner and certified by him to the Franchise Tax Commissioner on or before the first day of March of each year.

Interest paid by mutual savings banks.

(j) In the case of a mutual savings bank, the entire amount of interest paid to depositors possessing no proprietary interest in the institution or in its surplus, and interest on their deposits to members possessing a proprietary interest in the institution or in its surplus at a rate determined by the State Superintendent of Banks to be the going rate of interest upon savings deposits in the State during the calendar year preceding the taxable year, such rate to be certified by him to the commissioner on or before the first day of March of each year.

Income of farmers' cooperatives

(k) In the case of farmers, fruit growers, or like associations organized and operated in whole or in part on a cooperative or a mutual basis, (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, which may include reasonable reserves, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing, or producing, supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses, all income resulting from or arising out of such business activities for or with their members carried on by them or their agents; or when done on a nonprofit basis for or with nonmembers.

Income of other cooperatives

(l) In the case of other associations organized and operated in whole or in part on a cooperative or a mutual basis, all income resulting from or arising out of business activities for or with their members, or with nonmembers, done on a nonprofit basis.

Effect if deduction adjudged discriminatory.

(m) If any deduction provided for in this section is finally adjudged discriminatory against a national banking association contrary to section 5219 of the Revised Statutes of the United States, or is for any reason finally adjudged invalid, in that event the tax of the favored taxpayer shall be recomputed by the Tax Commissioner for the taxable year in question, as of the time of allowance of the deduction, by disallowing the deduction, and any difference between the amount of the tax as recomputed and the amount of the tax as originally computed shall be subject to the provisions hereof relating to original computations.

Stats. 1933, p. 690.

SEC. 3. Section 14 of said act is hereby amended to read as follows:

Allocation of income or deductions among affiliated banks and corporations

Sec. 14. In the case of two or more corporations or banks or of one or more banks and one or more corporations owned or controlled directly or indirectly by the same interests, the commissioner is authorized to distribute, apportion, or allocate gross income or deductions between or among such corporations or banks, if he determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such corporations or banks.

In the case of a corporation doing business within the meaning of this act, whether under agreement or otherwise, in such manner as either directly or indirectly to benefit the members or stockholders of the corporation, or any of them, or any person or persons, directly or indirectly interested in such business, by rendering services of any nature whatsoever, or acquiring or disposing of its products or the goods or commodities in which it deals, at less than a fair price therefor; or where such a corporation, owned and/or controlled either directly or indirectly by another corporation or corporations, renders services of any nature whatsoever, or acquires or disposes of the products of the corporations so owning and/or controlling such corporation, in such a manner as to create a loss or improper net income, the commissioner, in order to prevent evasion of taxes or clearly to reflect the income of such a corporation, may require a report consolidated with the owning and/or controlling corporation or corporations, or such other facts as he deems necessary, and may determine the amount which shall be deemed to be the entire net income allocable to this State of the business of such corporation for the calendar or fiscal year, and compute the tax on such net income. In determining the entire net income the commissioner shall have regard to the fair profits which, but for any agreement, arrangement or understanding, might be or could have been obtained from dealing in such products, goods or commodities.

Stats. 1931, p. 2228

SEC. 4. Section 32 of said act is hereby amended to read as follows:

See Stats. 1935, Ch. 281

Suspension and forfeiture of corporate powers for nonpayment of taxes

Sec. 32. (a) Except as otherwise provided in this section, if any tax, or any portion or installment thereof, together with penalties, and interest thereon, computed and levied hereunder, is not paid on or before six o'clock p.m. on the last day of the eleventh month after the fifteenth day of the third month following the close of the income year next preceding the taxable year for which such tax is payable, (or, in case of an adjusted tax as provided in subdivision (e) of section 13 of this act, on the last day of the eleventh month after the fifteenth day of the third month following the close of the taxable year for which such adjusted tax is payable) the corporate powers, rights and privileges of the delinquent taxpayer, if it be a domestic bank or corporation, shall be suspended and shall be incapable of being exercised for any purpose or in any manner except for the purpose of amending the articles of incorporation to set forth a new name, and the officers, directors and stockholders or members of any such bank or corporation may take such action in their respective capacities as may be required by law in order to amend the articles of incorporation for such purpose; if the delinquent taxpayer be a foreign bank or corporation it shall thereupon forfeit its rights to do intrastate business in this State.

(b) If any tax, or any portion or installment thereof, together with penalties and interest thereon, computed and levied on the companies referred to in subdivision (aa) of section 13 of this act, is not paid on or before six o'clock p.m. on the last day of the eleventh month after March 15, 1935, such companies shall be subject to the suspension or forfeiture as provided in the preceding paragraph.

(c) If any tax due and payable upon notice and demand from the commissioner, together with penalties, and interest thereon, is not paid on or before six o'clock p.m. on the last day of the eleventh month following the due date of such tax, the corporate powers, rights and privileges of the delinquent taxpayer, if it be a domestic bank or corporation, shall be suspended and shall be incapable of being exercised for any purpose or in any manner except for the purpose of amending the articles of incorporation to set forth a new name, and the officers, directors and stockholders or members of any such bank or corporation may take such action in their respective capacities as may be required by law in order to amend the articles of incorporation for such purpose; if the delinquent taxpayer be a foreign bank or corporation it shall thereupon forfeit its rights to do intrastate business in this State; provided, however, if the second installment of tax on any bank or financial corporation, pursuant to section 23 of this act, or any additional tax computed and levied as provided in subdivision (8) of section 4 of this act, becomes due and payable on the fifteenth day of the ninth month following the close of the income year, the date of suspension or forfeiture, in case of nonpayment of such taxes, shall be determined in accordance with the provisions of subdivision (a) of this section.

Same. When effective

(d) The Controller shall transmit the name of each such bank or corporation to the Secretary of State, who shall immediately record the same in such manner that it may be available to the public. The suspension or forfeiture herein provided for shall become effective immediately such record is made, and the certificate of the Secretary of State shall be prima facie evidence of such suspension or forfeiture.

Penalties

(e) Any person who attempts or purports to exercise any of the rights, privileges or powers of any such domestic bank or corporation, except as hereinabove permitted, or who transacts or attempts to transact any intrastate business in the State in behalf of any such foreign bank or corporation shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars and not exceeding one thousand dollars, or by imprisonment in the county jail not less than fifty days or more than five hundred days, or by both such fine and imprisonment. The jurisdiction of such offense shall be held to be in any county in which any part of such attempted exercise of such powers, or any part of such transaction of business occurred, and the district attorney of the county must prosecute such offense. In addition to the penal provisions in this paragraph, any bank or corporation which transacts business during the period of suspension or forfeiture shall be subject to tax under the provisions of this act. Every contract made in violation of this section is hereby declared to be voidable, at the instance of any party other than the taxpayer.

Stats. 1933, p. 706

SEC. 5. Section 33 of said act is hereby amended to read as follows:

See Stats 1935, Ch 281

Revivor of corporate powers upon payment

SEC. 33. Any bank or corporation which has suffered the suspension or forfeiture provided for in the preceding section may be relieved therefrom upon making application therefor in writing to the Controller and upon payment of the tax and the interest and penalties for nonpayment of which the suspension or forfeiture occurred, together with all other taxes, deficiencies, interest and penalties due under the act, and upon the issuance by the Controller of a certificate of revivor. Application for such certificate on behalf of any domestic bank or corporation which has suffered such suspension may be made by any stockholder or creditor or by a majority of the surviving trustees or directors thereof; application for such certificate may be made by any foreign bank or corporation which has suffered such forfeiture or by any stockholder or creditor thereof.

Corporate name.

Before such certificate of revivor is issued by the Controller he shall obtain from the Secretary of State an endorsement upon such application of the fact that the name of such bank or corporation is not one which is likely to mislead the public or which is the same as, or resembles so closely as to tend to deceive, the name of a foreign or domestic bank or corporation which is authorized to transact business in this State or a name which is under reservation. If the name of such bank or cor-

poration is one which is likely to mislead the public or is the same as, or resembles so closely as to tend to deceive, the name of a foreign or domestic bank or corporation which is authorized to transact business in this State, or a name which is under reservation, the Secretary of State shall not endorse such statement upon such application until the bank or corporation therein named, if it be a domestic bank or corporation, files in his office amended articles of incorporation changing its name, or, if it be a foreign bank or corporation, files in his office a copy of such document changing its name as may be required by the law of the State or other jurisdiction under which it was incorporated, which copy shall be certified in the manner prescribed by section 405 of the Civil Code. Upon the issuance of such certificate by the Controller the bank or corporation therein named shall become reinstated but such reinstatement shall be without prejudice to any action, defense or right which has accrued by reason of the original suspension or forfeiture. The certificate of revivor shall be prima facie evidence of such reinstatement and such certificate may be recorded in the office of the county recorder of any county of this State.

Constitutionality

SEC. 6. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

Tax levy.

SEC. 7. This act, inasmuch as it provides for tax levies for the usual current expenses of the State, shall under the provisions of section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 282.

An act to repeal Chapter 9 of Part 2 of Division 2 of the Insurance Code, and to add a new Chapter 9, comprising sections 10810 to 10940, inclusive, to Part 2 of Division 2 of the Insurance Code, relating to insurers transacting life and disability insurance on the stipulated premium plan with provision for assessment.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

NOTE.—See Stats. 1935, Ch. 145.

Constitutionality.

SEC. 3. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining

portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

CHAPTER 283.

An act to amend the Insurance Code by repealing Chapter 8 of Part 2 of Division 2 thereof and adding a new Chapter 8 to Part 2 of Division 2, thereof, comprising sections 10640 to 10880, inclusive, and by repealing section 1700 thereof, all relating to life insurance principals, practice and business, and matters incidental thereto by mutual benefit life associations.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

NOTE.—See Stats. 1935, Ch. 145.

Constitutionality.

SEC. 3. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

CHAPTER 284.

Stats 1933, p. 352, amended.

An act to amend section 1 of an act entitled "An act relating to the safety of design and construction of public school buildings, providing for regulation, inspection, and supervision of the construction, reconstruction or alteration of or addition to public school buildings and for the inspection of existing school buildings, defining the powers and duties of the State Division of Architecture in respect thereto, providing for the collection and disposition of fees, prescribing penalties for violation thereof and declaring the urgency of the act to take effect immediately," approved

April 10, 1933, relating to the buildings and work subject to the provisions of said act.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933, p. 352.

Section 1. The Division of Architecture of the State Department of Public Works is hereby vested with authority under the police power of the State and directed to supervise the construction of any school building or, if the estimated cost exceed four thousand ($4,000) dollars, the reconstruction or alteration of or addition to any school building, for the protection of life and property as hereinafter provided. Construction of schools

The term "school building" as herein used means and includes any building used or designed to be used for elementary or secondary schools or junior college purposes and constructed, reconstructed, altered or added to, by the State or by any county, city, city and county, or other political subdivision or by any school or junior college district of any kind or character whatsoever within the State. "School building" defined.

CHAPTER 285.

An act to amend the Los Angeles County Flood Control Act by adding thereto a new section to be numbered 15a, relating to compliance with requirements of the United States or any department or agency thereof, in the performance of public work financed in whole or in part from Federal funds, and declaring the urgency thereof, the act to take effect immediately. Stats. 1915, p 1502, amended

[Approved by the Governor June 7, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The Los Angeles County Flood Control Act is hereby amended by adding thereto a new section numbered 15a reading as follows: New section

Sec. 15a. The governing body of said district shall have full authority to cause to be inserted in specifications and contracts for any flood control work financed or paid for in whole or in part out of moneys obtained from the United States of America or any department or agency thereof as a loan, grant or appropriation, such provisions or terms as may be prescribed by the United States of America or such department or agency as a condition upon which such Federal funds are loaned, granted or appropriated. Federal aid Compliance with requirements

Urgency.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall therefore go into effect immediately. The facts constituting the necessity are as follows:

A disastrous forest fire occurred in November, 1933, completely denuding approximately seven square miles of the mountainous watershed above the towns of La Crescenta, Montrose and La Canada, in Los Angeles County, thereby permitting boulders, debris and dirt to wash down upon the populous communities lying below said watershed. The immediate construction of debris dams at the mouths of various canyons below said burned-over watershed and the construction of channels below said debris basins are necessary in order to protect the lives of persons living in said communities and to protect the homes and other property from destruction. The Seventy-third Congress of the United States adopted an act known as "H. R. 7599," appropriating five million dollars to be loaned by the Reconstruction Finance Corporation for the repair or reconstruction of flood control systems and other property damaged or destroyed by floods or other catastrophes in the year 1933 and in the months of January and February, 1934, and said corporation has agreed to loan a portion of said funds to the Los Angeles County Flood Control District for the construction of said debris basins and channels in said area, provided the said district will agree to award contracts for the construction of said work to those persons only possessing certificates of compliance with the National Industrial Recovery Administration codes, and in the employment of labor to give preference to veterans with dependents. The district is without authority to agree to said provisions unless this act becomes a law, and in order to have said money available at once with which to perform said work prior to the rainy season of 1935-1936, it is necessary that this act go into effect immediately.

CHAPTER 286.

An act authorizing certain cities, cities and counties, and boards or departments thereof, in issuing revenue bonds or other evidences of indebtedness, payable solely from revenues, or from any other special fund, to issue the same as negotiable instruments, to provide for certain signatures thereto by facsimile, for making the same payable at places

outside the State of California, and for the registration thereof.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Whenever any city, city and county, or county, having a charter adopted pursuant to the provisions of the Constitution of the State of California, or any board or department of any of the same, shall, under said charter, be vested with authority to issue revenue bonds, or other evidences of indebtedness, payable solely from revenues of a municipal utility, or solely from any other special fund, and to issue the same in negotiable form, such city, city and county, or county, or such board or department thereof, is hereby authorized to issue such revenue bonds, or other evidences of indebtedness, in negotiable form, and such revenue bonds, or other evidences of indebtedness, are hereby declared to be negotiable instruments, having all of the attributes of negotiability under the laws relating to negotiable instruments of this State.

Revenue bonds Issuance in negotiable form

SEC. 2. Any such city, city and county, or county, or board or department thereof, in issuing such revenue bonds, or other evidences of indebtedness, (a) may provide that any required signatures to such bonds, or other evidences of indebtedness, and to any coupons thereto attached, may be by facsimile, except that as to any such bonds, or other evidences of indebtedness, but not as to any such coupons, at least one signature shall be by autograph; (b) may provide for the registration of such bonds, or other evidences of indebtedness, as to both principal and interest, or either of them; (c) may provide for making such bonds or other evidences of indebtedness, and such coupons, payable by the city treasurer or such agency as may be established by such city, city and county, or county, or board or department thereof, for the purpose, and at one or more point or points within or outside of the State of California, upon presentation and surrender thereof respectively and without any such presentation and approval of demands as may be required by any provision or law of any charter with respect to other claims against any such city, city and county, or county or board of department thereof; and (d) may deposit with any such agency moneys from the fund or funds from which such bonds, or other evidences of indebtedness, and such coupons are payable, in order to provide for the payment of such bonds, or other evidences of indebtedness, and such coupons, upon such presentation and surrender thereof to such agency.

Powers of issuing board or body

CHAPTER 287.

An act to amend section 10482 of the Insurance Code, relating to valuation of life policies.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 288.

An act to amend section 2737 of the Political Code, relating to bridges and highways.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1897, p. 217.

SECTION 1. Section 2737 of the Political Code is hereby amended to read as follows:

Animal carcass on or near highway.

2737. Every person who knowingly allows the carcass of any dead animal (which animal belonged to him at the time of its death) to be put or to remain within one hundred feet of any street, alley, public highway, or road in common use, and every person who puts the carcass of any dead animal within one hundred feet of any street, alley, highway, or road in common use, or who shall deposit on any highway any refuse or waste tin, sheet-iron, or broken glass, is guilty of a misdemeanor.

Penalty

CHAPTER 289.

An act to recognize certain corporations as agencies and instrumentalities of the United States, declaring the urgency thereof, and providing for the taking effect immediately thereof.

[Approved by the Governor June 7, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Certain corporations recognized as agencies and instrumentalities of United States

SECTION 1. Every corporation organized under the laws of this State or of any other State of the United States or of the District of Columbia, or under an act of the Congress of the United States, by any agency of the United States government, all of the capital stock of which is beneficially owned by the United States or by an agency or instrumentality of the United States, or by any corporation the whole of the capital stock of which is owned by the United States or by an agency or instrumentality of the United States, shall be conclusively

presumed to be an agency and instrumentality of the United States and shall be entitled to all privileges and immunities to which the holder or holders of all of its stock are entitled as agencies of the United States government.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution, and it shall therefore go into immediate effect. The facts constituting the necessity are as follows: Urgency

Due to the widespread depression many citizens of this State find themselves in distressed circumstances and in need of immediate relief which can be obtained only from corporations, which, although not incorporated by act of Congress, are wholly owned by agencies or instrumentalities of the United States including corporations wholly owned by the United States. Said corporations may not undertake the work of furnishing such relief unless their status as agents and instrumentalities of the United States is unequivocally recognized by this State.

CHAPTER 290.

An act to amend section 11 of and to add a new section to be numbered section 12 to an act entitled "An act to define the boundary, provide for the care, strengthening and repairing of levees, and the payment of the indebtedness of Levee District Number One of Sutter County," approved March 20, 1874, relating to the compensation and powers of officers of said district. Stats. 1873-4, p. 511, amended.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 11 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1933, p. 2474.

Sec. 11. The directors shall each receive an annual salary of five hundred dollars, payable in quarterly installments of one hundred twenty-five dollars each on the first Monday in March, June, September and December of each year, which sum shall be in full compensation for all services of every nature or kind rendered by said directors. During the years that an assessment is made in said district, the ex officio assessor of the district shall receive a salary of five hundred dollars, and the ex officio treasurer and the ex officio tax collector of the district shall receive a combined annual salary of five hundred dollars, such salaries to be paid quarterly on the first Monday of March, June, September and December of each such year. During any calendar year that no assessment is made in said district, the ex officio assessor of said Salaries

district shall receive an annual salary of one hundred dollars per year, and the ex officio treasurer and ex officio tax collector of the district shall receive a combined annual salary of one hundred dollars per year, payable quarterly on the first Monday of March, June, September and December of each such year. The auditor of Sutter County shall receive an annual salary of two hundred fifty dollars ($250) for his services to said district payable in equal installments on the first Monday in June and December of each year. Election officers at any and all elections held in the district shall receive for their services such sum as the board of directors shall deem just and reasonable. Claims for such salaries and services must be sworn to and presented to the board of directors of said district and before any warrants are drawn for the same, such claims shall be audited and approved by said board.

New section

SEC. 2. A new section is hereby added to said act, as amended, to be numbered section 12, to read as follows:

Additional powers of directors

Sec. 12. The directors of said district, in addition to the powers heretofore conferred upon such directors by said act, as amended, are authorized to acquire by purchase, condemnation, gift or other legal action, drains, canals, sluices, bulkheads, water-gates, levees, embankment, pumping plants, and pipe lines, and to purchase, construct, or otherwise acquire, maintain and keep in repair all things reasonable or convenient for the protection of the lands embraced in said district from overflow, and for the purpose of conserving and adding water to the sloughs and drains of said district. During any year that an assessment is made in said district, the board shall find the percentage of taxes necessary to be levied for the purposes in this section provided in addition to the amounts found necessary as provided by section 8 of said act.

CHAPTER 291.

An act to amend the Insurance Code by amending Article 14 of Chapter 1 of Part 2 of Division 1 thereof, relating to proceedings against insolvent insurers.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

NOTE—See Stats 1935, Ch. 145

CHAPTER 292.

An act to amend sections 12350, 12352, 12353, 12355, 12356, and 12357 of the Insurance Code, relating to title insurers.

[Approved by the Governor June 7, 1935 In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 293.

An act to amend sections 4130 and 4140 of the Political Code, relating to county recorders, their duties and penalty for neglect thereof or for misconduct.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4130 of the Political Code is hereby amended to read as follows: Stats 1931, p. 1405.

4130. The recorder must procure such books for records as the business of his office requires, but orders for the same must first be obtained from the board of supervisors. The books used may contain printed forms of deeds, mortgages, or other instruments of general use. He has the custody of, and must keep all books, records, maps and papers deposited in his office. Duties of recorder

SEC. 2. Section 4140 of the Political Code is hereby amended to read as follows: Stats. 1923, p. 145.

4140. If any recorder to whom an instrument, proved or acknowledged according to law, or any paper or notice which may by law be recorded, is delivered for record: Penalty for neglect or misconduct.

1. Neglects or refuses to record such instrument, paper, or notice within a reasonable time after receiving the same;

2. Records any instrument, paper, or notice, wilfully or negligently, untruly, or in any manner than is hereinbefore directed;

3. Neglects or refuses to keep in his office such indices as are required by this article, or to make the proper entries therein; or,

4. Alters, changes, or obliterates any records deposited in his office, or inserts any new matter therein, he is liable to the party aggrieved for three times the amount of the damages which may be occasioned thereby.

CHAPTER 294.

An act to amend section 408 of the Political Code, relating to the duties of the Secretary of State.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 408 of the Political Code is hereby amended to read as follows: Stats 1923, p. 141

408. In addition to the duties prescribed by the Constitution, it is the duty of the Secretary of State: Duties of Secretary of State.

1. To attend at every session of the Legislature, for the purpose of receiving bills and resolutions thereof, and to per-

Duties of Secretary of State.

form such other duties as may be devolved upon him by resolution of the two houses, or either of them;

2. To keep a register of, and attest the official acts of, the Governor;

3. To affix the great seal, with his attestation, to commissions, pardons, and other public instruments, to which the official signature of the Governor is required;

4. To record in proper books all conveyances made to the State, except conveyances made under the revenue law of lands sold for taxes, and all articles of incorporation filed in his office;

5. To receive and record in proper books the official bonds of all the officers whose bonds are fixed by part three of this code, and then to deliver the original to the State Treasurer;

6. To record in a proper book all changes of names certified to him by the county clerks, in the manner in which such record is now made;

7. To take and file in his office receipts for all books distributed by him, and to direct the county clerk of each county to do the same;

8. To certify to the Governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the Governor, and also to certify and declare the result of any election upon any question submitted to the electors of the State by either initiative or referendum petition, filed in his office, and to make official declaration of the vote upon each such question;

9. To furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in his office;

10. To deliver to the Superintendent of State Printing, within sixty days after the day on which a general election is held throughout the State, his certificate showing what law or laws or constitutional amendments, proposed by initiative petition and approved by the people, have gone into operation, and the date of going into operation; and the result of any election upon any question submitted to the electors of the State within two years next preceding, by initiative or referendum petition; and to deliver to the State Printer, within one hundred days after the final adjournment of each session of the Legislature, his certificate showing what acts, or sections, or parts of acts of the Legislature are delayed from going into effect by referendum petition properly certified and filed in his office;

11. To keep a fee book in which must be entered all fees, commissions, and compensation of whatever nature or kind by him earned, collected or charged, with the date, name of payer, paid or not paid, and the nature of the service in each case, which book must be verified annually by his affidavit entered therein;

12. To file in his office descriptions of seals in use by the different State officers and furnish such officers with new seals whenever required;

13. To perform all other duties required of him by law;

14. To report to the Governor at the time prescribed in section 332, a detailed account of all of his official actions since his previous reports, and accompanying the report with a detailed statement, under oath, of the manner in which all appropriations for his office have been expended.

CHAPTER 295.

An act to amend section 409 of the Political Code, relating to the fees of the Secretary of State.

[Approved by the Governor June 7, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 409 of the Political Code is hereby amended to read as follows: Stats. 1933, p. 2236.

409. The Secretary of State, for services performed in his office, must charge and collect the following fees: Fees of Secretary of State.

1. For preparing a first copy, other than a carbon copy, of any law, resolution, record, or other document on file in his office, thirty cents per page, or fraction thereof.

2. For preparing a carbon copy of any law, resolution, record, or other document on file in his office, made at the time of preparing the first copy thereof, twelve cents per page, or fraction thereof.

3. For comparing a copy of any law, resolution, record, or other document or paper with the original, or the certified copy of the original, on file in his office, twelve cents per page, or fraction thereof.

4. For affixing certificate and Seal of State, unless otherwise provided for, two dollars.

5. For filing articles of incorporation or agreements of consolidation, except as otherwise provided, the fee fixed in the following schedule:

Amount represented by the total number of shares provided for in the articles of incorporation or the agreement of consolidation.	Fee
$25,000 or less	$15
Over $25,000 and not over $75,000	$25
Over $75,000 and not over $200,000	$50
Over $200,000 and not over $500,000	$75
Over $500,000 and not over $1,000,000	$100
Over $1,000,000—	
(1) for the first $1,000,000	$100
(2) for each additional $500,000 or fraction thereof	$50

Fees of Secretary of State.

For the purposes of the foregoing schedule, the amount represented by the total number of shares provided for in the articles of incorporation or the agreement of consolidation shall be:

1. The aggregate par value of such shares, if only shares with a par value are therein provided for,

2. The product of the number of shares multiplied by ten dollars, if only shares without par value are therein provided for, or

3. The aggregate par value of the shares with a par value plus the product of the number of shares without par value multiplied by ten dollars, if shares with and without par value are therein provided for.

For filing articles of incorporation or agreements of consolidation not providing for shares with and/or without par value, five dollars.

6. For recording articles of incorporation, and agreements of consolidation, and certified copies of articles of foreign corporations filed at the time they qualify for the transaction of intrastate business in this State, thirty cents per page, or fraction thereof.

7. For filing certificates of amendment of articles of incorporation, or agreements of merger, except as otherwise provided for, five dollars; for filing certificates of amendment of articles of incorporation, or agreements of merger, providing for shares the total number of which represents an amount in excess of the amount represented by the total number of authorized shares of the corporation, or the surviving corporation, respectively, five dollars for each fifty thousand dollars, or fraction thereof, of such additional amount. For the purposes of the preceding sentence, the amount represented by the total number of authorized shares of the corporation, or the surviving corporation, respectively, shall be

1. The aggregate par value of such shares, if only shares with a par value have been authorized,

2. The product of the total number of such shares multiplied by ten dollars, if only shares without par value have been authorized, or

3. The aggregate par value of such shares with a par value plus the product of the total number of such shares without par value multiplied by ten dollars, if shares with and without par value have been authorized, and the amount represented by the total number of shares provided for in the certificate of amendment of articles of incorporation or agreement of merger shall be

1. The aggregate par value of such shares, if only shares with a par value are therein provided for,

2. The product of the number of shares multiplied by ten dollars, if only shares without par value are therein provided for, or

3. The aggregate par value of the shares with a par value plus the product of the number of shares without par value

multiplied by ten dollars, if shares with and without par value are therein provided for.

Fees of Secretary of State

8. Upon delivery to him of copies of process against a corporation, five dollars for each corporation upon which service is sought through such delivery.

9. For filing claim to trademark, and issuing certificate of filing, five dollars.

10. For issuing certificate of filing any document, not otherwise provided for, three dollars.

11. For receiving and recording each official bond, five dollars.

12. (a) For filing the certified copy of the articles of a foreign corporation, other than the one specified in paragraph (b) hereof, one hundred dollars.

(b) For filing the certified copy of the articles of incorporation of a foreign nonprofit corporation, and of a foreign corporation organized for educational, religious, scientific or charitable purposes, and not issuing shares, five dollars.

13. For each commission, passport, or other document signed by the Governor and attested by the Secretary of State (pardons, military commissions, commissions issued to nonsalaried State officers, and extradition papers excepted) five dollars.

14. For each patent for land issued by the Governor, if for one hundred sixty acres, or less, one dollar; and for each additional one hundred sixty acres, or fraction thereof, one dollar.

15. For issuing certificate of official character, two dollars.

16. For recording miscellaneous documents or papers, thirty cents per page, or fraction thereof.

17. For filing any instrument by or on behalf of a corporation other than a certificate showing the surrender of the right of a foreign corporation to transact intrastate business, and other than a document or copy thereof terminating the existence of a foreign corporation, unless otherwise provided, five dollars.

18. For each notary public commission signed by the Governor and attested by the Secretary of State, five dollars.

19. For issuing a certificate of reservation of corporate name, two dollars.

20. For filing contracts for conditional sale of railroad or street railway equipment or rolling stock and declarations of payment and performance, five dollars.

21. For recording contracts for conditional sale of railroad or street railway equipment or rolling stock and declarations of payment and performance, thirty cents per page, or fraction thereof.

22. For registering farm, ranch or villa names, including the issuance of certificates of such registration, one dollar.

23. For issuing certificates of the filing of a copy of any lecture, sermon, address, dramatic composition, story or motion picture scenario and of an affidavit of authorship, five dollars.

24. For filing a copy of the trust instrument of any Massachusetts or business trust, fifteen dollars.

No member of the Legislature or State officer shall be charged for any search relative to matters appertaining to the duties of his office, nor shall he be charged any fee for a certified copy of any law or resolution passed by the Legislature relative to his official duties.

All fees collected by the Secretary of State must, at least once each week, be paid into the State treasury.

CHAPTER 296.

An act to amend section 4300c of the Political Code, relating to the fees of county recorders.

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1935, Ch 59

Recorder's fees.

SECTION 1. Section 4300c of the Political Code is hereby amended to read as follows:

4300c. For recording every instrument, paper, or notice required by law to be recorded, per folio, ten cents.

For indexing every instrument, paper, or notice, for each name, ten cents.

For filing every instrument, paper, or notice for record, and making the necessary entries thereon, twenty cents; provided, however, that the minimum fee for filing for record, recording, indexing and making the necessary entries on any written instrument, paper or notice except as hereinafter or otherwise provided by law, shall be one dollar; and provided further, that the minimum fee for filing for record, recording, indexing and making the necessary entries on any conditional sale contract, bailment or feeder contract, lease or mortgage of personal property or crops shall be fifty cents, and the minimum fee for filing for record, recording and indexing and making the necessary entries on any assignment, release, waiver or subordination which is designated on its face as being an assignment, release, waiver or subordination of a conditional sale contract, bailment or feeder contract, lease or mortgage of personal property or crops, shall be fifty cents.

For each certificate under seal, fifty cents.

For any copy of any record or paper on file or in the office of the county recorder, when such copy is made by him, per folio, ten cents.

For examining and certifying to a copy of any record or paper on file in the recorder's office when such copy is prepared by another, three cents per folio for comparing such copy with the original.

For every entry of discharge, credit, or release on the margin of record, and indexing same, fifty cents.

For searching the records of his office, for each year, fifty cents. Recorder's fees.

For abstract of title, for each conveyance or encumbrance, twenty-five cents.

For recording each map or plat where the same is copied in a book of record, for each course, ten cents.

For recording or filing each map wherein land is subdivided in lots, tracts, or parcels, five dollars.

For filing building contracts, plans and specifications, one dollar.

For figures or letters on maps or plats, per folio, ten cents; provided, that the fees for recording any map shall not exceed fifty dollars.

For taking acknowledgment of any instrument, fifty cents.

For recording marriage license, and certificate, to be paid by the county clerk, one dollar.

For filing notice of estray stock, and all services in estray cases, fifty cents.

For recording each mark or brand, one dollar.

For administering each oath or affirmation, and certifying the same, twenty-five cents.

For filing, indexing, and keeping each paper not required by law to be recorded, twenty-five cents; provided, however, no charge or fee shall be made for recording or indexing any discharge of a soldier, sailor or marine discharged from the army or navy of the United States or for issuing certified copies thereof.

The clerk, sheriff and recorder shall account for all fees in this and the two preceding sections provided for, and the clerk, sheriff, and recorder, unless otherwise provided by law, shall pay the same to the treasurer on the first Monday of the month following their collection, as provided in Article 59 of this chapter.

CHAPTER 297.

An act to amend section 11 of an act entitled "An act prescribing the terms upon which licenses or certificates of registration may be issued to practitioners of barbering, creating the State Board of Barber Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith," approved May 31, 1927, relating to admissions to practice. Stats 1927, p 1748, amended

[Approved by the Governor June 7, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 11 of the act cited in the title hereof is hereby amended to read as follows: Stats 1927, p. 1751.

Barbers from other States.

Sec. 11. (a) Any person who is at least eighteen years of age and of good moral character and temperate habits and has a diploma showing graduation from an eight grade grammar school, or its equivalent as determined by an examination conducted by the board and either:

1. Has a license or certificate of registration as a practicing barber from another State or country which has substantially the same requirements for licensing or registering barbers as required by this act, or

2. Who can prove by sworn affidavits that he has practiced as a barber in another State or country for at least two years prior to making application in this State, shall upon payment of the required fee, be granted permission to take an examination to determine his fitness to receive a certificate of registration to practice barbering. Should he fail to pass the examination, he may file a new application accompanied by the required fee and take another examination if he desires. In no event will he be permitted to practice barbering until such time as he has passed a satisfactory examination and has received a certificate of registration as a registered barber.

Apprentices from other States.

(b) Any apprentice who is at least sixteen and one-half years of age and of good moral character and temperate habits and who has a diploma showing graduation from an eight grade grammar school or its equivalent as determined by an examination conducted by the board, and has a certificate of registration as an apprentice in a State or country which has substantially the same requirements for registering an apprentice as is provided in this act, or who can prove by sworn affidavits that he has practiced in another State or country for at least six months prior to making application in this State, shall upon payment of the required fee, be granted permission to take an examination to determine his fitness to receive a certificate of registration as an apprentice. Should he pass the required examination, a certificate of registration as a registered apprentice shall be issued to him and the time spent in such other State or country as an apprentice shall be credited upon the period of apprenticeship required by this act as a qualification to take the examination to determine his fitness to receive a certificate of registration as a registered barber. Should he fail to pass a satisfactory examination, he must complete a further course of study of not less than five hundred hours to be completed within three months with not more than eight hours in any one working day in a school of barbering approved by the board before he will be eligible to file another application to determine his fitness to receive an apprentice certificate.

CHAPTER 298.

An act to amend section 674 and 675 of the Code of Civil Procedure, relating to the filing and recording of abstracts and satisfactions of judgments in the office of the county recorder.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 674 of the Code of Civil Procedure is hereby amended to read as follows: Stats. 1933, p. 1884

674. An abstract of the judgment or decree of any court of this State, including a judgment of any court sitting as a small claims court, or any court of record of the United States, the enforcement of which has not been stayed on appeal, certified by the clerk or justice of the court where such judgment or decree was rendered, may be recorded with the recorder of any county and from such recording the judgment or decree becomes a lien upon all the real property of the judgment debtor, not exempt from execution, in such county, owned by him at the time, or which he may afterwards and before the lien expires, acquire. Such lien continues for five years from the date of the entry of the judgment or decree, unless the enforcement of the judgment or decree is stayed on appeal by the execution of a sufficient undertaking as provided in this code, or by the statutes of the United States, in which case the lien of the judgment or decree, and any lien or liability now existing or hereafter created by virtue of an attachment that has been issued and levied in the action, unless otherwise by statutes of the United States provided, ceases, or upon an undertaking on release of attachment, or unless the judgment or decree is previously satisfied, or the lien otherwise discharged. The abstract above mentioned shall contain the following: Title of the court and cause and number of the action; date of entry of the judgment or decree; names of the judgment debtor and of the judgment creditor; amount of the judgment or decree, and where entered in judgment book, minutes or justices' docket.

Abstract of judgment Recordation

Lien.

Contents of abstract

SEC. 2. Section 675 of the Code of Civil Procedure is hereby amended to read as follows: Stats 1933, p. 1885

675. Satisfaction of a judgment may be entered upon an execution returned satisfied, or upon an acknowledgment of satisfaction filed with the clerk or with the justice, if there be no clerk, which may recite payment of the judgment in full or the acceptance by the judgment creditor of any lesser sum in full satisfaction thereof, made in the manner of an acknowledgment of a conveyance of real property, by the judgment creditor or assignee of record, or by indorsement by judgment creditor or assignees of record on the face, or on the margin of the record of the judgment, or by the attorney, unless a revocation of his authority is filed. Whenever a

Entry of satisfaction of judgment.

judgment is satisfied in fact, otherwise than upon an execution, the party or attorney must give such acknowledgment, or make such indorsement, and, upon motion, the court may compel it, or may order the entry of satisfaction to be made without it.

In the superior court such entry shall be made in the clerk's docket; in municipal courts, in the register of actions; in justices' courts, in the justices' docket.

Recordation of satisfaction of judgment.

Whenever an abstract of the judgment has been recorded with the recorder of any county, satisfaction thereof made in the manner of an acknowledgment of a conveyance of real property may be recorded, or an entry thereof may be made in the margin of the recorder's record, signed by the judgment creditor or assignee of record or by the attorney, unless a revocation of his authority is recorded. Said signature to the marginal release must be signed in the presence of the recorder who must certify to same as provided in section 2938 of the Civil Code for satisfaction of a mortgage.

1872 code.

CHAPTER 299.

"Joint County Road Camp Act"

An act providing for the creation, organization, and government of joint districts composed of two or more counties, and of districts composed of a single county, for the purpose of maintaining joint county road camps and providing that persons confined in the county jail of any such county under a final judgment of imprisonment rendered in a criminal action or proceeding may be required to perform labor on the public work or public highways in any of such counties.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Short title.

SECTION 1. This act shall be known as, and whenever cited or referred to, shall be designated as the Joint County Road Camp Act, and by such designation shall be sufficiently identified in any proceeding hereunder or in any court action or proceeding or legislative enactment in which this act is referred to.

District: Formation and purposes

SEC. 2. Any two or more counties of the State of California may form a district for the purpose of requiring all persons confined in the county jails of such counties, under a final judgment of imprisonment rendered in a criminal action or proceeding, to perform labor on the public works or public highways in all or any of such counties, and to maintain for that purpose one or more joint county road camps in which such jail prisoners of any or all of said counties may work together.

Any district organized hereunder shall have and exercise the powers expressly granted in this act, together with such

other powers as are reasonably implied therefrom and necessary and proper to carry out the objects and purposes of this act.

Resolution of board of supervisors

SEC. 3. The board of supervisors of any county may initiate proceedings proposing the creation of a joint district for the purpose of maintaining a joint county road camp or camps under the provisions of this act to be composed of two or more counties of the State having a combined population of not less than fifty thousand persons, according to the official census next preceding the formation of such district by the adoption of a resolution reciting the following:

Recitals.

(1) That it will be beneficial to the public interest to create a joint district wherein persons confined in any county jail within such district under a final judgment of imprisonment rendered in a criminal action or proceeding may be required to perform labor on the public works or ways within said district, and that a joint county road camp or camps be established and maintained for that purpose.

(2) The names of the counties proposed to be included in the proposed district which will be benefited by the formation thereof.

(3) That it is proposed to create a joint district for the establishment and maintenance of a joint county road camp under the provisions of this act composed of the counties so named.

Certification to other boards.

When adopted certified copies of said resolution shall be transmitted to the several clerks of the boards of supervisors in each of the counties named in the said resolution other than that in which the proceedings are initiated.

Upon the adoption of such resolution the board of supervisors of the county adopting the same shall name and appoint a member of said board of supervisors to represent said county upon the board of directors of the joint district proposed to be organized.

Adoption or rejection by other boards of supervisors

SEC. 4. Upon receipt of the resolution adopted as provided in section 3 hereof, the boards of supervisors of the counties affected and to whom the same may be directed shall consider the advisability of creating and organizing a joint district as proposed in said resolution and, upon determining the facts involved therein, shall severally adopt resolutions either rejecting or approving the proposal to create such joint district. Each resolution of approval shall, in addition to the matter otherwise required therein, also name and appoint the member of the board of supervisors of the county adopting such resolution qualified to represent such county upon the board of directors of the proposed joint district. A certified copy of said resolution of approval shall be forthwith transmitted to the clerk of the board of supervisors initiating the proceedings.

Declaration of creation of district

SEC. 5. The board of supervisors of any county initiating proceedings for the creation of a joint district under this act shall, after the receipt of a copy of the resolution approving

the proposal to form such district as provided in section 3 hereof from the board of supervisors of each county proposed to be included within any such joint district, adopt a resolution declaring the creation and organization of said joint district and setting forth the names of the counties composing said district. A certified copy of said resolution shall be transmitted to and filed with the Secretary of State of the State of California, whereupon the said joint district shall be deemed, created, and organized and shall exercise all the powers granted in this act and shall bear the name and designation of "Joint County Road Camp District No. _____ of the State of California." All districts organized under the provisions of this act shall be numbered in the order of their creation, such number to be assigned to said district forthwith upon the organization thereof by the Secretary of State, and the Secretary of State shall keep and maintain in his office a list and register showing the joint county road camp districts organized under the provisions of this act. The Secretary of State shall furnish and transmit to the clerk of the board of supervisors of the county adopting the initial resolution for the organization of any district hereunder a certificate of the organization of the same, and upon receipt of said certificate such clerk shall, within ten days after the receipt of the same, send a certified copy of said certificate to each of the clerks of the several boards of supervisors of the counties constituting said district, and said clerk shall also within said time notify each supervisor appointed as a member of the board of directors of said district of such fact and of the time and place of the first meeting of the board of directors of said district. Such time and place of meeting shall be fixed and determined by said clerk, but said time of meeting shall be within thirty days after the date of mailing notices thereof. The necessary expense incurred by such supervisors in attending and in going to and coming from any meeting of said board shall constitute a county charge of their respective counties.

District name.

Certificate of organization

First meeting of district directors

Expense a county charge.

Powers of directors

SEC. 6. The body thus formed shall be called the board of directors of such district. The said delegates from each county are authorized and empowered to enter an agreement with the other counties for and on behalf of the county appointing them, binding said counties to the joint enterprise and apportioning the cost of establishing and maintaining said road camp or camps, except as hereinafter provided, such cost to be apportioned on the basis of the population of the respective counties as determined by the official declaration of the State Legislature determining the population of counties next preceding such apportionment.

Collection of county's share.

SEC. 7. All sums found due from any county according to the provisions of this act shall be a debt against said county, and may be collected in the manner provided by law by the said board of directors, or, in its behalf, by the board of supervisors of any county in said district by action insti-

tuted and tried in any county in said district in which the same may be first filed.

Road camps

SEC. 8. The board of directors shall have power to establish the road camp or camps herein provided for, and to furnish such camp or camps with the necessary personnel and equipment to transport, feed, clothe, shelter and lodge the prisoners who shall work therein and with the necessary hand tools and appliances for their work, and may employ one or more persons to supervise said camp and the work of said prisoners.

Revolving fund.

SEC. 9. Each county in said group is authorized, empowered and directed to pay from its county general fund its proportionate share to the board of directors of such amount as the said board may designate to constitute a cash revolving fund to carry on the work and expense of maintaining such camp or camps. Each month a statement of the expense of said camp shall be sent to the board of supervisors of each county in said district, together with a claim for its proportionate share of said expenses. Said amount when received shall be paid into said cash revolving fund.

Parole of prisoners to work in road camp

SEC. 10. Within fifteen days after any person shall have been confined in the county jail of any county within such district under a final judgment of imprisonment rendered in a criminal action or proceeding, the county parole commissioners of such county shall meet and determine the question as to whether, in their opinion, said prisoner should be paroled to work in the joint county road camps established under this act. If it appears to said commissioners that such prisoner is a fit subject for such parole, they shall forthwith parole him with the requirement that he perform labor in such joint county road camp wherever the same may then be situated, or may thereafter be moved to during his term of imprisonment, and he shall forthwith be transferred by the sheriff of such county to said road camp at the expense of the county in which he was sentenced to imprisonment.

Use of prisoners on State highway work.

SEC. 11. The boards of directors of such districts shall have power to contract with the State Department of Public Works of the State of California for the employment of such jail prisoners in the construction, improvement, or maintenance of any portion of any State highway now existing, to be constructed, or under construction within said district and may also contract with any board of supervisors of any county or with any supervisor of any road district, within said district, for the employment of such jail prisoners on any county road or county public work within any county or road district lying within any district so created under this act. When the prisoners of such road camp are engaged in the construction or maintenance of any portion of the State highway the expense of maintaining the prisoners thereof, together with the compensation of such prisoners fixed by said board of directors as herein provided, and the expense of supervision and maintenance of said road camp and the prisoners thereof,

Expense.

shall be paid for by the district and the State Department of Public Works upon such terms and in such proportions as may be agreed upon by the Department of Public Works and the district. Any money expended by the Department of Public Works under the provisions of this act shall be taken from any funds available for the construction or maintenance of said highway. The State Department of Public Works is hereby authorized to contract with the boards of directors of the joint districts created under this act for all the purposes herein stated. When said joint road camp, and the prisoners thereof, shall be employed in the construction or maintenance of any county way, road or public work, the total expense of maintenance, operation and supervision, of said camp, and the compensation of the prisoners thereof shall be paid for from any funds which may be available for the construction or maintenance of such road, highway or other public works on which said prisoners are employed, or from the county general fund upon a four-fifths vote of the board of supervisors of said county. All such payments shall be made by warrants drawn on the proper fund in favor of "Joint County Road Camp District No. ------" (inserting the number assigned by the Secretary of State), and shall become a portion of the revolving fund hereinabove provided for; provided, that whenever said revolving fund after payment of all bills due against such district shall exceed in amount the sum of twenty thousand dollars or shall exceed such lesser sum as the board of directors shall determine to be a sufficient working fund for the purposes herein stated, said board shall apportion such surplus to be repaid to the counties forming the district, in the same proportion in which they are herein required to contribute to said revolving fund in the first instance, such payments to go into the county general funds of such counties.

Payment of prisoners doing county highway work.

Powers of board of directors.

SEC. 12. Said board of directors shall have power to make such rules as they deem proper for the government of said camp and the conduct of the prisoners and to fix a reasonable compensation, not to exceed seventy-five cents per day, to each prisoner performing labor in said camp as herein provided. Each prisoner shall be charged with the cost of all tools and appliances for the performance of labor which shall be furnished to him, and, upon his release or discharge from said camp, he shall deliver to the superintendent thereof all said tools and appliances for which he is charged and shall thereupon be entitled to full credit for the cost of the tools and appliances so returned. The cost of any appliances and tools not so returned as herein provided shall be deducted from the compensation due said prisoner. All sums so earned by any prisoner may be retained until said prisoner shall have completed his term of sentence, or until he shall be released or discharged, and shall thereupon be paid to him; provided, however, that if any prisoner has dependents, the

compensation of such prisoner shall be paid to such dependents monthly as earned.

SEC. 13. The board of supervisors of any county in the State of California, not included within any joint county road camp district, and having a population of one hundred fifty thousand or more persons, is hereby authorized and empowered to establish and maintain a county road camp as provided in this act, and to provide a board of directors thereof, by passing the resolution and receiving the certificate of organization herein provided for, and in such case shall nominate three of its members to serve as directors of the district thus formed, and such directors shall have and exercise all the powers and perform all the duties herein granted to and imposed upon boards of directors of joint county road camp districts, and such county shall constitute, and be recognized and dealt with in all respects as a joint county road camp district within the meaning of this act.

District comprising a single county

SEC. 14. Whenever a joint county road camp district, as provided in this act, shall have been formed and thereafter one or more counties comprising such district, and containing more than fifty per cent of the entire population of said district, shall desire to withdraw therefrom, such county or counties may dissolve said joint county road camp district in the following manner:

Dissolution of district

The board of supervisors of such county or the boards of supervisors of such counties shall by a unanimous vote adopt a resolution that the existence of said county road camp is no longer desirable for the public welfare and announcing the intention to withdraw therefrom and to dissolve said district. Such resolution or resolutions so adopted shall be communicated to the clerks of the boards of supervisors of all the counties comprising said district and also to the Secretary of State and if it appears that such resolution was unanimously adopted by the board or boards of supervisors in such counties desiring to withdraw, and that such county or counties contain more than fifty per cent (50%) of the entire population in said district, the Secretary of State shall thereupon certify to the clerks of the boards of supervisors of the counties composing such district that said district is dissolved and thereupon the board of directors of said district shall within ninety days abolish said road camp or camps and return all prisoners therein to their respective county jails and dispose of all equipment belonging to said camp or camps and district and shall render an accounting to the clerks of the boards of supervisors of the counties composing such district of all sums of money received and paid out since their last previous accounting, including the balance of revolving fund on hand at said last previous accounting, and shall apportion and repay to said counties all sums of money then remaining in their hands, and they shall thereupon be relieved of further responsibility in said matter.

CHAPTER 300.

Stats. 1931, p. 1527, amended

An act to amend section 10 of an act entitled "An act to provide for the formation, management and dissolution of county fire protection districts composed of lands within one or more counties and annexations to such districts; to set forth the powers of such districts and to provide for levying and collecting taxes on property in such districts to defray the expenses thereof," approved June 12, 1931, relating to taxes of county fire protection districts.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p 1527.

SECTION 1. Section 10 of the act cited in the title hereof is hereby amended to read as follows:

Levy and collection of taxes

Sec. 10. The board of directors of each county fire protection district shall annually on or before the twentieth day of July estimate the amount of money which will be needed to defray the cost of maintenance thereof, and to meet such other expenditures as are authorized by this act in connection therewith, and shall also ascertain from the assessor or assessors the assessed value of the assessable property within the district. Said board shall then determine the amount of the tax sufficient to raise the sum estimated to be necessary; provided, that the amount of money to be raised for the purpose of establishing and equipping said district with fire-fighting facilities shall not in any one year exceed one per cent of the assessable property within the district, and the amount of money to be raised for the purpose of maintaining said district each year shall not exceed one-half of one per cent of the assessable property within the district. When so determined, the amount of said tax shall be certified to the boards of supervisors of the counties in which any portion of said district is located and such boards of supervisors shall, at the time of making the levy of county taxes for that year, levy the tax certified upon all taxable property, real, personal or mixed, in said district. Said tax when levied shall be entered upon the assessment rolls and collected in the same manner as State and county taxes. When the same is collected it shall be placed in the treasury of the county in which the greater portion of said district is located, to the credit of the current expense fund of said district and shall be used only for the purpose for which it was raised. All accounts, bills and demands against the district shall be audited, allowed and paid by the board of directors by warrants drawn on the county treasurer. The county treasurer shall pay them in the order in which they are presented.

CHAPTER 301.

An act to amend sections 1081, 1082, 1083, 1085, 1087, 1088, 1089, 1090, and 1091 of, and to add sections 1081.1, 1083.1, 1083.3 and 1083.5 to the Agricultural Code, relating to commercial feeding stuffs.

Stats 1933, p. 60.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1081 of the Agricultural Code is hereby amended to read as follows:

Stats 1933, p. 241.

1081. "Commercial feeding stuffs" includes all feeding stuffs and concentrates used for feeding live stock and poultry except the following:

Commercial feeding stuffs

(a) Whole seeds or grains.

(b) Fresh green roughage, and unprocessed liquid milk in all its forms.

(c) Whole hays, straws, cottonseed hulls and corn stover, when unprocessed and unmixed with other materials.

SEC. 2. Section 1081.1 is hereby added to the Agricultural Code to read as follows:

New section

1081.1. Commercial feeding stuffs shall bear tag giving analysis, but shall not be required to pay the "tonnage tax" provided by Sec. 1083.5 if the material is sold to a manufacturer to be used in mixed feeds.

Sale to manufacturers.

SEC. 3. Section 1082 of the Agricultural Code is hereby amended to read as follows:

Stats 1933, p. 241.

1082. The standards for commercial feeding stuffs shall be fixed by the director.

Standards

SEC. 4. Section 1083 of the Agricultural Code is hereby amended to read as follows:

Stats 1933, p 242

1083. Every lot or parcel of commercial feeding stuffs sold or distributed within this State shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement certifying:

Labels.

(a) The net weight of the contents of the lot or parcel.

(b) The name, brand or trade-mark.

(c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market.

(d) The minimum per cent of crude protein.

(e) The minimum per cent of crude fat.

(f) The maximum per cent of crude fiber.

(g) The maximum per cent of ash.

(h) The recognized official name of each ingredient used in its manufacture.

(i) The per cent of such ingredients as corn cobs, corn bran, oat hulls, barley hulls, rice hulls, ground light rice, or similar materials, when such constitute a portion of the lot or parcel.

(j) The maximum per cent of mineral matter it contains.

(k) In the case of mixed feeds containing more than 5 per cent of mineral ingredients, the minimum percentage of lime (CaO), of phosphoric acid (P_2O_5), of iodine (I), and the maximum percentage of salt if the same be present.

(l) The maximum percentage of salt in any mixed feeds if more than 2 per cent of salt is present.

New section. SEC. 5. Section 1083.1 is hereby added to the Agricultural Code to read as follows:

Registration. 1083.1. Any person who sells commercial feeding stuffs shall register annually with the director and shall pay for each plant operated a registration fee of two dollars for each fiscal year, or portion thereof, beginning July 1.

New section. SEC. 6. Section 1083.3 is hereby added to the Agricultural Code to read as follows:

Invoices, tags and stamps. 1083.3. Any person who manufactures or mixes any commercial feeding stuffs, for another, shall, when such commercial feeding stuffs are not to be resold, furnish those for whom said commercial feeding stuffs are manufactured or mixed a numbered invoice which shall have written or printed thereon the date of sale and the name and the number of pounds of each ingredient entering into such commercial feeding stuffs. Each package of such commercial feeding stuffs mixture shall have attached thereto a written or printed tag showing the number and date of said invoice and the name of the mixer or manufacturer. All such invoices shall remain on file for six months, subject to inspection under the provisions of this chapter. No two invoices issued in one calendar year shall bear the same number. The manufacturer shall attach to the containers tags or stamps indicating the payment of the tonnage tax required by section 1083.5.

New section. SEC. 7. Section 1083.5 is hereby added to the Agricultural Code to read as follows:

Tonnage tax. 1083.5. Each and every manufacturer, importer, jobber, firm, association, corporation or person manufacturing, selling or distributing any commercial feeding stuffs as defined in section 1081 of this chapter, shall pay to the director an inspection tax of four cents (4¢) for each ton of commercial feeding stuffs sold, offered or exposed for sale or distributed in this State, and shall affix to or accompany each lot shipped in bulk, and to each parcel of such commercial feeding stuffs a tag, stamp or label indicating that all charges specified in this section have been paid. Whenever any commercial feeding stuffs as defined in section 1081 is offered or exposed for sale in bulk or otherwise stored, the manufacturer, importer, jobber, firm, association, corporation or person keeping the same for sale shall keep on hand cards upon which shall be printed the statement required by the provisions of section 1083, and when such feeding stuffs is sold at retail in bulk or in packages belonging to the purchaser, the manufacturer, importer, jobber, firm, association, corporation or person shall furnish the purchaser with sufficient tax tags or stamps to cover the sale,

and, upon request, with a card or cards upon which appears the statement required by the provisions of section 1083.

SEC. 8. Section 1085 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p. 242.

1085. The director and his agents and inspectors shall have free access to all premises or conveyances used in the manufacture, transportation, importation, sale or storage of any commercial feeding stuffs, and may open any parcel containing or supposed to contain any commercial feeding stuffs, and take therefrom samples and analyze the same. Inspection.

SEC. 9. Section 1087 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 242.

1087. Any lot of commercial feeding stuffs offered for sale in violation of the provisions of this chapter must, in accordance with rules and regulations of the director, be removed from sale by the vendor thereof upon his receiving notice from the director of such violation. The vendor must withhold such commercial feeding stuffs from sale until such violation has been corrected. Violation.

SEC. 10. Section 1088 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p. 242.

1088. If it appears from an analysis of the department that any provision of this chapter has been violated it shall notify the manufacturer or dealer and shall afford any party so notified an opportunity to be heard in his defense, under such rules and regulations as the department may prescribe. After such hearing the department shall dismiss the charges or shall certify the facts to the proper district attorney with a copy of the result of the analysis sworn to by the officer making the same. Such sworn copy of the determination is prima facie evidence of the facts stated therein. Notice and hearing.

SEC. 11. Section 1089 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 243.

1089. Any person who: Violation.

(a) Sells or distributes in this State, any commercial feeding stuffs without having attached thereto such labels, tax stamps or tags as are required by this chapter.

(b) Obstructs or prevents or attempts to prevent the department or its authorized agent in the performance of its duty in connection with the provisions of this chapter.

(c) Sells or distributes in this State any commercial feeding stuffs without complying with the registration requirements of the provisions of this chapter.

(d) Sells or distributes in this State any commercial feeding stuffs which contain a smaller per cent of crude protein or crude fat or a larger per cent of crude fiber or ash than is certified to be contained therein.

(e) Fails to properly state the recognized official name of each ingredient used in its manufacture.

(f) Fails to properly state the per cent of such ingredients as corn cobs, corn bran, oat hulls, barley hulls, rice hulls, ground light rice, or similar materials, when such constitute

a portion of the package, lot or parcel of the per cent of grit or mineral matter.

Is guilty of a misdemeanor and punishable by a fine of not more than one hundred dollars for the first violation and not less than one hundred dollars for each subsequent violation.

Stats. 1933, p. 243.

SEC. 12. Section 1090 of the Agricultural Code is hereby amended to read as follows:

Seizure, condemnation and sale

1090. Any person who mixes or adulterates any feeding stuffs with any substance injurious to the health of live stock or poultry is guilty of a misdemeanor and in addition to the penalty provided in the preceding section, the lot of feeding stuffs shall be subject to seizure, condemnation and sale as the court may direct. The court may in its discretion release the mixed or adulterated feeding stuffs so seized when the requirements of the provisions of this chapter have been complied with, and upon payment of all costs and expenses incurred by the State in any proceedings connected with such seizure.

Stats. 1933, p. 244

SEC. 13. Section 1091 of the Agricultural Code is hereby amended to read as follows:

Enforcement.

1091. The director shall enforce the provisions of this chapter and prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as he may deem necessary to carry into effect the full intent and meaning of this chapter.

CHAPTER 302.

An act to provide for the burning of the brush and debris on a watershed for experimental purposes.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Purpose of act

SECTION 1. The purpose of this act is to provide a means of determining experimentally the effect of burning brush, slash, undergrowth, and debris off of land upon the run-off of water from such land and the effect of such burning upon the underlying water level.

Administration.

SEC. 2. The Division of Forestry in the Department of Natural Resources shall carry out the provisions of this act, with the cooperation and assistance of the State Water Commission.

Land selected.

SEC. 3. An entire watershed of some river or creek shall be selected by the Division of Forestry. If the land selected is State land, the State of California hereby assents to its use for the purposes of this act. If the land selected belongs to the United States, the assent of the United States shall be obtained from proper officials. If any of the land is in private ownership the consent of all persons having an interest in the land to be burned over shall first be obtained in writing before the experiment is conducted.

SEC. 4. The State Water Commission shall cause to be made a survey of the stream and its tributaries and of all springs within the area. The commission shall determine, as accurately as may be, the underlying water level of the area. Water.

SEC. 5. After the determination provided for in the preceding section has been made, the Division of Forestry shall cause all brush, slash, undergrowth, and debris in the area to be burned. The division shall take all necessary precautions to protect standing timber of potential commercial value and to prevent the spread of the fire to any other area. Burning of brush, etc.

SEC. 6. After the burning, the water commission shall make another survey, or a series of surveys, and shall determine the effect, if any, of the burning upon the run-off of water, the underlying water level, and upon the springs in the area affected. Effect on water.

SEC. 7. The area chosen for the experiment shall be such that the result obtained could reasonably be applied to all of the lands of the State where the same or a similar problem arises. Unless the Division of Forestry for good cause determines otherwise, the land selected shall be in a mountainous area of the State north of the line of the 39th degree of north latitude. Type of land to be chosen

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CHAPTER 303.

An act to amend sections 117d and 117p of the Code of Civil Procedure, relating to small claims courts.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 117d of the Code of Civil Procedure is hereby amended to read as follows: Stats 1933, p. 1819

117d. The date for the appearance of the defendant as provided in the order endorsed on the affidavit shall not be more than fifteen days nor less than three days from the date of the said order. When the justice or clerk has affixed the date for the appearance of the defendant he shall inform the plaintiff of said date and at the same time order the plaintiff to appear on said date and to have with him his books, papers, and witnesses necessary to prove his claim. Time for appearance in small claims court.

SEC 2. Section 117p of the Code of Civil Procedure is hereby amended to read as follows: Stats 1933, p. 1822.

117p. A fee of one dollar shall be charged and collected for the filing of the affidavit for the commencement of any action, a fee of fifty cents shall be charged and collected for the mailing of the copy of the affidavit, and, except as otherwise provided for in this chapter, no other fee or charge shall be collected by any officer for any service rendered under this Fees

chapter. All fees collected hereunder shall be deposited with the treasurer of the city, or city and county, or county under whose jurisdiction any such court shall exist.

CHAPTER 304.

Stats 1933, p 60.

An act to add section 1219.5 to the Agricultural Code, relating to annual reports of nonprofit cooperative marketing associations.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 1219.5 is hereby added to the Agricultural Code to read as follows:

Report of directors of nonprofit cooperatives

1219.5. The board of directors of every association organized hereunder shall cause to be sent to the members thereof not later than one hundred twenty (120) days after the close of the fiscal or calendar year an annual report of the operations of the association, unless such report be expressly dispensed with in the by-laws. Such annual report shall include a balance sheet as of such closing date. Such financial statement shall be prepared from the books and shall be in accordance therewith and shall be prepared in a form sanctioned by sound accounting practice for the association or approved by a duly certified public accountant.

CHAPTER 305.

An act to amend section 330.24 of the Civil Code, relating to mutual water companies.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p 1377.

SECTION 1. Section 330.24 of the Civil Code is hereby amended to read as follows:

Mutual water companies

330.24. Any corporation organized for or engaged in the business of selling, distributing, supplying or delivering water for irrigation purposes, or for domestic use, may provide in its articles or by-laws that water shall be sold, distributed, supplied or delivered only to owners of its shares and that such shares shall be appurtenant to certain lands when the same are described in the certificate issued therefor; and when such certificate is so issued and a certified copy of such articles or by-laws recorded in the office of the county recorder in the county where such lands are situated the shares of stock shall become appurtenant to the said lands and shall only be

transferred therewith, except after sale or forfeiture for delinquent assessments thereon as provided in section 331 of this title. Notwithstanding such provision in its articles or by-laws, any such corporation may sell water to the State, or any department or agency thereof, or to any school district, at the same rates as to holders of shares of such corporations. In the event lands to which any such stock is appurtenant are owned or purchased by the State, or any department or agency thereof, or any school district, such stock shall be canceled by the secretary, but shall be reissued to any person later acquiring title to such land from the State department, agency, or school district.

Sale to public agencies

CHAPTER 306.

An act to amend sections 2 and 3 of "An act providing for the regulation of water companies, defining their powers and duties, defining the powers and duties of the Railroad Commission with reference thereto, and defining the conditions under which such water companies become subject to the provisions of the Public Utilities Act and the Railroad Commission of the State of California," approved April 25, 1913.

Stats. 1913, p. 84, amended.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1933, p 2480

Sec. 2. Whenever any private corporation or association is organized for the purpose solely of delivering water to its stockholders or members at cost, and delivers water to no one except its stockholders or members, or to the State or any agency or department thereof, or to any school district, at cost, such private corporation or association is not a public utility, and is not subject to the jurisdiction, control or regulation of the Railroad Commission of the State of California.

Certain water companies not public utilities

No person, firm or private corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, selling or delivering water exclusively to a water conservation district organized under the laws of the State of California or leasing or otherwise permitting the use of ditches or other water transmission facilities exclusively by such district shall be held to be a public utility within the meaning of this act. No portion of the works, property or water rights of any such parties shall be deemed dedicated to a public use by reason of selling or delivering water to a water conservation district.

SEC. 2. Section 3 of said act is hereby amended to read as follows:

Stats 1913 p. 85.

When private company becomes public utility

Sec. 3. Whenever any private corporation or association organized for the purpose of delivering water solely to its stockholders or members at cost does deliver water to others than its stockholders or members, or the State or any department or agency thereof or any school district, for compensation, such private corporation or association becomes a public utility and subject to the terms of the Public Utilities Act and the jurisdiction, control and regulation of the Railroad Commission of the State of California.

CHAPTER 307.

"California Agricultural Adjustment Act of 1935."

An act to establish legislative standards in relation to the rehabilitation of agriculture and the regulation of producers, packers, distributors, shippers, marketers, handlers, processors and others dealing in agricultural, viticultural, horticultural, animal and poultry products and of any competing commodity or product thereof; to recognize, make effective and provide for the enforcement in this State of marketing agreements and licenses issued or prescribed by the Secretary of Agriculture of the United States under the National Agricultural Adjustment Act, being Public Act No. 10 of the Seventy-third Congress of the United States; to provide for the issuance, administration and enforcement of State marketing agreements and State licenses in connection therewith; to prescribe the powers, duties and jurisdiction of the State Director of Agriculture in relation thereto; to provide that said State and Federal marketing agreements and licenses shall be and establish standards of fair competition in this State; to suspend all antitrust and unfair competition laws of this State in conflict herewith and therewith; to repeal Chapter 1029 of the Statutes of 1933; to prescribe remedies, rights, duties and penalties with respect to violations hereof and thereof; to provide ways, means and moneys for the administration and enforcement of said State and Federal marketing agreements and licenses; to limit the effective period of this act; to declare the existence of a State and National agricultural emergency and the urgency of this act and that this act shall take effect immediately.

[Approved by the Governor June 11, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Emergency.

SECTION 1. It is hereby declared that a State and National emergency productive of widespread agricultural collapse and disorganization of trade and industry now exists, vitally affecting the public welfare of this State and Nation, and preventing agricultural producers from earning a fair return on their labor and farms and thereby preventing them from contrib-

uting their fair share to the support of ordinary governmental and educational functions and unduly increasing tax burdens of others in the State for those purposes. It is hereby declared to be the policy of this State to cooperate with and assist the National government in promoting the rehabilitation of agriculture and in eliminating the causes of the collapse of agricultural purchasing power, and to that end: Policy.

(1) To bring about the issuance, approval and enforcement of marketing agreements and licenses as may be executed or issued by the Secretary of Agriculture of the United States in so far as such marketing agreements or licenses tend to carry out the declared purposes of this act and affect agricultural products grown within this State, or affect producers, packers, distributors, shippers, marketers, handlers, processors, or others dealing with such products within the State, whether the same be in intrastate transactions or in transactions affecting the current of interstate or foreign commerce;

(2) To provide for the formulation and enforcement of marketing agreements between the director of agriculture of this State and the producers, packers, processors, distributors, shippers, handlers, or marketers of agricultural products within the State, and the issuance by the Director of Agriculture of licenses covering the production, processing, handling, packing, shipping, distribution or marketing of agricultural products within the State, and the correlation of such marketing agreements and licenses with those issued by the agencies of the National government;

(3) To prevent the unreasonable and unnecessary waste of agricultural wealth through disorderly, improper or uneconomic marketing or overproduction of agricultural commodities or the marketing of agricultural commodities in excess of reasonable market demands, but preserving to all producers thereof equality of opportunity in the available market;

(4) To declare that the conditions in the basic industry of agriculture have affected transactions in these commodities within the State of California with a public interest, having so burdened and obstructed the normal current of commerce in such commodities as to effect seriously the credit structure of the State.

SEC. 2. It is hereby declared to be the purpose of this legislation and the Legislature hereby fixes the legislative or primary standards hereof to govern and control all executive or administrative officers in relation thereto: Purposes of act.

(1) To establish and maintain such balance between the production and consumption of agricultural commodities and the marketing conditions therefor, as will reestablish prices to farmers and growers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities during the period of August, 1909–July, 1914.

(2) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic markets.

(3) To prevent the unreasonable or unnecessary waste of agricultural wealth because of overproduction, improper preparation for market, disorderly marketing, unfair methods of competition, improper economic planning, the breaking down of the ordinary channels of distribution, or other causes beyond the reasonable control of the producers.

(4) To provide for equal opportunities to all growers and producers in the available markets.

(5) To protect the consumers' interests by readjusting farm production at such levels as will not increase the percentage of the consumers' retail expenditures for agricultural commodities or products derived therefrom which is returned to the farmer, above the percentage which was returned to the farmer in the prewar period, August 1909–July 1914.

(6) To enable and assist farmers, growers and producers to obtain a fair and reasonable return on their labors, and farms, and for their products produced.

Definitions

SEC. 3. When used in this act the following terms shall, unless the context otherwise indicates, have the following respective meanings:

(1) The words "National Agricultural Adjustment Act" shall mean the act passed by Congress entitled: "An act to relieve the existing National economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes," being Public Act No. 10, of the Seventy-third Congress as amended.

(2) The words "agriculture," "agricultural commodity" or "agricultural industry" shall also include horticultural or viticultural commodities or industries and the products of animal and poultry industries.

Stats 1907, p. 984

(3) The words "Cartwright Act" shall mean the act passed by the Legislature of this State entitled; "An act to define trust and to provide for criminal penalties and civil damages, and punishment of corporations, persons, firms, and associations, or persons connected with them, and to promote free competition in commerce and all classes of business in this State," approved March 23, 1907, as amended.

Stats 1913, p 508

(4) The words "Unfair Competition Act" shall mean an act passed by the Legislature of this State entitled: "An act relating to unfair competition and discrimination, making certain unfair and discriminatory practices unlawful, defining the duties of the Attorney General in regard thereto, declaring certain contracts illegal and forbidding recovery thereon, providing for actions to enjoin unfair competition and discrimination and to recover damages therefor, making the vio-

lation of the provisions of this act a misdemeanor and providing penalties," approved June 10, 1913, as amended.

(5) The words "Fair Trade Act" shall mean the act passed by the Legislature of this State entitled: "An act to protect trade-mark owners, distributors and the public against injurious and uneconomic practices in the distribution of articles of standard quality under a distinguished trade-mark, brand or name," approved May 8, 1931, as amended. Stats 1931, p. 583

SEC. 4. The consent of the State is hereby given to the utilization by the State Director of Agriculture of the services of such State and local officers and employees as the State Director of Agriculture may find necessary to effectuate the purposes of this act. Services of State officers and employees

SEC. 5. (1) Each and every provision other than those relating to expense contributions, of every Federal license and any amendments thereof, heretofore, or hereafter made, issued or approved by the Secretary of Agriculture of the United States under the National Agricultural Adjustment Act, and of every order, rule or regulation heretofore or hereafter made or promulgated by any officer, employee, board, commission or committee, as authorized under such Federal license as to matters, happenings, transactions, offenses, assessments levied or expenses accruing thereunder after the effective date hereof are hereby made applicable to all intrastate transactions within the State of California, and violations thereof declared unfair competition in this State, where, when and in so far as within the standards specified in and for this act in section 2 hereof as to every person whether or not subject to a State marketing agreement or State license. Applicability of Federal provisions to intrastate transactions

(2) Any person guilty of unfair competition as specified in this section which is hereby declared to be contrary to the public policy of this State, shall be subject to the provisions of sections 7 and 8 hereof.

(3) When any transaction in the current of interstate or foreign commerce is in violation of any Federal marketing agreement or Federal license and such violation takes place in whole or in part within this State then the person guilty of such violation shall be subject to the provisions of sections 7 and 8 hereof, and such provisions may be enforced in the courts of this State.

(4) Provided that no Federal license regulating the sale or distribution of milk within an area located wholly in the State of California shall become operative under the terms of this section until such license has been accepted and approved in writing by the signatures of not less than sixty-five per cent of the persons who are then engaged in producing milk commercially for distribution or sale in such area specified in such Federal license, and by the signatures of persons who are then producing not less than sixty-five per cent of the total volume of milk then being produced commercially for distribution or sale within such area specified in such Federal license. Milk licenses.

Separability. This subsection 4 is separable and distinct from all other portions of this act and is not a consideration or inducement for the enactment of the whole or any portion of this act. If any of the provisions of this subsection be for any reason declared invalid, the remainder of this act shall be in full force and effect and as completely operative as if this subsection had not been included herein.

Marketing agreements. SEC. 6. In order to carry out the purposes of this act it shall be lawful for any persons, corporations or groups, or for members of one or more agricultural associations, to meet, confer and agree upon marketing agreements for any particular branch of the agricultural industry, or for any agricultural product or commodity or product thereof, but no marketing agreement adopted under this section shall be subject to the penalties or provisions of this act other than this section unless and until approved by the State Director of Agriculture under, subject to and in the manner prescribed in section 6a hereof.

Powers of Director of Agriculture. SEC. 6a. In order to carry out the purposes of this act it shall be lawful for the State Director of Agriculture, and it shall be his duty, to carry out the policy hereof and under the standards herein set forth to determine what conditions in intrastate transactions and commerce within this State in the producing, marketing, processing, packing, shipping, handling, or distributing of agricultural products or commodities or products thereof, or any competing products or commodities or product thereof, will tend to carry out the purposes of this act and to that end said director shall have power, after reasonable notice and opportunity for hearing:

Marketing agreements. (a) To enter into marketing agreements with persons engaged in intrastate transactions or commerce within this State in the producing, marketing, processing, packing, shipping, handling or distributing of agricultural products or commodities or products thereof, or any competing commodity or product thereof. No such agreement shall be so entered into unless it embraces only persons of a like class by permitting participation therein by all persons engaged in a specific and naturally, inherently and intrinsically distinctive agricultural trade or industry and there then exists a corresponding Federal marketing agreement or license regulating such trade or industry under the National Agricultural Adjustment Act. Also, no such agreement shall be so entered into unless assented to in writing by persons engaged in business done within and from this State but otherwise subject to all corresponding requirements and qualifications to those specified in the National Agricultural Adjustment Act for adoption of a corresponding Federal marketing agreement, if any such requirements or qualifications then exist therein.

Licenses. (b) To license and issue licenses to persons engaged in intrastate transactions or commerce within this State in the producing, marketing, processing, packing, shipping, handling, or distributing, of any agricultural product or commodity or

products thereof, or any competing product or commodity or products thereof. No such license shall be so issued unless whenever one such person is licensed the director at the same time shall subject all persons engaged in the same specific and naturally, inherently and intrinsically distinctive agricultural business, trade or industry to the same identical license provisions and there then exists a corresponding Federal agreement or license regulating such business, trade or industry under the National Agricultural Adjustment Act. Such license may be issued in accordance with regulations to be prescribed by the Director of Agriculture as a blanket license or upon application by persons subject thereto. Upon the issuance of any license or any amendment thereof a notice of said license or amendment shall be posted on a public bulletin board to be maintained by the Director of Agriculture in his office and a copy of such notice shall be published in a newspaper of general circulation published in the capital of the State and in such other paper or papers as the Director of Agriculture may prescribe. No license nor any amendment thereof shall become effective until five days after such posting and publication. It shall also be the duty of the director to mail a copy of the notice of said license to all known licensees whose names and addresses may be on file in the office of the director and to every person who files in the office of the director a written request for such notice.

Paralleling Federal agreements.

No marketing agreement shall be approved by the State Director of Agriculture under this section nor shall any license be issued by said director under this section save where such marketing agreement or license conforms with and contains only like terms, provisions, methods and procedure as the corresponding Federal marketing agreement or license then in existence, except: (1) other than section 16, all provisions hereof relating to such State marketing agreements or licenses shall with or without express incorporation therein be applicable thereto and a part thereof; (2) every such State marketing agreement or State license shall contain such provisions as may be necessary or required to make such marketing agreement or license applicable to transactions within this State; and (3) any such State marketing agreement or license may contain provisions authorized by section 16 hereof.

No marketing agreement shall be approved by the State Director of Agriculture under this section nor shall any license be issued by said director under this section save where the same, in making provision for the appointment or election of any officer, employee, board, commission or committee thereunder, provides that no person shall be eligible thereto unless such person holds a corresponding position under a corresponding Federal marketing agreement or Federal license except where every such eligible person, or in case of a board, commission or committee, a majority of the members thereof, refuses to serve. Whenever for any reason a person appointed or elected as aforesaid holds no or ceases to hold a correspond-

ing position under a corresponding Federal marketing agreement or Federal license and thereafter there becomes an eligible person holding a corresponding position under a corresponding Federal marketing agreement or Federal license who is willing to serve, such position shall become immediately vacant and the eligible person shall be appointed or elected in his stead.

Amendment of Federal agreement or license

In the event of the amendment of any Federal marketing agreement or license, and where there theretofore existed a corresponding State marketing agreement or license, the director shall within five days after receipt by him of written notice from the administrative authority under such marketing agreement or license of the amendment thereof, call a hearing to be held within fifteen days after receipt of said notice to consider the marketing agreement or license as amended. Within five days after conclusion of such hearing if in his discretion he believes the Federal marketing agreement or license as amended will tend to carry out the purposes of this act he shall: (1) if there theretofore existed a corresponding State license, issue a license having like terms, provisions, methods and procedure as said Federal marketing agreement or license as amended subject to like limitations as apply upon the original issuance of a State license; and (2) if there theretofore existed a corresponding State marketing agreement, after like assent in writing as and if then required for original adoption of a State marketing agreement, enter into a State marketing agreement having like terms, provisions, methods and procedure as said Federal marketing agreement or license as amended subject to like limitations as apply upon the original adoption of a State marketing agreement; otherwise he shall cancel such State marketing agreement or license. It is the intention of this act that there shall be no conflict between the terms or procedure of any Federal marketing agreement or license and a marketing agreement or license issued by the director hereunder.

Rescission of license.

The director shall: (a) rescind any license hereunder or terminate any marketing agreement hereunder upon the written request of producers who, during a representative period determined by the director, produced within this State for market over fifty per cent in volume of the total volume produced within this State for market of the agricultural product or commodity specified in such marketing agreement or license; or (b) rescind any license hereunder upon the written request of persons engaged in marketing, processing, packing, shipping, handling or distributing who, during a representative period determined by the director, controlled over sixty-seven per cent in volume of the total volume of business done within and from this State in the particular agricultural product or commodity or the particular trade or industry regulated by such license, provided there also then exists a corresponding State marketing agreement regulating

the particular agricultural product or commodity or the particular trade or industry regulated by such license.

Rules and regulations

The Director of Agriculture may adopt and enforce all rules, regulations and orders necessary or desirable to carry out the provisions of this act and not inconsistent with law. Every general rule, regulation or order of the director shall be posted for public inspection in the main office of the director and in the office of the Secretary of State at least three days before it shall become effective, and shall be given such further publicity, by advertisement in a newspaper of general circulation in the territory affected by the issuance of such rule, regulation or order, or otherwise as the director shall deem advisable. An order applying only to a person or persons named therein shall be served on the person or persons affected; (a) by personal delivery of a certified copy, or (b) by mailing a certified copy in a sealed envelope with postage prepaid to each natural person or in the case of a corporation in like manner to any officer of or agent thereof. The complying with these provisions shall constitute due and sufficient notice to all persons affected by such rule or order. The director shall upon request mail to any person affected by any general rule or regulation promulgated by him, a copy of the same and may charge a reasonable fee therefor.

Effect.

A rule of any board, committee, or administrative authority under any State marketing agreement or license shall have the force and effect of law.

SEC. 7. (a) Every person who

Violations

(1) Violates any provision of this act other than section 12 hereof; or

(2) Violates any provision of any State license, or order, rule or regulation duly made or promulgated thereunder to which he is subject, or who after due revocation of his State license or while the same stands duly suspended engages in transactions mentioned therein and regulated thereby; or

(3) Violates any provision of any Federal license or order, rule or regulation duly made or promulgated thereunder to which he is subject where the whole or any part of the act constituting the violation takes place within this State; or

Penalties.

(4) Is guilty of unfair competition as herein defined, shall be guilty of a misdemeanor and on conviction thereof punished by a fine of not less than fifty dollars or more than five hundred dollars, or by imprisonment of not less than ten days or more than six months, or by both such fine and imprisonment.

(b) Each day any of the violations above referred to shall continue shall constitute a separate offense.

(c) Any person wilfully exceeding any quota or allotment fixed for him by or under any license issued by the Director of Agriculture, and any other person knowingly participating, or aiding, in the exceeding of said quota or allotment, shall become civilly liable to the State in a sum equal to three times the current market value of such excess, which sum shall be recoverable in a civil suit brought in the name of the State.

Injunction.

SEC. 8. (1) The Attorney General or any district attorney of this State may upon his own initiative, and shall upon complaint of any person if after investigation he believes a violation to have occurred, bring an action in the name of the people of this State in the superior court of the State of California for an injunction against any person.

(a) Violating any provision of this act other than section 12 hereof; or

(b) Violating any provisions of any State marketing agreement or State license or order, rule or regulation duly made or promulgated thereunder to which he is subject or who after due revocation of his State license or while the same stands duly suspended engages in transactions mentioned therein and regulated thereby; or

(c) Violating any provision of any Federal marketing agreement or Federal license or order, rule or regulation duly made or promulgated thereunder to which he is subject; or

(d) Who is guilty of unfair competition as herein defined.

(2) Any board, committee, or administrative authority under any State marketing agreement or license may in like manner bring a like action against any such person as to any of such offenses as affect the particular trade or industry subject to the terms of the State marketing agreement or license under which such board, committee or administrative authority was created.

(3) Upon compliance with section 527 of the Code of Civil Procedure of the State of California, the court may issue a temporary restraining order and preliminary injunction as in other actions for injunctive relief and upon the trial of such action if judgment be in favor of plaintiff the court shall permanently enjoin defendant from further violations.

(4) Such action may be commenced either in the county where any defendant resides or where any act or omission or part thereof complained of occurred.

(5) In any action brought to enforce any of the provisions of this act the judgment, if in favor of the plaintiff, shall provide that the defendant pay all costs of suit.

Nature of penalties

SEC. 9. The penalties and remedies herein prescribed with regard to any violation mentioned in section 8 hereof, shall be concurrent and alternative and neither singly nor combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal or administrative rights, remedies, forfeitures or penalties provided or allowed by law with respect to any such violation.

Defense.

SEC. 10. In any civil or criminal action or proceeding for violation of the Cartwright Act, or the Unfair Competition Act, or the Fair Trade Act, or of section 1673 of the Civil Code, proof that the act complained of was done in compliance with the provisions of any marketing agreement, license, order, rule or regulation in effect, under the terms of the National Agricultural Adjustment Act, or of this act, to which the

defendant was subject at the time of the doing of the act shall be a complete defense to such action or proceeding.

Revocation or suspension of licenses.

SEC. 11. The Director of Agriculture may, after reasonable notice and opportunity to be heard, revoke or suspend the license of any person issued hereunder for violation of such license or any provision hereof.

Assessments and fees.

SEC. 12. (1) In all marketing agreements executed by or any license issued by the director provision shall be made therein for the levying and collection of an assessment or fee upon the signatories to such marketing agreement or upon the members of the industry for which said license has been issued in order to raise the sum or sums necessary to carry on the performance and execute the duties of said director and all other persons under such marketing agreement or license.

(2) For the purpose of collecting any assessment under any marketing agreement or license whether State or Federal, the administrative authority charged with the collection thereof, may in its own name bring an action in a State court of competent jurisdiction for the collection thereof.

(3) Any such assessment or fee duly fixed and levied pursuant to any such marketing agreement or license, shall constitute a personal debt of every person so assessed, and shall be immediately due and payable to the administrative authority charged with the collection thereof.

(4) Any funds collected by the board, committee, commission or administrative authority from the levying of such fees and assessments shall be used for the purposes set forth in the marketing agreement or license under which collected. A full and complete record thereof shall be kept to which the director may have access at any time.

Records.

SEC. 13. (1) Every person engaged in intrastate transactions or commerce within this State in the marketing, shipping, handling, distributing of any agricultural product subject to a marketing agreement or license shall maintain accurate books, records and accounts which shall truly and accurately reveal the true account and condition of his or its business. Every such person shall furnish to the State Director of Agriculture or his duly authorized representatives, as he or they may request, such information as may be required under the provisions of such marketing agreement or license.

(2) All such books, records and accounts shall during usual business hours be subject to inspection by said director or his duly authorized agents or any officer, employee, board, commission or committee mentioned in any State marketing agreement or State license. Such inspection shall be in accordance with the provisions of such marketing agreement or license.

Information confidential

(3) Information obtained by any person hereunder shall be confidential and shall not be by him disclosed to any other person save to a person with like right to obtain the same or any attorney employed by such person, board, commission or committee to give legal advice thereon, or by court order.

Hearings, subpoenas, etc

(4) For the purpose of carrying out the terms of this act the director may hold hearings, take testimony, administer oaths, subpoena witnesses and issue subpoenas for the production of books, records or documents of any kind.

(5) No person shall be excused from attending and testifying or from producing documentary evidence before the director in obedience to the subpoena of the director on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may be so required to testify, or produce evidence, documentary or otherwise, before the director in obedience to a subpoena issued by him; provided, that no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Further powers of director.

SEC. 14. (1) The director is hereby empowered in his discretion:

(a) To confer and cooperate with the legally constituted authorities of other States and of the United States, including the Secretary of Agriculture of the United States or other legally constituted Federal authorities in effectuating the purposes of the National Agricultural Adjustment Act, and of this act, in order to secure uniformity in the administration of Federal and State marketing agreements and licenses and in the regulations thereby or thereunder prescribed, and said State Director of Agriculture shall have power to conduct joint hearings and issue joint or concurrent orders for the foregoing purposes, and may exercise his powers under this act to effect such uniformity of administration and regulation.

(b) To receive from any source money or other value for services rendered, or as a gift, for use in work within or to carry out the purposes hereof.

(c) To use, and to permit the boards, committees or administrative authorities established under any marketing agreement or license issued pursuant hereto to use, upon such conditions as he shall prescribe the various employees or officers of the State Department of Agriculture in carrying out the provisions hereof or of any marketing agreement or license issued hereunder.

(2) The Director of Agriculture and his duly authorized agents shall enforce this act and are hereby vested with like powers while enforcing this act as are given by section 6 of the Agricultural Code to any person in whom the enforcement of any provision of said code is vested.

Stats 1933, p 61

Filing fee and expenses.

SEC 15. (1) Every State marketing agreement submitted to the State Director of Agriculture for approval shall be accompanied by a filing fee of ten dollars. Said director shall submit his expenses in connection with every marketing agreement or license issued hereunder to the appropriate board

thereunder charged with the collection of other expenses, which board shall collect and pay the same to the said director.

Surplus control.

SEC. 16. (a) Any marketing agreement or license adopted or issued by the director hereunder may provide where a surplus arises under the terms or operation thereof for a program of surplus control regulating the marketing and disposition of such surplus.

(b) The director shall provide for such a program of surplus control when assented to in writing by persons who, during a representative period determined by the director, controlled more than sixty-seven per cent in volume of the total volume of business done within and from this State in the particular agricultural product or commodity or by the particular trade or industry subject to such marketing agreement or license.

(c) Every such program of surplus control shall: (1) operate equitably and proportionately upon all persons affected thereby; (2) operate without conflict with any other purposes of said or any other State or Federal marketing agreement or license.

(d) Where a Federal marketing agreement or license does not provide for surplus control, the director may nevertheless in the corresponding State marketing agreement or license provide for surplus control.

Application of act

SEC. 16a. (a) The provisions of this act shall have no application to the voluntary donation or contribution of agricultural products for charitable purposes nor to the barter or exchange of such products for human labor where no commercial sale of such donated, contributed, bartered or exchanged product is made.

(b) The provisions of this act shall not apply to shipments handled by a common carrier operating over a regular route or between fixed termini where such shipment is made by such common carrier in good faith and in accordance with its duties as a common carrier and where a record of every such shipment within or from this State is kept by such common carrier showing the date of shipment, character and quantity of shipment, origin and destination of such shipment, and the names of the consignor and consignee. Such record shall be open to inspection at all reasonable hours by or on the written order of the official or administrative authority charged with the enforcement of this act or any State or Federal marketing agreement or license.

Constitutionality

SEC. 17. If any section, sentence, clause or part of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, sentence, clause and part thereof despite the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional.

Short title.

SEC. 18. This act may be known and cited as "The California Agricultural Adjustment Act of 1935."

Stats. 1933, p. 2619, repealed

SEC. 19. Chapter 1029, of the Statutes of 1933, is hereby repealed.

Termination: Agreements, licenses, act.

SEC. 20. (a) Every State marketing agreement approved hereunder and every State license issued hereunder shall cease to be in effect on such date as the corresponding Federal marketing agreement or license ceases to be in effect.

(b) This act shall cease to be in effect on such date as the National Agricultural Adjustment Act ceases to be in effect.

Urgency

SEC. 21. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The economic conditions of agricultural producers throughout the State are such as to require immediate relief if their purchasing power and taxpaying ability are to continue and their morale and standard of living are not to be undermined. Such relief can be afforded only by the orderly production and marketing of agricultural products and the coordination of State control of production and marketing with Federal control, each of which supplements the other and makes the same effective.

CHAPTER 308.

An act to amend sections 286, 1072, 10200, and 10271 of the Insurance Code, relating to insurance principles, practice and matters incidental thereto.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 309.

An act making an appropriation for contingent expenses of the Senate, and declaring that this act shall take effect immediately.

[Approved by the Governor June 11, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Appropriation Contingent expenses of Senate

SECTION 1. The sum of twenty-five thousand dollars is hereby appropriated out of any money in the State treasury, not otherwise appropriated, for contingent expenses of the Senate, for fifty-first session and interim committees thereof to be expended for such purposes and in such manner as the

Senate shall by resolution direct. This appropriation shall be available without regard to fiscal years.

SEC. 2. Inasmuch as this act provides an appropriation for the usual current expenses of the State, it is hereby declared an urgency measure and shall, under the provisions of Article IV, section 2 of the Constitution, take effect immediately. Current expenses

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CHAPTER 310.

An act to amend section 18a of the "Street Opening Act of 1903," relating to assessments and contribution of costs by municipalities. Stats 1903, p. 376, amended

[Approved by the Governor June 11, 1935. In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 18a of the "Street Opening Act of 1903" is hereby amended to read as follows: Stats 1931, p 1560

Sec. 18a. Notwithstanding any other provisions of this act, the city council may, in its discretion, provide by resolution adopted at any time that any sum toward the expense of said improvement will be paid by said municipality, in which case such sum shall be in addition to, but not less than, the sum or percentage, if any, stated in the ordinance of intention, and at any time prior to the confirmation of the assessment the said city council shall have the authority to reduce, or to direct the street superintendent to reduce, the amount of the proposed assessment in a sum equivalent to the sum to be so paid. At any time after the confirmation of the said assessment, either before or after the issuance of bonds thereon, the said city council shall have the power to determine that the public interest and necessity require further and additional sums to be paid towards the expense of said improvement by the municipality where the said improvement is for a work of more than ordinary public benefit and involves a major thoroughfare of the municipality upon which the traffic is heavy and continuous and of benefit to the entire municipality. Whenever the city council shall so determine and shall make an appropriation therefor it shall order the street superintendent to proceed to make a reassessment in the following manner: The said street superintendent shall prepare and file with the reassessment a diagram showing the lots, pieces or parcels of land deemed by him to have been benefited by the work of improvement; the reassessment shall assess upon and against each of the lots, pieces or parcels of land within the assessment district the amount of the original assessment less a pro rata of the sum so appropriated, prorated in the same proportion that the said original assessment against such lot, piece or parcel of land bears to the total of such original assessment for the improvement. Such reassess-

Improvements Part payment by municipality

Reassessment

ment need not be in any prescribed form but shall refer to the original assessment filed, giving the date of filing of said original assessment, and shall state that it is made pursuant to the order of the legislative body of the municipality and shall be accompanied by a diagram showing the lots to be reassessed and their relation to the work. Such diagram may be the original assessment diagram if it otherwise conforms to the provisions of this section. It shall then be presented to the legislative body, which shall fix a time and place of hearing before it. Such time must be at least twenty (20) days after the reassessment is so presented. The city clerk shall then advertise the time and place of such hearing before the legislative body by publishing a notice in the newspaper in which the ordinance of intention for the improvement was published unless the legislative body directs publication in some other paper. The assessment diagram and the proposed reassessment shall be referred to for particulars. Such notice shall be published for five (5) insertions if the paper be a daily, or two (2) insertions if the paper be published less frequently. At the time fixed for the said hearing or at such time or times to which the same may be continued the legislative body shall consider any objections to the said reassessment and may correct inequalities or mistakes therein. When such reassessment shall have been revised or corrected or modified so as to comply with the judgment of said legislative body, then it shall pass a resolution confirming such reassessment. The street superintendent shall thereupon record the reassessment and diagram, in his office, with a certificate at the end thereof executed by the city clerk that it is the reassessment approved by the legislative body of the city. He shall also note opposite the several assessments in the original assessment that have been displaced by the reassessment the fact that the reassessment has been made, giving its date, and shall credit upon such reassessment all payments theretofore made upon the original assessment or upon the bonds issued to represent the same. Such reassessment shall be collectible and payable in the same manner as an original assessment and shall be enforceable by suit in the same manner provided in this act for enforcing an original assessment and shall have the same weight in evidence. In the event that bonds issued under or upon the security of the original assessment, no reassessment made pursuant to this section shall change the security or lien of any such bond in any manner whatsoever or the method of the enforcement thereof. The lien of such reassessment shall hold its relative rank as to other special assessment liens as of the date of filing of the original assessment. Upon confirming the said reassessment the city shall transfer into the bond and assessment redemption fund the amounts so apportioned among the several assessments.

Diagram

Hearing.

Notice

Right of person making payment prior to reassessment

Whenever prior to ordering said reassessment any payments shall have been made on any assessment, or on any bond issued to represent any such assessment, the owner of record of the

property against which such assessment was levied, at the time such payment was made, shall be entitled to receive a return in an amount in the proportion that the payment or payments made bears to the difference between the original assessment and said reassessment, with respect to the lot, piece or parcel of land for which such payment or payments were made. The balance of any such appropriation, as determined by the reassessment, shall be credited pro rata to the bonds in payment thereof, applying such payment first to the interest due and then upon the principal. Thereafter the city treasurer shall pay to the holder of each bond the payment so credited from said bond and assessment redemption fund. The city treasurer is hereby authorized and directed to make all payments of refunds as authorized by this section. Whenever it shall appear to the legislative body that payments shall have been made on any such assessments or bonds prior to the said reassessment, it shall be its duty to cause to be published in the newspaper in which the notice of award of contract for the improvement for which the assessment was made a notice stating the fact of such reassessment and calling upon all property owners affected by the said improvement to make claim for refund within one year from date of a first publication of the said notice. A description of the district shall be set forth and the assessment diagram referred to for all particulars. Such notice shall be published once a week for five (5) weeks. In case claim for such refund shall not be made within said period, then all claims therefor shall be barred and the said amount remaining unclaimed shall revert to the fund from which said supplemental appropriation was made by the city council. No suit shall be brought to contest, modify, annul, review or in any way attack the validity of such reassessment and the proceedings had under this section unless the same shall have been commenced within thirty (30) days after the recording of the diagram and reassessment, and thereafter all persons shall be barred from any such action or any defense of invalidity of the reassessment and all bonds issued thereon.

Limitation of action.

In making any such reassessment the street superintendent shall first deduct from the amount appropriated by the city council the estimated cost of the reassessment proceedings. In case such estimate should for any reason exceed the actual cost thereof, then the excess of such fund reserved for the payment of the said costs shall revert to the fund from which the appropriation was made. In the event that the said estimate shall prove to be insufficient to meet the costs of the said reassessment, then the said city council shall appropriate such additional sums as may be necessary to meet the excess costs and expenses thereof.

Deduction for costs

CHAPTER 311.

"The River Port District Act."

An act to provide for the creation, organization and government of river port districts in one or more counties; to enumerate the powers thereof; to authorize the incurring of indebtedness, the borrowing of money and the issuance of bonds, and other evidences of indebtedness of such district and to provide for the mortgaging, pledging, or hypothecating of property of such districts and the issuance of revenue notes, certificates or warrants payable solely and exclusively from the revenues to be realized from a particular utility or property acquired or to be acquired with the proceeds of such obligations; to provide for the levy and collection of taxes by such districts and the allocation, mortgage, pledge, or hypothecation of the revenues of such districts or any property of such districts; to authorize river port districts to enter into agreement with the State of California or any political subdivisions therein or with the United States of America; and to authorize river port districts to do and perform all acts and things necessary or appropriate to carry out the purposes of this act.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Short title

SECTION 1. This act shall be known and may be designated and referred to as "The River Port District Act."

Organization.

SEC. 2. A river port district may be organized as herein provided and shall have and may exercise the powers herein granted. A port district may include any territory in one or more counties, contiguous to a navigable river or to any channel connected with a navigable river, provided that the territory of the district be contiguous, and provided that no municipal corporation shall be divided in the formation of such district, and provided that no territory situate in a county in which there is located a duly organized and existing port district under the provisions of the Port District Act shall be included in such river port district. No territory situated within the boundaries of any port or harbor district organized or designated and existing under the provisions of any city charter shall be included in such river port district. Any territory which may be annexed to a municipal corporation, which is in a port district, shall by virtue of such an annexation become a part of such port district.

Stats 1931, p. 2138.

Petition.

SEC. 3. Whenever the formation of a port district is desired, a petition which may consist of any number of instruments, may be presented at a regular meeting of the board of supervisors of each county in which is located any portion of land within the proposed district. Such petition shall be signed by not less than five per cent of the registered voters residing within the proposed port district, who voted at the

last preceding general State election at which a Governor was elected. The original petition need not be filed with the board of supervisors of each county, but a certified copy of the original must be so filed.

Stats 1933, p. 2280, applicable

SEC. 4. The provisions of Chapters I and II of Division I of the District Organization Act shall govern and control the proceedings for the filing and hearing of the petition and the proceedings for final hearing of the petition and the formation of the district, provided that the "supervising authority" as used in the District Organization Act shall mean the board of supervisors of each county in which is located any portion of land within the proposed district, and provided that all proceedings necessary for the formation of the district, as provided in Chapters I and II of Division I of the District Organization Act, shall be had in each county in which is located any portion of land within the proposed district, and provided further that no lands lying within any county within the proposed district shall be included in such district unless a majority of the electors in that portion of the district within said county vote in favor thereof.

Port commission

SEC. 6. The port district shall be governed by a board known as the port commission, which board shall consist of five (5) members. Two of said commissioners shall be appointed by the board of supervisors of the county in which is located the largest proportion in value of the lands within the district. Two of said commissioners shall be appointed by the city council of the municipal corporation having the largest proportion in value of lands within the district. One commissioner shall be appointed by joint action of the boards of supervisors of any other counties located in the district.

Board of elections

A board of elections consisting of two members selected from the board of supervisors of the county in which is located the largest proportion in value of the land within the district, two members of the city council of the municipality in which is located the largest proportion in value of the land within the district and the fifth member selected by the boards of supervisors of any other counties located within the district, shall select the chairman of the port commission and the auditor of the port district. The chairman so selected shall be one of the five members of the port commission as provided in this section.

Meetings

The mayor of the municipality in which is located the largest proportion in value of the land within the port district, or any chairman of the boards of supervisors of the counties wherein the port district is located, shall have the power to call meetings of the board of election.

Commissioners. Oath.

Each commissioner shall, within ten (10) days of his appointment and before entering upon the discharge of the duties of his office, take and subscribe to an oath or affirmation before an officer authorized by law to administer oaths, that he will support the Constitution of the United States and the Constitution of the State of California, and will faithfully

discharge the duties of his office according to the best of his ability. Such oath or affirmation shall be filed in the office of the port district.

Meeting

The first meeting of the commission shall be held within ten (10) days of the appointment of the chairman thereof. The commission shall make its own rules of procedure and determine the place and time of its meeting.

Vice chairman

The commission shall select one of its members vice chairman who shall preside in the absence of the chairman.

The commission shall provide for and select such officers as it deems necessary to conduct the affairs of the district, except the auditor.

Treasurer

A corporation may be selected as treasurer or the commission may provide that the duties of the treasurer be performed by the county treasurer of the county wherein the district or the greater portion thereof is located.

Officers and employees

The commission may prescribe rules and regulations pertaining to the selection of officers and employees of the district, other than the auditor. It shall also provide the method of selecting such officers and employees and fix the salary or wages of all officers and employees of the district except the auditor. The term of each officer appointed by the commission shall be during the pleasure of the commission.

Terms of office

The term of office of each member of the port commission shall be four (4) years from the time of his appointment, except that the chairman first appointed, shall hold office for two (2) years, and the remaining members of the commission shall classify themselves by lot, so that they hold office respectively for one (1), two (2), three (3) and four (4) years.

Chairman

The chairman shall be the presiding officer of the commission and he shall be required to vote on all propositions passed upon by the commission.

Residence requirements

No person shall be appointed a member of the port commission who is not, at the time of his appointment, a taxpayer within the port district and who has not resided within the port district for at least one (1) year.

Compensation.

The members of the port commission shall serve without salary or compensation, but shall be entitled to necessary traveling expenses incurred in the performance of their duties.

Vacancies

A vacancy in the port commission shall be filled by the body which appointed the member whose office is vacated, and the newly appointed member shall hold his office for the unexpired term.

Auditor

The auditor of the port district, selected by the board of election herein provided, shall hold office during the pleasure of said board, and said board shall fix his salary and shall require him to file a bond for the faithful performance of his duties in such a manner as they may determine.

Powers of port district

SEC. 7. Powers of the port district. Any port district created under this act is hereby declared to be a public corpo-

ration created for municipal purposes, and as such shall have power:

Powers of district.

1. To have perpetual succession.

2. To sue and be sued.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise or lease or otherwise acquire and to hold and enjoy, and to lease or dispose of, real and personal property of every kind, within or without the port district, necessary to the full or convenient exercise of its powers.

5. To acquire, purchase, take over, construct, maintain, operate, develop and regulate wharves, docks, warehouses, grain elevators, bunkering facilities, cold storage facilities, belt railroads, floating plants, lighterage, lands, towage facilities, and any and all other facilities, aids or public personnel, incident to or necessary for the operation and development of a port, ports, waterways and the port district.

6. To have and exercise the right of eminent domain in the manner provided by law for the condemnation of private property for public use. To take any property necessary to carry out any of the objects or purposes of a port district, whether such property be already devoted to the same use or otherwise. In the exercise of such right of eminent domain, a port district shall have the same right, power and privileges as a municipal corporation under the laws of the State of California.

7. To incur indebtedness and to issue bonds or other evidence of indebtedness for the purposes provided herein; provided that in the event that any bonds issued for port improvement purposes by any part of a district prior to the creation of said district, shall be refunded, the refunding bonds shall be a lien only upon the lands upon which they were a lien at the time of the creation of the district.

8. To levy and collect or cause to be levied or collected taxes as in this act provided.

9. To have exclusive jurisdiction over, and the power to provide for and supervise pilots and the pilotage of sea-going boats from the end of jurisdiction of existing pilot authorities to points lying upon any navigable waterway project of the United States, entering said district.

10. To contribute money to the Federal or the State government or to any county wherein the port district is located or to any city within the port district, for the purpose of defraying the whole or a portion of the cost and expenses of work and improvement to be performed, either within or without the territorial limits of the port district, by said Federal, State, county or city government, in improving rivers, streams, or in doing other work, when such work will improve navigation and commerce, in or to the navigable waters in the port district.

11. To do any and all work or to make any improvement within or without the territorial limits of the port district,

Powers of district.

when the doing of said work or the making of said improvement will aid in the development or the improvement of navigation or commerce to or within the port district.

12. To enact necessary police regulations providing for control of any waterway project of the United States, entering said district, and to prescribe the rules and regulations concerning the construction of wharves, docks, buildings and improvements of all types, contemplated thereon.

13. To provide for the opening and laying out of streets leading to the waterfront.

14. To regulate and control the construction, maintenance and operation or use of all wharves, warehouses, structures, improvements or appliances used in connection with or for the accommodation and promotion of transportation or navigation on any improvement project of the Federal government applying to the main waterway entering said port district and also on such other navigable streams improved or unimproved which lie within said port district, and to make and enforce necessary police and sanitary regulations in connection therewith.

15. To fix, regulate and collect the rates or charges for the use of wharves, warehouses, watercraft, railroads and other facilities, structures and appliances owned, controlled or operated by the port district, in connection with or for the promotion and accommodation of transportation or navigation and the rates or charges for pilotage and towage.

16. To lay out, plan and establish the general plan and system of harbor and harbor district improvements and, from time to time, to modify such plan and to prescribe the specifications for such improvements.

17. To act as warehousemen, stevedores, lighterers, reconditioners, shippers and reshippers of properties of all kinds.

18. To manage the business of the port district and promote the maritime and commercial interests by proper advertisement of its advantages, and by the solicitation of business, within or without the port district, within other states or in foreign countries, through such employees and agencies as it may deem expedient.

19. To prescribe fines, forfeitures and penalties for the violation of any provision of any ordinance, but no penalty shall exceed five hundred dollars ($500) or six (6) months' imprisonment, or both.

20. Notwithstanding the enumeration and specific statement herein of particular powers, the port district shall have the power to do and perform all acts and things necessary and appropriate to carry out the purposes of this act and the powers of the port district.

SEC. 8. The powers of a port district established under this act shall be exercised by the port commission, by ordinance or resolution passed by a majority vote of said commission; all ordinances shall be published in a newspaper of general cir-

culation, printed or published in the county in which the port district is situated, at least five days before final passage.

All franchises and leases for a period of more than ten (10) years must be authorized by ordinance.

Franchises and leases.

SEC. 9. No grant of a franchise or lease of property of the port district shall be for a longer period than fifty (50) years, and every such grant shall provide for a readjustment of the compensation or rentals every ten (10) years during its term, in accordance with the procedure provided in the ordinance authorizing said grant.

Fiscal year

SEC. 10. The fiscal year of any port district shall begin on the first day of July of each year and shall end on the thirtieth day of June of the following year.

Report.

SEC. 11. The port commission shall annually file a report of the affairs and financial condition of the port district for the preceding year with the governing body of every county or city, all or part of which is included in the district. This report shall show the sources of all receipts and all disbursements, and the purposes for which they were made, during said year.

Transfer of lands to district.

SEC. 12. Any property owned by any city which is used or held for the purpose of aiding or developing navigation, commerce or fishing may be transferred to the port district to be used for the same purposes, and any lands of the State of California which may have been transferred to any such city may be transferred to the port district subject to the trusts and other provisions providing for the transfer of said lands from the State to said city; provided that any city which is governed by a freeholders charter may only transfer or turn over such property if authorized so to do by the provisions of its charter or amendment thereof.

Reversion

In case any land under a navigable stream, shall by virtue of any work or improvement by the United States or the State of California, become freed from the easement of navigation and fishing, it shall then revert to the said port district, to be used for the purposes and objects for which the district was organized. In case said lands are not used or held for said purpose, they shall then revert to the State of California.

In the event of the dissolution of the port district, all lands which were granted to it by any municipal corporation shall ipso facto revert to and be revested in the municipal corporation so granting the same to the port district.

Contracts Over $1,500

SEC. 13. The letting of all contracts for the doing of any work or the purchase of any supplies where the cost thereof exceeds one thousand five hundred dollars must be by the port commission, upon competitive bidding therefor. In case of an emergency such as a fire, flood, storm, or other disaster, the board may, by passing a resolution by four-fifths vote of all its members, determine and declare that the public interest and necessity demand the immediate expenditure of district money to safeguard life, health, or property; whereupon the board may proceed to expend such sums as may be necessary

in such an emergency. Notice of the proposed letting of such a contract shall be given by publication at least once in a paper published in the counties where the district is located, at least five (5) days before the time fixed for opening bids. Bidding shall be by sealed proposals filed with the port district, and upon forms furnished by said district, and under such rules and regulations as the port commission may prescribe. All bids shall be publicly opened and declared and the award of the contracts therefor shall be made in open session of the port commission to the lowest and best responsible bidder.

Less than $1,500

The port commission shall have the power to delegate to its officers the execution of contracts where the amount involved is less than one thousand five hundred dollars.

Officers interested in contracts

No officer of the district, nor any employee thereof, shall be interested directly or indirectly in any contract or transaction with the district, nor become surety for the performance of any contract made with or for the district upon bonds given to the district. No officer or employee of the district shall receive any commission or thing of value, or derive any profit, benefit, or advantage directly or indirectly from or by reason of any dealings with or service for the district by himself or others, except as lawful compensation as such officer or employee. The violation of the provisions of this section by any such officer or employee shall work a forfeiture of said office or employment.

Violation

Work by district

Nothing in this section contained shall prevent the port district, itself, from doing such work and making such improvement as it may think necessary Said work shall be done under the supervision and direction of its officers or employees.

Bonds.

SEC. 14. Any port district organized under this act may create a bonded debt in the manner and pursuant to the procedure of the municipal bond act of 1901 (Statutes of 1901, page 27) and amendments thereto.

Bonds may be issued to be used for the purpose of raising money for use in carrying out any of the powers and purposes of the port district.

Estimate of required expenditures.

SEC. 15. On or before June first of each year, the port director shall submit to the port commission a detailed statement of the money required for the ensuing fiscal year for the purpose of conducting the business of the district. There shall be submitted with such estimate such data and schedules as the port commission may require.

Estimate to boards of supervisors.

SEC. 16. Annually on or before the date set for the consideration of the budget by the board of supervisors of each county wherein the port district, or any portion thereof, is located, the commission of each port district shall furnish to the board of supervisors of each county in which the district is situated, an estimate in writing of the amount of money necessary for all purposes by the port district during the ensuing fiscal year. Upon approval by the board of supervisors of each county in which any lands lie within the dis-

Tax levy.

trict, it shall be the duty of the board of supervisors of each county to levy a special tax, on all taxable property of the county lying within the district, sufficient in amount to raise the county's proportionate amount of said sum. The tax shall in no event exceed the rate of ten (10) cents on each one hundred dollars ($100) of the assessed value of all taxable property within the district, exclusive of the amount necessary to be raised by taxes to meet bond interest and redemption. The tax shall be computed, entered upon the tax rolls and collected in the same manner as county taxes are computed, entered and collected. All money so collected shall be paid into the county treasury to the credit of the particular port district fund and shall be paid to the treasurer of the district upon the order of the port commission.

Financing organization period

SEC. 17. From the time of the organization of any port district until the next succeeding July first, the port district may incur indebtedness for the purpose of operating the port and in the first tax levy, the rate shall be in an amount sufficient to operate the port for the first full fiscal year as well as to pay the obligations thus incurred before the first of the July succeeding the creation of the port district.

Legal investments

SEC. 18. Any bonds which may be issued by any port district under the provisions of this act shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the State school funds, and whenever any moneys or funds may, by law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts or municipalities in the State of California, such moneys or funds may be invested in said bonds of port districts organized hereunder.

Proceeds of county or city bonds

SEC. 19. Whenever, upon the creation of a port district any municipality therein or any county wherein the district is located shall have theretofore authorized or incurred a bonded indebtedness for any work or improvement for which the port district is authorized to incur a bonded debt under the provisions of this act, and such municipality or such county shall thereafter sell such bonds or any portion thereof, the proceeds of the sale thereof, may (upon the order of the appropriate board of supervisors or city council) be paid by the custodian thereof into the treasury of such port district and the same shall be applied by the port commission of the port district, exclusively to the purposes and objects for which such bonds were authorized by the municipal corporation or the county issuing the same.

Claims against district

SEC. 20. All claims and demands against the port district, except interest coupons and installments of the principal on bonds payable by the district and salaries and wages, shall be filed with the auditor on forms and blanks prescribed by him. No claim or demand shall be paid without the endorsement of the auditor on the same certfying to its correctness.

The auditor shall keep a record, which shall be a public record, of all claims against the district showing by whom made, for what purpose, the amount thereof and when paid.

If there be not sufficient money in any fund to pay the demands made against said fund, said demand shall be registered in a book to be kept by the treasurer, showing its number, when presented, date, amount, name of payee, and on what account allowed and out of what fund payable, and when so registered, the demand shall be returned to the party presenting it with the endorsement of the word "Registered" dated and signed by the treasurer. All registered demands shall be payable in the order of their registration. Nothing in this section shall be construed to prevent the payment by the treasurer of bonds of the port district or of any city or county, and interest coupons thereof, in accordance with the Constitution of this State and the provisions of this act authorizing the issuance and payment of such bonds.

Wages and salaries.

Wages and salaries shall be paid at such intervals as the port commission may direct, but at least once each month.

Relation to other acts

SEC. 21. Nothing in this act shall be construed as repealing, modifying or otherwise affecting the provisions of any other act relating to port or harbor districts, and no other act providing for the creation of port or harbor districts shall repeal, modify or otherwise affect this act or any of the provisions thereof.

Stats 1933, p 2280, applicable

SEC. 22. The provisions of Chapter I, Division II of the District Organization Act relating to notices shall govern and control this act.

Definition.

SEC. 23. Wherever in this act reference is made to "port district" it shall mean "river port district."

Constitutionality.

SEC. 24. If any section, subsection, sentence, clause, or phrase of this act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

CHAPTER 312.

An act regulating the use of certain public highways by motor vehicles operated thereon for the transportation of property for compensation; conferring powers upon the Railroad Commission with respect thereto; providing penalties for the violations of this act and repealing all acts inconsistent with the provisions of this act.

"City Carriers' Act"

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

PREAMBLE.

Preamble

The use of the public highways for the transportation of property for compensation is a business affected with a public interest and it is hereby declared that the purpose of this act is to preserve for the public the full benefit and use of public highways consistent with the needs of commerce without unnecessary congestion or wear and tear upon such highways; to secure to the people just and reasonable rates for transportation by carriers operating upon such highways; to secure full and unrestricted flow of traffic by motor carriers over such highways which will adequately meet reasonable public demands by providing for the regulation of rates of all transportation agencies so that adequate and dependable service by all necessary transportation agencies shall be maintained and the full use of the highways preserved to the public.

Definitions

SECTION 1. (a) The term "corporation" when used in this act includes a corporation, company, an association and a joint stock association.

(b) The term "person" when used in this act includes an individual, a firm or a copartnership.

(c) The term "public highway" when used in this act shall include every public street, road or highway in this State.

(d) The term "commission" and "Railroad Commission" when used in this act means the Railroad Commission of the State of California.

(e) The term "motor vehicle" when used in this act means every motor truck, tractor or other self-propelled vehicle used for transportation of property over the public highways, otherwise than upon fixed rails or tracks, and any trailer, semitrailer, dolly or other vehicle drawn thereby.

(f) The term "carrier" when used in this act means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever engaged in the transportation of property for compensation or hire as a business over any public highway in any city or city and county in this State by means of a motor vehicle or vehicles.

Compliance with act.

SEC. 2. No carrier shall engage in the business of the transportation of property for compensation by motor vehicle

over any public highway in any city of this State, except in accordance with the provisions of this act which the Legislature hereby declares to be enacted under the power of the State to regulate the use of the public highways.

Permit.

SEC. 3. Except as hereinafter provided, no carrier shall engage in the business of transportation of property for compensation by motor vehicle over any public highway in any city in this State without having first obtained from the Railroad Commission a permit authorizing such operation. Any carrier desiring a permit to operate hereunder shall file a petition therefor with the Railroad Commission. Such petition shall set forth the name and address of the applicant; the names and addresses of its officers, if any; full information concerning the financial condition and physical properties of the applicant; and such other information necessary to the enforcement of this act, as the Railroad Commission may, by order require. Upon compliance with this act a permit shall be issued by the commission, but no such permit shall be granted to a foreign corporation. Any operating permit not exercised for a period of one year shall lapse and terminate.

Insurance

SEC. 4. The Railroad Commission shall, in granting permits under the provisions of this act, require the carrier to procure, and continue in effect during the life of the permit, adequate protection, as required in section 5 hereof, against liability imposed by law upon such carrier for the payment of damages for personal bodily injuries (including death resulting therefrom) in the amount of not less than five thousand dollars on account of bodily injuries to, or death of, one person; and protection against a total liability of such carrier on account of bodily injuries to, or death of, more than one person, as a result of any one accident, in the amount of not less than ten thousand dollars; and protection in an amount of not less than five thousand dollars for one accident resulting in damage or destruction of property whether the property of one, or more than one claimant.

Type of insurance.

SEC. 5. The protection required under section 4 shall be evidenced by the deposit with the Railroad Commission, covering each vehicle used or to be used under the permit applied for, of a policy of public liability and property damage insurance, issued by a company licensed to write such insurance in the State of California, or a bond of a surety company licensed to write surety bonds in the State of California; or of a personal bond, with such sureties as the Railroad Commission shall find adequate to guarantee the protection prescribed in section 4 hereof; or it shall be evidenced by a trust fund in the amount of fifteen thousand dollars, to be held in trust by some institution or person acceptable to the Railroad Commission; or by a combination of any or of all of said methods in such manner that the aggregate of the protection or funds available therefor shall equal the principal sum of not less than fifteen thousand dollars, and such carrier shall have the option of the method to be used in obtaining such pro-

tection, and may change from one method to another, from time to time, with the consent of the Railroad Commission.

Duration of insurance

SEC. 6. The protection against liability as outlined in section 4 hereof must be continued in effect during the life of the permit, and the policy of insurance, surety bond or personal bond shall not be cancellable on less than ten (10) days written notice to the Railroad Commission. The Railroad Commission shall have the power to establish such rules and regulations as may be necessary to carry out the provisions of sections 4 to 5, inclusive.

Rules.

License plates

SEC. 7. Each carrier shall display on each vehicle operated by it a distinctive license plate in the form to be prescribed by the Railroad Commission.

Fees

SEC. 8. A fee of three dollars ($3.00) shall be paid to the Railroad Commission for filing each application for an operating permit. Each permittee shall also pay to the Railroad Commission on or before the first day of January of each year, a fee of one dollar ($1.00) for the registration of his permit. All moneys collected by the Railroad Commission under this act shall be deposited at least once each month into the State treasury, to the credit of the general fund, and a detailed statement thereof shall be transmitted to the State Controller.

Rates

SEC. 9. The Railroad Commission shall, upon complaint or upon its own initiative without complaint, establish or approve just, reasonable, and nondiscriminatory maximum or minimum or maximum and minimum rates to be charged by any carrier subject to this act.

In establishing or approving such rates the commission shall take into account and give due and reasonable consideration to the cost of all of the transportation services performed, including length of haul, any additional transportation service performed, or to be performed, or of any accessorial service and the value of the commodity transported and the value of the facility reasonably necessary to perform such transportation service.

It shall be unlawful for any carrier to charge or collect any lesser rate than the minimum rate or greater rate than the maximum rate established by the commission under this section.

The commission shall make such rules and regulations as may be necessary to the application of the rates established or approved under the provisions of this act.

Authorization of rates less than the minimum.

SEC. 10. If any carrier hereunder desires to perform any transportation or accessorial service at a lesser rate than the minimum rates so established, the Railroad Commission shall, upon finding that the proposed rate is reasonable and consistent with the public interest, authorize such rates less than the minimum rates established in accordance with the provisions of section 9 hereof.

Certain acts unlawful.

SEC. 11. It shall be unlawful for any carrier or his agent, servant or employee, directly or indirectly, to offer, remit or give to any person, directly or indirectly, any such commission

or consideration as an inducement to secure the transportation of any such property.

Procedure compatible with Public Utilities Act.

SEC. 12. In all respects in which the Railroad Commission has power and authority under the Constitution of this State or this act, applications and complaints may be made and filed with the Railroad Commission, process issued, hearings held, opinions, orders and decisions made and filed, petitions for rehearing filed and acted upon, and petitions for writs of review or mandate filed with the Supreme Court of this State, considered and disposed of by said court, in regard to the matters provided for in this act, in the same manner, under the same conditions and subject to the same limitations and with the same effect specified in the Public Utilities Act, so far as applicable.

Penalties

SEC. 13. Any person or any director, officer, agent or employee of a corporation who shall violate any of the provisions of this act or of any operating permit issued hereunder to any carrier, or any order, rule or regulation of said commission, shall be guilty of a misdemeanor and, upon conviction thereof, be fined not more than five hundred dollars or imprisoned in the county jail for not more than three months, or both. The operating permit, if any, shall, at the discretion of said commission, be subject to cancellation for such violation, and said commission shall thereupon require the removal from such vehicle operated thereunder of any distinctive symbols or license plates herein provided for, which may have been issued therefor.

SEC. 14. Any person or corporation who violates or fails to comply with any provision of this act, or who fails, omits or neglects to obey, observe or comply with any order, decision, rule, direction or requirement or any part or provision thereof, of the commission, is subject to a penalty of not more than five hundred dollars for each offense.

Separate offenses

SEC. 15. Every violation of the provisions of this act or of any order, decision, decree, rule, direction, demand or requirement of the commission, or any part or portion thereof by any corporation or person is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

Acts of officers, agents, employees

SEC. 16. In construing and enforcing the provisions of this act relating to penalties, the act, omission or failure of any officer, agent or employee of any person or corporation, acting within the scope of his official duties or employment, shall in every case be and be deemed to be the act, omission or failure of the employing person or corporation.

Recovery of penalties

SEC. 17. Actions to recover penalties under this act shall be brought in the name of the people of the State of California, in the superior court of the county, or city and county, in which the cause or some part thereof arose, or in which the corporation complained of, if any, has its principal place of business, or in which the person, if any, complained of, resides.

Such action shall be commenced and prosecuted to final judgment by the attorney of the commission. In any such action, all penalties incurred up to the time of commencing the same may be sued for and recovered. In all such actions, the procedure and rules of evidence shall be the same as in ordinary civil actions. All penalties recovered by the State in any such action, together with the costs thereof, shall be paid into the State treasury to the credit of the general fund. Any such action may be compromised or discontinued on application of the commission upon such terms as the court may approve and order.

Cumulative penalties

SEC. 18. All penalties accruing under this act shall be cumulative of each other, and a suit for the recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or forfeiture or be a bar to any criminal prosecution against any person or corporation, or any officer, director, agent or employee thereof, or any other corporation or person or be a bar to the exercise by the commission of its power to punish for contempt.

Exemption

SEC. 19. Nothing in this act contained shall apply to a passenger stage corporation as the same is defined in section 2¼ of the Public Utilities Act engaged in transporting express when such transportation is incidental to the transportation of passengers.

Constitutionality.

SEC. 20. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, except as hereinbefore specifically provided, irrespective of the fact that one or more sections, sentences, clauses or parts be declared unconstitutional.

Exemption

SEC. 21. Neither this act nor any provision hereof shall apply to or be construed as a regulation of commerce with foreign Nations or among the several States, except in so far as the same may be permitted under the provisions of the Constitution and the acts of Congress of the United States.

Repeal.

SEC. 22. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Short title.

SEC. 23. This act shall be known as the "City Carriers' Act."

CHAPTER 313.

An act to amend sections 3817d, 3817f, 3817g and 3817h of, and to add sections 3817b3, 3817c3, 3817j, 3817k, 3817l, and 3817m to, the Political Code, relating to taxation, and assessment including tax delinquencies, tax penalties and

costs, tax redemption from tax sales and declaring the urgency thereof, to take effect immediately.

[Approved by the Governor June 11, 1935. In effect immediately.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the Political Code to be numbered 3817b3 and to read as follows:

"Taxes" defined.

3817b3. The word "taxes" wherever used in this section, includes all taxes and assessments and annual installments of assessments charged on the tax roll.

Manner of redemption of property sold to State for taxes.

In all cases where real estate has been sold to the State on or before July 6, 1935, for delinquent taxes and the State has not disposed of the same, the person whose estate has been sold, his heirs, executors, administrators or other successors in interest shall, at any time on or before the twentieth day of April, 1936, have the right to redeem such property by paying to the county treasurer of the county wherein the real estate may be situated, the amount of taxes due thereon at the time of such sale, and also all taxes that were a lien upon said real property at the time said taxes became delinquent, and also all unpaid taxes of every description assessed against the property together with all taxes that are a lien against the property for each year since the sale, as shown on the delinquent assessment rolls in the then permanent custody of the county auditor, or, if not so assessed, then upon the value of the property as assessed in the year nearest the time of such redemption, with interest on the whole amount of such taxes at the rate of seven per cent per annum computed from the first day of July, 1934, to the time of such redemption.

Effect of section

The provisions of this section shall be deemed to allow the redemption of such real estate, on or before the twentieth day of April, 1936, free from the payment of any costs, interest (other than the interest hereinbefore in this section provided), penalties for delinquency, or redemption penalties, which may have accrued against said real estate on or before April 20, 1936. The provisions of this section shall have no application to the amount or rate of penalties for delinquency or upon redemption, for taxes for the fiscal years 1935–1936.

Except as otherwise in section 3817c3 and this section provided, such redemption shall be made in the manner prescribed in section 3817 of this code.

New section.

SEC. 2. A new section is hereby added to the Political Code, to be numbered 3817c3 and to read as follows:

"Taxes" defined

3817c3. The word "taxes," wherever used in this section, includes all taxes and assessments and annual installments of assessments charged on the tax roll.

Optional extension of redemption period.

In all cases where real estate has been sold to the State on or before July 6, 1935, for delinquent taxes, and the State has not disposed of the same, the person whose estate has been sold, his executors, administrators, or other successors

in interest shall on or before April 20, 1936, have the right to elect to pay such delinquent taxes in installments as hereinafter provided and by the payment of each of such installments, together with current State and county taxes, to extend the period of redemption of such real estate and to postpone the date of sale of such property at auction, as provided in section 3771a of this code, and time of making a deed of such property to the State, as provided in section 3785, and in the event such property has been deeded to the State, postpone the resale of such real estate by the State as provided in section 3897 of this code.

Installment redemption payments authorized.

Upon payment to the county treasurer on or before April 20, 1936, of ten per cent, or more, of an amount equal to the total of unpaid taxes computed as prescribed in section 3817b3 of this code, plus interest on the whole of said amount at the rate of seven per cent per annum from and after July 1, 1934 to date of such payment and by the further payment on or before April 20, 1936, of all State and county taxes levied and assessed for the fiscal year 1935–1936 together with penalties and costs due thereon, the right of redemption in installments hereunder shall be extended to and including April 20, 1937, during which time no sale at auction of such property shall be made as provided in section 3771a of this code, and no deed to the State shall be made as provided in section 3785 and no resale by the State shall be made in accordance with the provisions of section 3897 of this code. Upon payment to the county treasurer, in each succeeding fiscal year but not later than April 20, until said amount has been paid, of ten per cent or more of said total amount together with interest, at the same rate from the date of the preceding payment, on that part of said total amount remaining unpaid after such preceding payment, and upon payment on or before April 20 in each of said succeeding fiscal years of State and county taxes for each of said years, with penalties and costs due thereon, the right of redemption shall be extended, the time of sale at auction to the public and of deed to the State shall be postponed and resale by the State shall be suspended, for successive periods of one year. In the event of failure to make any of the payments herein specified to be made on or before the dates herein set forth, the right to pay such delinquent taxes in installments shall cease and terminate and such property shall thereupon be subject to sale at auction or may be deeded to the State or resold by the State, in the same manner as though no election to pay delinquent taxes in installments had been made.

Redemption period

Effect of default.

Effect of installment payments

No such payment, nor all of them, shall be deemed a redemption of real estate nor affect the right, title or interest of the State thereto, but shall be deemed and considered as compensation for the use and occupancy of said real estate; provided, that if each installment of delinquent taxes and interest be paid on or before the respective dates specified in this section, and if redemption of such property shall be made,

on or before the twentieth day of April, 1945, in the manner hereinafter in this section provided, the amounts previously paid under the authority of this section shall be credited on the amount to be paid for such redemption.

Redemption by April 20, 1945

The amount to be paid on or before the twentieth day of April, 1945, to effect redemption of such property under this section shall be the sum of the following amounts:

(a) Unpaid taxes as prescribed in section 3817b3 of this code, with interest thereon equal to the amount of interest included in all installment payments previously made, as authorized by this section, and, in addition, interest equal to the amount of interest due at the time of such redemption on the remainder, if any, of the amount payable in installments, as authorized by this section.

(b) Unpaid taxes for the fiscal years following the year ending June 30, 1935, with redemption penalties thereon computed in accordance with section 3817 of this code.

Manner of redemption

Except as in this section provided, such redemption shall be made in the manner prescribed in section 3817 of this code.

Distribution of interest payments.

All interest received by the county treasurer pursuant to the provisions of this and the preceding section shall be distributed in the same manner as redemption penalties in accordance with section 3817 of this code.

Ex. Sess., 1934, Ch. 6, Stats. 1935, p. 12.

SEC. 3. Section 3817d of the Political Code is hereby amended to read as follows:

No sale at auction before January 1, 1938

3817d. Notwithstanding the provisions of sections 3764 and 3771a of this code no sale at auction to the public shall be made of unredeemed property in the years of 1935, 1936 or 1937, but at the day and hour fixed in accordance with subdivision (2) of section 3764 of this code all property otherwise subject to sale to the public shall be deeded to the State as provided in section 3785 of this code. No sale of any property, except property sold to the State for delinquent taxes in the year 1925, or at any time prior to 1925, shall be made in accordance with the provisions of section 3897 of this code after the effective date of this act and prior to the first day of January, 1938. Property sold to the State for delinquent taxes in the year 1925 or prior to 1925, and deeded to the State pursuant to section 3785 of this code, shall be subject to sale under the provisions of section 3897 of this code. The provisions of this amendment to this section further postponing the time when sale of property in accordance with the provisions of section 3897 of this code may be made shall not apply to any real property which has been deeded or shall have been deeded pursuant to sale for delinquent taxes or assessments to, and is held by, any public agency as that term is defined in section 3897d of this code and as to which the right of redemption from such sale no longer exists.

Exceptions

Nothing in this section shall be construed to prohibit any agreement or sale made under the provisions of section 3897d of this code.

Form of notice.

In the years 1935, 1936 and 1937 the notice required by subdivision (1) of section 3764 of this code shall be in substance and may be in form as follows: "To be deeded to the State. See No. _____ in addenda to this list."

In the years 1935, 1936 and 1937, the notice required by subdivision (2) of section 3764 of this code shall be in substance and may be in form as follows:

"ADDENDA TO DELINQUENT TAX LIST.

Notice of Disposal of Properties for Delinquent Taxes.

In pursuance of law, public notice is hereby given that the undersigned tax collector will make deeds to the State of California for the several parcels and lots of property hereinafter described unless, on or before the _____ day of _____, 193__, at the hour of _____ o'clock __m., redemption from sale for delinquent taxes is made in accordance with the provisions of section 3817 of the Political Code, or a postponement of sale is had in accordance with the provisions of section 3817a of said code, or a conditional payment is made in accordance with the provisions of section 3817c, 3817c2 or 3817c3, of said code; on said date, five years or more will have elapsed from the date of the sale of said property to the State. Dated this_____day of _____, 19___.

_____

Tax Collector of_____County,
State of California."

The properties which are to be so deeded and which are the subject of this notice are situated in the county of _____, State of California, and are particularly described as follows, to wit:

No. (description of property) assessed to _____. Sold to State for $_____.

Ex Sess, 1934, Ch 6, Stats 1935, p 12

SEC. 4. Section 3817f of the Political Code is hereby amended to read as follows:

Credit on taxes paid under certain sections

3817f. Any person, his heirs, executors, administrators or other successors in interest, who has made or who shall make a payment or payments on account of delinquent taxes in accordance with the provisions of section 3817a of this code and who, in addition, has elected or shall elect to pay the delinquent taxes on the same property in installments in accordance with the provisions of section 3817c, 3817c2, or 3817c3 as the case may be, of this code, or who has made or shall make a payment on account of delinquent taxes in accordance with the provisions of sections 3817a, 3817c, 3817c2 or 3817i of this code and who, in addition, shall elect to redeem such property from delinquent taxes in accordance with the provisions of section 3817b3 of this code shall receive credit, on the amount of taxes payable, for the total amount, without an allowance for interest thereon, previously paid to the county treasurer, in accordance with the provisions of sections 3817a, 3817c, 3817c2 or 3817i. In the event payment is made

in installments such credit shall be in addition to and not a substitute for the payment of the whole or any part of such installment then payable.

Ex Sess. 1934, Ch 6, Stats 1935, p 12

Credit on taxes paid under certain sections

SEC. 5. Section 3817g of the Political Code is hereby amended to read as follows:

3817g. Any person, his heirs, executors, administrators or other successors in interest, who elected, on or before April 20, 1934, to pay delinquent taxes in installments in accordance with the provisions of section 3817c, or who, on or before April 20, 1935, elected so to do in accordance with section 3817c2, and who failed to pay the taxes for the fiscal years 1933–1934 or 1934–1935 as in said sections required, on or before said date, and who elects to pay the delinquent taxes on the same property in installments in accordance with the provisions of section 3817c2 or 3817c3 of this code shall receive credit, on the amount of delinquent taxes payable in installments under said section 3817c2 or 3817c3, for the total amount, without an allowance of interest thereon, previously paid to the county treasurer in accordance with the provisions of sections 3817c or 3817c2. Such credit shall be in addition to and not a substitute for the payment of the whole or any part of such installment then payable.

Ex Sess. 1934, Ch 6, Stats 1935, p 12

See Stats 1935, Ch 799

Credit on redemption under Secs 3817, 3817b2 or 3817b3

SEC. 6. Section 3817h of the Political Code is hereby amended to read as follows:

3817h. If the person electing to pay such delinquent taxes in installments, in accordance with the provisions of section 3817c, 3817c2, or 3817c3, his heirs, executors, administrators, or other successors in interest, has failed or shall fail to make any of the payments, of installments or of current taxes, therein required therefor on or before the dates therein fixed at the time the first payment was made and if the State has not disposed of the property and redemption thereof is made in accordance with the provisions of section 3817, 3817b2 or 3817b3 of this code within five years after April 20 of the fiscal year within which such failure to pay occurred but not later than April 20, 1945, there shall be credited, on the amount to be paid for such redemption in accordance with the provisions of said section 3817, 3817b2 or 3817b3, the amounts previously paid to the county treasurer in accordance with the provisions of said section 3817c, 3817c2 or 3817c3.

All moneys received by the county treasurer in accordance with the provisions of section 3817a of this code shall be distributed in the manner prescribed in section 3816 of this code for taxes, delinquency penalties, costs and redemption penalties.

All moneys received by the county treasurer in accordance with the provisions of sections 3817b, 3817b2, 3817b3, 3817c, 3817c2 and 3817c3 of this code shall be distributed in the manner prescribed in section 3816 of this code for taxes and for redemption penalties, provided, that amounts received on account of taxes shall be so distributed and applied on account of the oldest unpaid taxes.

SEC. 7. Section 3817j is hereby added to the Political Code to read as follows: New section

3817j. The word "taxes" wherever used in this section, includes all taxes and assessments and annual installments of assessments, charged on the tax rolls. "Taxes" defined.

In all cases where real estate has been sold to the State for delinquent taxes on or before July 6, 1934, and the State has not disposed of the same, the person whose estate has been or may hereafter be sold, his heirs, executors, administrators or other successors in interest, at any time on or prior to September 1, 1935, shall have the right to redeem such real estate, without penalties for delinquency, costs or redemption penalties or interest of whatever name or description, by paying on or before said date to the county treasurer of the county wherein such real estate is situate, the amount of taxes thereon at the time of sale, and also all taxes that were a lien upon said real property at the time said taxes became delinquent and also all unpaid taxes of every description assessed against the property for each year since the sale, as shown on the delinquent rolls in the then permanent custody of the county auditor of such county; or, if not so assessed, then upon the value of the property as assessed in the year nearest the time of such redemption. Redemption without penalties on or before September 1, 1935.

SEC. 8. A new section is hereby added to the Political Code to be numbered 3817k and to read as follows: New section

3817k. In the event a person has elected to pay in installments delinquent taxes which are a lien upon any real estate, in accordance with the provisions of section 3817c, 3817c2 or 3817i of this code, and he, his heirs, executors, administrators or other successors in interest, elects to make final redemption of the same real estate under the provisions of section 3817j of this code, there shall be deducted from the amount necessary to effect such final redemption under section 3817j, a credit equal to the total amount theretofore paid by such person, his heirs, executors, administrators and other successors in interest, under section 3817a, 3817c, 3817c2 or 3817i, including therein all installments, interest, taxes and penalties paid thereunder. Credit on taxes, interest and penalties under certain sections.

SEC. 9. Section 3817*l* is hereby added to the Political Code to read as follows: New section

3817*l*. Whenever the county auditor notifies the county assessor that payment of delinquent taxes under sections 3817c, 3817c2, 3817c3 or 3817i has been started, and the property upon which the taxes are being paid does not appear on the assessment roll, the county assessor shall be required to make an assessment according to the current values and to place the property on the current assessment roll for that year and for each year thereafter so long as payments under such sections are kept up. The property when so returned to the assessment rolls shall be assessed in the name of the holder of the fee title immediately prior to the deed to the State. Assessment of property not on assessment roll.

SEC. 10. Section 3817m is hereby added to the Political Code to read as follows: New section

List of years for which no assessment made

3817m. Whenever property is being redeemed under sections 3817, 3817c, 3817c2, 3817c3, 3817i or 3817j of the Political Code and does not appear on the assessment roll, the county auditor shall furnish the county assessor with a list of the years for which no assessment has been made and the assessor shall place a valuation on the property which the auditor shall use in computing the tax for the years when the property was not assessed.

Urgency.

SEC. 11. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into immediate effect. The facts constituting the necessity are as follows: Due to the widespread depression, many taxpayers have been unable to pay their taxes, or to redeem their property from sale to the State for delinquency. By permitting redemption without penalties, many taxpayers will be enabled to redeem their property, restore the same to the tax rolls, and thereby add revenue for the operation and maintenance of government. It is also necessary in order to redeem much of this property which does not at the present time appear on the assessment rolls that it be assessed according to present day values. If this is not done immediately taxpayers whose property does not now appear on the assessment rolls will be unable to take advantage of the rights granted by this act.

CHAPTER 314.

An act establishing and validating the organization and existence of water districts.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Validation of water districts

SECTION 1. In case the board of supervisors of any county in this State has heretofore declared any territory to be organized as a water district under the "California Water District Act" and has designated a name for such district and has declared certain persons elected as the officers thereof, and the persons declared elected as directors thereof have organized as a board and said board has acted as the board of directors of said district for at least one year before this act takes effect, all acts and proceedings of such board of supervisors and of all public officers in or in connection with the organization of such district are hereby validated, confirmed and declared sufficient, and such district is hereby recognized and established as a water district with the name designated by said board of supervisors, and with the boundaries established by said board of supervisors or with such modification of such boundaries as may have been made by

order of the board of directors of such district on petition or petitions for the inclusion of land therein or the exclusion of land therefrom.

CHAPTER 315.

An act to add a new section to be numbered 844, to the Civil Code, relating to actions for the declaration of rights of persons associated in the use of ditches, flumes, pipe lines or conduits for the conveyance of water.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section to be numbered 844 is hereby added to the Civil Code, said section to read as follows: New section

844. When two or more persons are using any ditch, flume, pipe line or other conduit for the conveyance of water or any part thereof for the irrigation of land or for any other lawful purpose, to the construction of which they or their grantors have contributed, and which is not under the control or management of any public agency or authority, a majority of such users, who have the right to the use of more than fifty per centum of the water in such ditch, flume, pipe line or other conduit, may bring an action in the superior court of the county in which said ditch, flume, pipe line or other conduit for the conveyance of water, or some part thereof, is situated, for a declaration of the respective rights of the users of water in such ditch, flume, pipe line or other conduit; including a determination of the manner in which such ditch, flume, pipe line or other conduit for the conveyance of water shall be administered with respect to repair, up-keep, improvement and otherwise. The decree or judgment in said action shall include a determination of the proportionate amount which all users shall contribute to the maintenance, repair, improvement and otherwise of said ditch, flume, pipe line or other conduit. The court shall determine the manner in which all improvements, repairs, maintenance and otherwise shall be authorized, and thereafter no user of such ditch, flume, pipe line or other conduit may make claim for any funds expended for improvements, repairs, maintenance and otherwise except as determined by the court in said action. No authorization for such claim shall be valid except as made under the authority set forth by the decree or judgment of the court. Declaratory action respecting water and conduit rights

The complaint must contain the name of all users, if known, or a statement that they are unknown, who must be styled defendants.

The summons must contain the names of the parties, and an order to the defendants to appear and show cause why the

determination of rights as prayed for in the complaint should not be granted. In all other particulars it must be in the form of a summons in civil actions, and must be served in like manner.

CHAPTER 316.

Stats 1911, p. 1290, amended

An act to amend sections 4, 9, 10 and 14 of the act entitled "An act to provide for the incorporation and organization and management of municipal water districts and to provide for the acquisition and construction by said districts of water works, and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts," approved May 1, 1911, relating to municipal water districts and the officers thereof and further defining the powers and duties of each thereof.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 1268

SECTION 1. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

Election of board of directors of municipal water district

Sec. 4. At an election to be held within such water district under the provisions of this act and the laws governing general elections not inconsistent herewith, the municipal water district thus organized shall proceed within ninety days after its formation to the election of a board of directors consisting of five members. The board of supervisors shall make an order dividing said district into five divisions, according to and based upon the population as determined by the United States census for 1930 but no municipal corporation shall be divided in the formation of a division. Such divisions shall be numbered first, second, third, fourth and fifth, and one director shall be elected for each division by the electors thereof. Each director shall hold office for the term of four years from and after the date of his election and until the election and qualification of his successor except that at the election first held in any district after the effective date of this amendment, five members of the board of directors shall be chosen of whom two shall serve for the term of two years and three for four years as determined between them respectively by lot.

General water district election.

In each district heretofore organized hereunder, the first election for directors held hereafter shall be held in the year 1934. Thereafter the general district elections shall be held every two years and on the same day that the August primary election is held. Each candidate for director who at any election receives votes on a majority of all the ballots cast for candidates for the office for which he seeks nomination shall be elected to such office. If at such election, as to any such office, none of the candidates receive such majority, the two candidates who receive the highest number of votes cast on all

of the ballots cast for candidates for such office, shall be the candidates for such office at the ensuing district election, which latter election, if other than the election for the first board of directors as mentioned in section 6, shall be held at the same time as the next succeeding November election. Candidates shall be nominated, election returns shall be canvassed and the election shall be held and conducted in the same manner as the nomination, election and canvassing of returns for county officers are made, held and conducted, so far as consistent with the provisions of this act and except as otherwise herein expressly provided. Directors elected hereunder shall take office at the same time provided for county officers. Said election held in August of each even-numbered year shall be known as the general water district election and each other election which may be held in any such district by authority of this act or the general laws shall be known as a special water district election.

Conduct of election

SEC. 2. Section 9 of the act cited in the title hereof is hereby amended to read as follows:

Stats. Ex Sess 1911, p. 101.

Sec. 9. The board of directors shall act only by ordinance or resolution. The ayes and noes shall be taken up on the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the board of directors. No ordinance or resolution shall be passed or become effective without the affirmative vote of a majority of the members of the board. The enacting clause of all ordinances passed by the board shall be: "Be it ordained by the Board of Directors of _____ municipal water district as follows:"

Ordinances and resolutions

Enacting clause

All resolutions and ordinances shall be signed by the president and secretary of the board of directors and attested by the secretary. Each of the members of the board of directors shall receive for each attendance at the meetings of the board ten dollars. No director, however, shall receive pay for more than three meetings in any calendar month. Any vacancy in the board of directors shall be filled by a majority of the remaining directors, the person so chosen shall be a resident of the division in which the vacancy shall occur and shall hold office for the remainder of the unexpired term.

Compensation of directors.

Vacancies

SEC. 3. Section 10 of the act cited in the title hereof is hereby amended to read as follows:

Stats Ex Sess 1911, p. 101

Sec. 10. The board of directors shall be the governing body of such municipal water district and shall at its first meeting or as soon thereafter as practicable, appoint by a majority vote, a secretary, treasurer, attorney, and general manager, define their duties and fix their compensation and each shall serve at the pleasure of the board and may employ such additional assistants and employees as they may deem necessary to efficiently maintain and operate said district. Said board may consolidate the office of secretary and treasurer.

Officers of district

SEC. 4. Section 14 of the act cited in the title hereof is hereby amended to read as follows:

Stats. Ex Sess 1911, p 103.

Duties of officers.

Sec. 14. The president in addition to the duties imposed on him by law shall sign all contracts on behalf of the district and shall perform such other duties as may be imposed on him by the board of directors. The secretary shall countersign all contracts on behalf of the district and perform such other duties as may be imposed by the board of directors. The treasurer shall draw warrants to pay demands against the district when such demands have been first approved by a majority of the board of directors and by the general manager.

The general manager shall have full charge and control of the maintenance, operation and construction of the water works or water works system of said water district with full power and authority to employ and discharge all employees and assistants at pleasure, prescribe their duties, fix their compensation, subject to the approval of the board of directors.

The general manager shall perform such other duties as may be imposed on him by the board of directors. The general manager shall report to the board of directors in accordance with such rules and regulations as they may direct.

The attorney shall be the legal adviser of the district and shall perform such other duties as may be prescribed by the board of directors.

The board of directors shall designate a depository or depositories to have the custody of the funds of the district, all of which depositories shall give security sufficient to secure the district against possible loss, and who shall pay the warrants drawn by the treasurer for demands against the district under such rules as the directors may prescribe.

The general manager, secretary and treasurer, and all other employees or assistants of said district who may be required so to do by the board of directors, shall give such bonds to the district conditioned for the faithful performance of their duties as the board of directors from time to time may provide.

CHAPTER 317.

Stats. 1927, p. 718, amended

An act to amend sections 2, 3, and 6 of, and add section 5a to, an act entitled "An act authorizing municipal corporations to discontinue the use of land for park purposes when the fee thereof is vested in the municipal corporation and authorizing the sale or other disposition of such lands," approved May 12, 1927, relating to the conveyance, exchange, sale or other disposition of lands and claims in consequence thereof.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1927, p. 719

SECTION 1. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Sec. 2. Whenever in the opinion of the legislative body of any municipal corporation the public interest or convenience shall require the discontinuance of the use of any such land as a public park, such legislative body may adopt a resolution declaring that public interest or convenience requires such discontinuance, and that such legislative body intends to call a special election to submit to the qualified electors of such municipal corporation the question of the discontinuance of the use of such land as a public park.

Resolution of intention of discontinuance of public park.

Such resolution shall contain an accurate description of the lands proposed to be discontinued in use as a public park which may be all or any portion of such land, and the name by which the park the use of which is so proposed to be abandoned and discontinued in whole or in part is commonly known, the disposition which it is proposed to make of such park, and shall fix a time and place not less than thirty (30) nor more than sixty (60) days after the adoption of such resolution at which the public or persons particularly interested may be heard.

SEC. 2. Section 3 of the act cited in the title hereof is hereby amended to read as follows:

Stats. 1927, p. 719.

Sec. 3. The city clerk shall cause said resolution to be published twice in a daily newspaper published and circulated in said city; if there be no daily newspaper, then the publication shall be made in a newspaper published and circulated therein less than six days a week and said publication shall be made twice therein. If no newspaper be published in said city, then the publication shall be made twice in some newspaper published in the county in which said city is located. Such publication shall be completed at least twenty days before the time set for hearing of protests as hereinafter provided.

Publication of resolution

The park superintendent, or such other person as may be thereunto authorized by the legislative body of such municipal corporation, shall cause to be conspicuously posted along the exterior boundaries of the area proposed to be discontinued and abandoned as a public park, notices of the adoption of such resolution. Notices so posted shall be headed "Notice of proposed discontinuance of public park land" in letters not less than one (1) inch in height, and shall in legible characters state the fact and date of the adoption of the resolution, and shall contain a description of the land proposed to be discontinued and abandoned as a public park, and the name by which such public park is commonly known and the disposition which it is proposed to make of such park. Such notice shall also contain a statement of the date, hour and place when and where any and all persons having any objection to the proposed abandonment and discontinuance may appear before the legislative body and show cause why the use of the land therein described for park purposes should not be discontinued, in accordance with such resolution. Such notices shall be posted along the exterior boundaries of the land proposed to be discontinued as a

Posting of notices.

public park at not more than three hundred feet in distance apart, and there shall not be less than three such notices in all. Such posting shall be completed at least twenty (20) days before the time set in said resolution for hearing thereon; but the failure to post said notices shall in no wise affect the validity of the proceedings or prevent the legislative body from acquiring jurisdiction to proceed hereunder.

New section.

SEC. 3. A new section is hereby added to the act cited in the title thereof, to read as follows:

Property owners claiming damage.

Sec. 5a. Within ten days after adoption of such ordinance declaring that the use for park purposes of such land shall be discontinued and abandoned, or the adoption of the resolution of discontinuance of a minor portion of any such park, as provided in section 1 of this act, any property owner claiming damage to his property by reason of the discontinuance or abandonment of such park or portion thereof, whether as owner of abutting property or otherwise, shall file a claim in writing setting forth the nature and amount of such claim, and a failure to file and assert such claim shall operate as a waiver and constitute a bar to any action to recover for any such damage.

Appraisers.

If any such claims are filed within the time specified, the legislative body of such municipal corporation shall appoint three appraisers to assess the damages, and for their services they shall receive such compensation as said legislative body shall fix. Said appraisers shall proceed with diligence to ascertain and determine the extent of damages which will result to the property of each claimant and shall file a written report of their findings with the city clerk. The city clerk shall thereupon give notice of such filing and fix the time and place of the meeting at which said report will be considered by the legislative body of said municipal corporation. Said notice shall be published for at least two weeks prior to said meeting in a newspaper published in said city; and if there is no newspaper published in said city, then by posting said notice in three public places within said city for two weeks prior to said meeting. Said notice shall require all persons interested to show cause, if any, why such report should not be confirmed. At the time fixed for the hearing of said report, or at such other time as the hearing may be adjourned to, the legislative body of said municipal corporation shall pass upon said report, together with any objections that shall be made thereto, and may confirm, correct or modify the same.

Consideration by legislative body.

Upon the adoption of said report, either as filed by the appraisers or as corrected and modified by said legislative body, warrants shall be drawn in favor of the various property owners to whom damages have been allowed in the amount specified in said report, said warrants to be payable out of any funds available for such purpose, or from any funds provided for such purpose by the owner of the lands for which such park property may be exchanged.

SEC. 4. Section 6 of the act cited in the title hereof is hereby amended to read as follows: Stats 1929, p. 754

Sec. 6. After such ordinance becomes effective, the land therein described shall be deemed to be held by such municipal corporation in fee and may be sold or otherwise disposed of by such municipal corporation as it may deem proper. In the event that such land shall have been acquired for park purposes by the expenditure of moneys derived from the sale of bonds authorized for park purposes, and in the event the land so acquired for park purposes shall be placed in any other municipal use, there shall be transferred to such bond fund from such other municipal fund, as shall be determined by the legislative body of the city, the reasonable market value of such land at the date of the ordinance discontinuing the use thereof for park purposes and the money so transferred shall be devoted only to the purposes for which such bonds were authorized. Moneys placed in any bond fund hereunder shall be subject to diversion to other use under the terms and limitations of any act of the Legislature providing for the diversion of money derived from the sale of bonds voted for a particular purpose to some other or different purpose.

Subsequent use of lands

Bond moneys.

CHAPTER 318.

An act to amend sections 1026 and 1026a of the Penal Code, relating to procedure in the trial and release of the criminally insane.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1026 of the Penal Code is hereby amended to read as follows: Stats 1927, p. 1149

1026. When a defendant pleads not guilty by reason of insanity, and also joins with it another plea or pleas, he shall first be tried as if he had entered such other plea or pleas only, and in such trial he shall be conclusively presumed to have been sane at the time the offense is alleged to have been committed. If the jury shall find the defendant guilty, or if the defendant pleads only not guilty by reason of insanity, then the question whether the defendant was sane or insane at the time the offense was committed shall be promptly tried, either before the same jury or before a new jury in the discretion of the court. In such trial the jury shall return a verdict either that the defendant was sane at the time the offense was committed or that he was insane at the time the offense was committed. If the verdict or finding be that the defendant was sane at the time the offense was committed, the court shall sentence the defendant as provided by law. If the verdict or finding be that the defendant was insane at the time the

Plea of insanity joined with other pleas

offense was committed, the court unless it shall appear to the court that the defendant has fully recovered his sanity shall direct that the defendant be confined in the State hospital for the criminal insane, or if there be no such State hospital, then that he be confined in some other State hospital for the insane. If, however, it shall appear to the court that the defendant has fully recovered his sanity such defendant shall be remanded to the custody of the sheriff until his sanity shall have been finally determined in the manner prescribed by law. A defendant committed to a State hospital shall not be released from confinement unless and until the court which committed him, or the superior court of the county in which he is confined, shall, after notice and hearing, find and determine that his sanity has been restored. In the event such hearing is held in the county in which the defendant is confined, notice as ordered by the court shall be given to the district attorney of said county and also to the district attorney of the county from which said defendant was committed. Nothing in this section contained shall prevent the transfer of such person from one State hospital to any other State hospital by proper authority nor the transfer of such patient to a hospital in another State in the manner provided by law, upon order of the superior court in the county from which he was committed, or in which he is detained.

Stats. 1927, p. 1148.

SEC. 2. Section 1026a of the Penal Code is hereby amended to read as follows:

Restoration of sanity.

1026a. An application for the release of a person who has been committed to a State hospital, as provided in section 1026, upon the ground that his sanity has been restored, may be made to the superior court of the county in which he is confined or of the county from which he was committed, either by such person or by the superintendent of the hospital in which the said person is confined. No hearing upon such application shall be allowed until the person committed shall have been confined for a period of not less than one year from the date of the order of commitment. If the finding of the court be adverse to releasing such person upon his application for release, on the ground that his sanity has not been restored, he shall not be permitted to file a further application until one year has elapsed from the date of hearing upon his last preceding application. In any hearing authorized by this section the burden of proving that his sanity has been restored shall be upon the applicant.

CHAPTER 319.

An act to amend sections 1, 14, 18 and 41 of the "California Water District Act," approved June 13, 1913, relating to water districts, the purposes and administration thereof, to take effect immediately and declaring the urgency thereof.

Stats. 1913, p. 815, amended.

[Approved by the Governor June 11, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats. 1927, p. 1535

Section 1. The holders of title or evidence of title to a majority in area of lands which form a contiguous body and which are susceptible of irrigation from a common source and by the same system of works may propose the organization of a water district by signing and presenting to the board of supervisors of the county in which the lands or the greater part thereof are situated, at any of its regular meetings, a petition setting forth the following facts — that they propose to form under the provisions of this act a water district to be known as the "_____ Water District"; a description of the boundaries thereof, specifying the county or counties in which the lands are located; the number of acres in the proposed district; the place where the principal business thereof is proposed to be transacted; and the source or sources (which may be in the alternative) from which said lands are proposed to be irrigated. The word "irrigation" as used in this act shall include subirrigation, percolation, underground storage and well replenishment. The words "title or evidence of title" as used in this section include the possessory right of entrymen or purchasers of public lands under any law of the United States or of this State whether evidenced by receipts or otherwise. The records of the United States Land Office for the district in which said lands are located; the records of the State Land Office; and the records in the office of the county recorder of the county in which said lands are situated shall be conclusive evidence of ownership for the purposes of this section

Petition for organization of a water district.

SEC. 2. Section 14 of the act cited in the title hereof is hereby amended to read as follows:

Stats. 1931, p. 797.

Sec. 14. Bonds of the district, when issued, shall be payable in gold coin of the United States. Bonds shall be made payable on the first day of January or the first day of July of the years designated by the board of directors, but in no case shall the maturity of any bond be more than forty years from the date thereof; they shall be of the denomination of not less than one hundred dollars nor more than one thousand dollars each; and they shall be signed by the president of the board of directors and attested by the secretary of the district. Each bond must be made payable at a given time for its entire

Bonds.

Denomination.

Interest.

amount and not for a percentage; shall bear interest at a rate not in excess of seven per cent per annum, payable semi-annually on the dates therein named at the office of the treasurer upon the presentation and surrender of the proper coupons therefor, and the principal thereof shall be payable when due upon the presentation and surrender thereof to the treasurer by the holder of the same. Each issue shall be numbered consecutively and the bonds of each issue shall be numbered consecutively and bear date at the time of their issue.

Coupons

Coupons for each installment of interest shall be attached to the bonds and shall be numbered the same as the bonds, and attested by the facsimile signature of the secretary of the district.

Form of bonds.

The bonds shall be substantially in the following form:

"Issue _____ No. _____ For value received, _____ water district situated or principally situated in the county of _____, State of California, promises to pay the holder hereof at the office of the treasurer of said district, on the _____ day of _____, 19___, the sum of _____ dollars in gold coin of the United States with interest in like gold coin at the rate of _____ per centum per annum, payable at the office of said treasurer semiannually, on the _____ day of _____ and the _____ day of _____ in each year, on presentation and surrender of the interest coupons hereto attached. This bond is issued pursuant to an election held by said district on the _____ day of _____, 19___, authorizing its issuance, and by authority of an act entitled (specifying the title and date of approval of this act).

In witness whereof, the said district, by its board of directors, has caused this bond to be signed by the president of said board and attested by the secretary of said district, with the seal of the district attached, this _____ day of _____, 19___.

_____

Attest: President of said board.

_____

Secretary."

The interest coupons shall be substantially in the following form:

"No. _____

The treasurer of _____ water district, State of California, will pay the holder hereof, on the _____ day of _____, 19___, at his office in _____, _____ dollars, gold coin of the United States, out of the funds of _____ water district for interest on bond numbered _____ of said district.

Attest:

_____

Secretary of _____ District."

The treasurer of the district shall, when he receives the same, place the said bonds to the credit of the district and he shall, in a book provided for that purpose, keep a record of said bonds and of the payment thereof and the interest thereon. When filed with said treasurer, as above provided, the bonds of the district and the interest thereon shall be and remain until paid a lien on the lands of the district, and a lien for the bonds of any issue shall be a preferred lien to that of any subsequent issue.

Bonds placed to the credit of the district.

SEC. 3. Section 18 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1929, p. 1473.

Sec. 18. Bonds of any water district organized under the provisions of this act may be investigated and certified in the same manner, by the same officers and with the same force and effect as prescribed for the investigation and certification of bonds of irrigation districts, by the provisions of the act entitled "An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, State school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized," approved June 13, 1913, as amended.

Investigation and certification of bonds

Stats 1913, p 778

SEC. 4. Section 41 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1929, p 1475

Sec. 41. If, upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or if the evidence fail to sustain said petition, or if the board deem it not for the best interest of the district that the lands, or some portion thereof, mentioned in the petition, should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interest of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause in writing why the said lands or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith, make an order that the lands mentioned and described in the petition, or some defined portion thereof, be excluded from said district; provided, that it shall be the duty of said board to so order, upon petition therefor as aforesaid, that all lands so petitioned to be excluded from said district shall be excluded therefrom, which can not be irrigated from, or which are not susceptible to, irrigation from a common source or by the same system of works with the other lands of said district, or from the source selected, chosen, or provided, or the system adopted for the

Decision of board

irrigation of the lands in said district, or which are already irrigated, or entitled to be irrigated, from another source or by another system of irrigation works; provided, that no land irrigated by means of water, pumped from an underground source or sources shall be entitled to exclusion from any water district on account of being so irrigated, if it shall be shown that such land is or will be substantially benefited by sub-irrigation from the works of said district or by drainage works provided or required by law to be provided by said district.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and as such it shall take effect immediately. The following is a statement of the facts constituting such necessity:

Continued dry years have made immediate action imperative in the various water districts to conserve the waters of the present season in order to save not only extensive areas of crops, but also for industrial and domestic purposes. Immediate action is further imperative to construct works during the coming summer season for conserving and utilizing the floods and waters of the coming winter. For the proper and ready financing of such construction the immediate voting of bonds is necessary, and to that end the legislation contained in this act relative to such bonds and their maturities, terms and conditions, is required to be immediately effective. An adequate supply of water for agricultural, domestic and industrial purposes is necessary for the public peace, health and safety of the communities affected in the State of California.

CHAPTER 320.

Stats. 1933, p. 1697, amended.

An act to amend sections 19 and 20 of the "State Liquor Control Act," approved June 3, 1933, relating to licenses.

See Stats. 1935, Ch. 330.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1703.

SECTION 1. Section 19 of the act cited in the title hereof is hereby amended to read as follows:

Investigations.

Sec. 19. The board may upon its own motion or upon the verified complaint in writing of any person, investigate the action of any licensee hereunder and as hereinafter provided in sections 20, 21, 22, 23, 24 and 25, shall have power to temporarily suspend or permanently revoke a license hereunder for any one of the following acts or omissions:

Grounds for suspension or revocation of license

(a) Misrepresentation of a material fact by the applicant in obtaining a license hereunder; or

(b) If the licensee violates or causes or permits to be violated any of the provisions of this act or any of the applicable rules or regulations of the board; or

(c) If the licensee commits any act which would be sufficient ground for the denial of an application for a license hereunder.

SEC. 2. Section 20 of said act is amended to read as follows: Stats. 1933, p. 1703.

Sec. 20. The board, either upon its own motion or upon the filing with the board of a verified complaint charging the licensee with the commission within one year prior to the date of filing such complaint of any act which is cause for suspension or revocation of a license, the board must forthwith issue a citation directing the licensee within ten days after service of the citation upon him to appear by filing with the board his verified answer to the complaint showing cause, if any he has, why his license should not be suspended or revoked. Service of the citation upon the licensee shall be fully effected by mailing a true copy thereof together with a true copy of the complaint by United States registered mail in a sealed envelope with postage fully prepaid thereon addressed to the licensee at his latest address of record in the office of the board. Service of the citation shall be completed at the time of such deposit subject to the provisions of section 1013 of the Code of Civil Procedure of this State. Failure of the licensee to answer shall be deemed an admission by him of the commission of the act or acts charged in the complaint and thereupon the board shall have power forthwith to suspend or revoke the license. Service of citation

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CHAPTER 321.

An act to amend section 80 of the Agricultural Code, relating to agricultural districts and including provision for the exhibition of live stock in southern California.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 80 of the Agricultural Code is hereby amended to read as follows: Agricultural districts

80. The several counties of this State constitute agricultural districts numbered as follows:

District 1. The county of Alameda.

District 1a. The City and County of San Francisco and the county of San Mateo.

District 2. The county of San Joaquin.

District 3. The county of Butte.

District 4. The counties of Sonoma and Marin.

District 5. The county of Santa Clara.

District 6. All that portion of Los Angeles County not included in agricultural district number forty-eight.

District 7. The county of Monterey
District 8. The county of El Dorado.
District 9. The county of Humboldt.
District 10. The county of Siskiyou.
District 11. The counties of Plumas and Sierra. A fair shall be held in each county of this district alternately.
District 12. The counties of Lake and Mendocino.
District 13. The counties of Sutter and Yuba.
District 14. The county of Santa Cruz.
District 15. The county of Kern.
District 16. The county of San Luis Obispo.
District 17. The county of Nevada.
District 18. The counties of Mono, Inyo, and Alpine.
District 19. All that portion of Santa Barbara County lying east of Gaviota and south of the Santa Ynez Mountains.
District 20. The county of Placer.
District 21. The counties of Fresno and Madera.
District 22. The county of San Diego.
District 23. The county of Contra Costa.
District 24. The counties of Tulare and Kings.
District 25. The county of Napa.
District 26. The county of Amador.
District 27. The county of Shasta.
District 28. The county of San Bernardino.
District 29. The county of Tuolumne.
District 30. The county of Tehama.
District 31. The county of Ventura.
District 32. The county of Orange.
District 33. The county of San Benito
District 34. The county of Modoc.
District 35. The counties of Merced and Mariposa.
District 36. The county of Solano.
District 37. All that portion of Santa Barbara County not included in agricultural district number nineteen.
District 38. The county of Stanislaus.
District 39. The county of Calaveras.
District 40. The county of Yolo.
District 41. The county of Del Norte.
District 42. The county of Glenn.
District 43. The county of Lassen.
District 44. The county of Colusa.
District 45. The county of Imperial.
District 46. The county of Riverside.
District 47. The county of Trinity.

New district. District 48. All that portion of Los Angeles County described as follows:

Beginning at the intersection of Atlantic Avenue and Willow Street in Long Beach; thence west to Main Street; thence north along west line of Main Street to Slauson Avenue; thence west along the south line of Slauson Avenue to La Brea Boulevard; thence north along west line of La Brea Boulevard to north line of Exposition Boulevard; thence east along north

line of Exposition Boulevard to west line of Crenshaw Boulevard; thence south along the west line of Crenshaw Boulevard to south line of Vernon Avenue; thence east along south line of Vernon Avenue to Main Street; thence north along the west line of Main Street to the north line of Washington Boulevard; thence east along the north line of Washington Boulevard to Atlantic Avenue, thence south along the east line of Atlantic Avenue to point of beginning.

CHAPTER 322.

An act to add a new section to be numbered 17.5 to an act entitled "An act to provide for the organization of the Railroad Commission, to define its powers and duties and the rights, remedies, powers and duties of public utilities and their officers, and the rights and remedies of patrons of public utilities, and to provide penalties for offenses by public utilities, their officers, agents and employees and by other persons and corporations, creating the 'Railroad Commission fund' and appropriating the moneys therein to carry out the provisions of this act, and repealing Title XV of Part IV of Division I of the Civil Code and all acts and parts of acts inconsistent with the provisions of this act," approved April 23, 1915, relating to cases in which common carriers may grant free or reduced rates, and providing that this act shall take effect immediately.

Stats. 1915, p. 115, amended.

[Approved by the Governor June 11, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. A new section to be numbered 17.5 is hereby added to the act cited in the title hereof, to read as follows:

New section

SEC. 17.5. Every common carrier subject to the provisions of this act may transport free or at reduced rates contractors and their employees engaged in carrying out contracts with the United States, this State, or any county or municipal government or other governmental agency in this State, and materials or supplies for use in carrying out such contracts, in each case to the extent only that such free or reduced rate transportation is provided for in the specifications upon which the contract is based and in the contract itself.

Transportation in connection with governmental contract.

SEC. 2. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health, and safety within the meaning of section 1 of Article IV of the Constitution, and shall therefore take effect

Urgency

immediately. The facts constituting such necessity are as follows:

Under the terms of an act of Congress, many millions of dollars will be available within a very short time for the construction and improvement of highways and the elimination of grade crossings, for the purpose of relieving unemployment. This State will receive a considerable sum as its share of the Federal appropriations. The materials will have to be transported for the purpose of doing such work and in many cases the common carriers of this State are willing to transport such materials free or at reduced rates but under the present law are prohibited from doing so. It is imperative that as much of the money allocated to this State by the Federal government be used for the employment of citizens as possible, and this act will permit additional sums thereof to be made available for the relief of unemployment. It is therefore imperative that this act take effect immediately.

CHAPTER 323.

Stats. 1933, p. 708, amended

An act to amend sections 1 and 2 of "An act to provide for the taxation of Massachusetts or business trusts, and providing that this act shall take effect immediately," approved May 1, 1933, relating to the taxation of Massachusetts or business trusts, and providing that this act shall take effect immediately.

[Approved by the Governor June 11, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Stats. 1933, p. 2694

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Tax on net income.

Section 1. Every Massachusetts or business trust doing business within the limits of this State shall annually pay to the State for the privilege of doing business within this State a tax according to or measured by its net income to be computed in the manner hereinafter provided at the rate of four per centum upon the basis of its net income for the next preceding fiscal or calendar year.

Minimum tax

In any event each Massachusetts or business trust shall annually pay to the State for the said privilege a minimum tax of twenty-five dollars.

Accrual

Taxes under this section shall accrue on the first day of the taxable year as hereinafter defined.

Stats. 1933, p. 708

SEC. 2. Section 2 of said act is hereby amended to read as follows:

Stats. 1929, p. 19, applicable.

Sec. 2. Sections 4 to 38 inclusive of chapter 13, Statutes of 1929, entitled "An act to carry into effect the provisions of section 16 of Article XIII of the Constitution of the State of California, relating to bank and corporation taxes," as

amended, and any amendments thereto hereafter made shall apply, and shall be construed to apply to all Massachusetts or business trusts to the same extent and with the same force and effect as they are applicable to every corporation taxable under subdivision (3) of section 4 of said act.

SEC. 3. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional. Constitutionality.

SEC. 4. This act, inasmuch as it provides for tax levies for the usual current expenses of the State, shall, under the provisions of section 1 of Article IV of the Constitution, take effect immediately. Tax levy

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CHAPTER 324.

An act to repeal Article II of Chapter II of Part II of Division III of the School Code and to add to Chapter II of Part II of Division III of the School Code a new article to be known as Article I, relating to contracts between State teachers colleges and elementary school districts for the education of pupils of such districts.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Article II of Chapter II of Part II of Division III of the School Code is hereby repealed. Repeal

SEC. 2. A new article is hereby added to Chapter II of Part II of Division III of the School Code to be known as Article I and to read as follows: New article

Article I—Contracts for Education of Elementary School Pupils.

3.150. The governing board of any elementary school district within which a State teachers college is located may contract with the State teachers college for the education by the State teachers college of pupils eligible to attend school in the elementary school district. The pupils educated by the State teachers college under such contract may be housed on the campus of the State teachers college or in a building of the school district. Contracts for education of elementary school pupils

CHAPTER 325.

An act to add a new article to Chapter I of Part III of Division IV of the School Code to be known as Article III, relating to school district elections for the expenditure of school district funds.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New article

SECTION 1. A new article is hereby added to Chapter I of Part III of Division IV of the School Code to be known as Article III, and to read as follows:

Article III—Elections for Expenditure of School District Funds.

Elections for expenditure of school district funds.

4.300. Except as herein provided, each election held for the purpose of permitting a school district to exceed the expenditure of school district funds fixed by the Constitution or by the statutes of this State shall be called, held and conducted as nearly as possible as are elections for the issuance of school district bonds.

The notice of such election shall contain only the following:

1. The time and place, or places of holding the election.
2. The names of the officers of the election appointed to conduct the same.
3. The hours during the day in which the polls will be open.
4. The amount by which it is proposed to increase the expenditures of the district during the school year.
5. The total amount of proposed expenditures of the district, including the proposed increase, for the school year.

The ballots used at such election shall contain the following language: "Shall the total authorized expenditures of the district be increased from ------ (naming the sum) to ------ (naming the sum) for the school year ------ (naming the school year)?"

The hours during which the polls at such election shall be open shall be fixed in accordance with the provisions of section 2.877 of this code.

CHAPTER 326.

An act to add a new section to the School Code to be numbered 2.1363, relating to the acceptance of gifts, donations, bequests and devises to schools and colleges administered by the Director of Education or the Department of Education.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the School Code to be numbered 2.1363, and to read as follows: New section

2.1363. The Director of Education is hereby authorized to accept on behalf of, and in the name of, the State of California such gifts, donations, bequests and devises as may be made to any school or college administered by the Director of Education or the Department of Education which in his judgment would be of benefit to the State of California and to such school or college. Such gifts, donations, bequests and devises may be made subject to such conditions or restrictions as the Director of Education may deem advisable. Gifts, donations, bequests and devises.

CHAPTER 327.

An act to amend section 4.798 of the School Code, relating to apportionments of State funds for public school purposes.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4.798 of the School Code is hereby amended to read as follows: Stats. 1933, p. 2703

4.798. All moneys received by the treasurer of any county from the apportionments of the State general fund shall be immediately credited by such treasurer to the county elementary supervision fund, to the unapportioned county elementary school fund, and to the special school funds of the several elementary school districts of the county exactly as apportioned by the Superintendent of Public Instruction. Credits by county treasurer.

CHAPTER 328.

An act providing for the grant of certain lands to the United State of America for the creation of a National park or monument.

[Approved by the Governor June 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Lands granted to United States

SECTION 1. In order to preserve and make available to the present and future generations the natural scenic beauties, native vegetation, wild life, historical and archeological information contained therein, all land and improvements thereon now owned by the State of California, or which may hereafter come within the ownership of the State of California, contained within the following boundaries to wit:

Description.

That piece or parcel of land, including sections therein now held by the State of California as school lands, bounded as follows:

Commencing at the northwest corner of T. 1 S., R. 5 E., S. B. B. and M.; thence easterly along the north line of said township to the northeast corner of T. 1 S., R. 10 E., S. B. B. and M.; thence southerly along the line between R. 10 E. and R. 11 E. to the southeast corner of T. 6 S., R. 10 E., S. B. B. and M.;

Thence westerly 10 miles along the south line of T. 6 S. to the southwest corner of section 33 T. 6 S., R. 9 E., S. B. B. and M.; thence north 2 miles to the northwest corner of section 28, T. 6 S., R. 9 E., S. B. B. and M.; thence west 2 miles to the southwest corner of section 19, T. 6 S., R. 9 E., S. B. B. and M.;

Thence north 8 miles to the northwest corner of section 18 T. 5 S., R. 9 E., S. B. B. and M.; thence west 3 miles to the southwest corner of section 10, T. 5 S., R. 8 E., S. B. B. and M.; thence north 2 miles to the northwest corner of section 3, T. 5 S., R. 8 E., S. B. B. and M.; thence west 3 miles to the southwest corner of T. 4 S., R. 8 E., S. B. B. and M.; thence north 4 miles to the northwest corner of section 18, T. 4 S., R. 8 E., S. B. B. and M.; thence west 3 miles to the southwest corner of section 10, T. 4 S., R. 7 E., S. B. B. and M.; thence north 4 miles to the northwest corner of section 27, T. 3 S., R. 7 E., S. B. B. and M.; thence west 5 miles to the southwest corner of section 23, T. 3 S., R. 6 E., S. B. B. and M.; thence north 1 mile to the northwest corner of section 23, T. 3 S. R. 6 E., S. B. B. and M.; thence west 3 miles to the southwest corner of section 17, T. 3 S., R. 6 E., S. B B. and M.; thence north 1 mile to the northwest corner of section 17, T. 3 S., R. 6 E., S. B. B. and M.; thence west 4 miles to the southwest corner of section 10, T. 3 S., R. 5 E., S. B. B. and M.; thence north 2 miles to the northwest corner of section 3, T. 3 S., R. 5 E., S. B. B. and M.; thence west 3 miles to the southwest corner of T. 2 S., R. 5 E., S. B. B. and

M.; thence north 12 miles to the point of beginning; excepting therefrom and reserving to the State of California all mineral and oil in or contained in said lands, together with the right to enter, extract and take the same, and excepting and reserving to the State of California title to each and every section within the boundaries hereinbefore described in which mineral or oil is discovered within a period of twenty years from the date of the adoption of this act and reserving and excepting therefrom all lands which the State of California shall have heretofore contracted to sell or dispose of is hereby granted unto the United States of America for the establishment of a National park or monument. Exceptions

SEC. 2. This act shall take effect from and after acceptance by the United States of America of the grant herein made, thereby forever releasing the State of California from further cost of maintaining said lands, the same to be held for all time by the United States of America for public use, resort and recreation, and imposing on the United States of America the cost of maintaining the same as a National park or monument; provided, however, that the grant hereby made shall not affect vested rights and interest of third persons; and provided further that the State of California shall retain a concurrent jurisdiction with the United States of America in and over lands so acquired so far that civil processes in all cases, and such criminal processes as may issue under the authority of the State of California against any person charged with the commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this grant had not been made; and provided further that the State of California shall retain a concurrent jurisdiction to license or tax persons and corporations and their property and transactions on such lands. Conditions

SEC. 3. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional. Constitutionality.

CHAPTER 329.

"Personal Income Tax Act of 1935."

An act to provide for the levy and collection of a tax upon the incomes of individuals, estates and trusts, and to provide for the disposition of the revenues therefrom, and to provide that this act shall take effect immediately.

[Approved by the Governor June 13, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Short title.

SECTION 1. Short title. This act shall be known and may be cited as "The Personal Income Tax Act of 1935."

Definitions

SEC. 2. Definitions. For the purposes of this act and unless otherwise required by the context—

(a) The word "commissioner" as used in this act and the word "commissioner" as used in the "Revenue Act of 1934," when any part of that act is incorporated herein by reference, mean the Bank and Corporation Franchise Tax Commissioner.

(b) The word "taxpayer" includes any individual, fiduciary, estate, or trust subject to the tax imposed by this act.

(c) The word "individual" means a natural person.

(d) The word "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, estate or trust.

(e) The word "person" includes individuals, fiduciaries, partnerships and corporations.

(f) The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this act, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(g) The word "corporation" includes joint-stock companies or associations, insurance companies, business trusts or so-called "Massachusetts trusts."

(h) The words "taxable year" mean the calendar year or the fiscal year, upon the basis of which the net income is computed under this act; if no fiscal year has been established they mean the calendar year.

"Taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this act or under regulations prescribed by the commissioner, the period for which such return is made.

(i) The words "fiscal year" mean an accounting period of twelve months ending on the last day of any month other than December

(j) The words "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this act.

(k) The word "resident" includes every natural person domiciled in the State of California and every other natural person who maintains a permanent place of abode within this State or spends in the aggregate more than six months of the taxable year within this State. The word "nonresident" includes every natural person other than a resident.

(l) The words "foreign country" mean any jurisdiction other than one embraced within the United States. The words "United States," when used in a geographical sense, include the States, the Territories of Alaska and Hawaii, the District of Columbia and the possessions of the United States.

(m) The words "Revenue Act of 1934" mean the act of Congress of the United States, approved May 10, 1934, and known and cited as the "Revenue Act of 1934."

(n) The words "trade or business" include the performance of the functions of a public office.

(o) The words "personal holding company" means any corporation (other than a corporation exempt from taxation under section 101 of the Federal Revenue Act of 1934, and other than a bank or trust company incorporated under the laws of the United States or of any State or Territory, a substantial part of whose business is the receipt of deposits, and other than a life insurance company or surety company) if (1) at least eighty per centum of its gross income for the taxable year is derived from royalties, dividends, interest, annuities, and (except in the case of regular dealers in stock or securities) gains from the sale of stock or securities, and (2) at any time during the last half of the taxable year more than fifty per centum in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals. For the purpose of determining the ownership of stock in a personal holding company—(3) stock owned, directly or indirectly, by a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners or beneficiaries; (4) an individual shall be considered as owning, to the exclusion of any other individual, the stock owned, directly or indirectly, by his family, and this rule shall be applied in such manner as to produce the smallest possible number of individuals owning, directly or indirectly, more than fifty per centum in value of the outstanding stock; and (5) the family of an individual shall include only his brothers and sisters (whether by the whole or half blood) spouse, ancestors, and lineal descendants.

(p) The words "State board" mean the State Board of Equalization.

SEC. 3. Who Shall File Returns. (a) Every person taxable under this act shall make a return to the commissioner, stating specifically the item of his gross income and the deductions and credits allowed by this act, if having a net income of— Who shall file returns.

(1) $1,000 or over, if single, or if married and not living with husband or wife;

(2) $2,500 or over, if married and living with husband or wife; or

(3) If having a gross income of $5,000 or over, regardless of the amount of net income.

(b) If a husband and wife living together have an aggregate net income for the taxable year of $2,500 or over, or an aggregate gross income for such year of $5,000 or over—

(1) Each shall make such a return, or

(2) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income.

(c) If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer

(d) Every resident or nonresident, taxable under this act, who is a beneficiary of an estate or trust taxable hereunder, shall include in his gross income, the distributive share of the net income of the estate or trust received by him or distributable to him during the taxable year; provided, however, the income of an estate or trust with respect to which the tax is imposed upon the estate or trust shall not be so included when distributed to the beneficiary.

Fiduciary returns.

SEC. 4. Fiduciary Returns. (a) Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make a return for any of the following individuals, estates or trusts, taxable hereunder, for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this act—

(1) Every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband or wife;

(2) Every individual having a net income for the taxable year of $2,500 or over, if married and living with husband or wife;

(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income;

(4) Every estate or trust the net income of which for the taxable year is $1,000 or over;

(5) Every estate or trust the gross income of which for the taxable year is $5,000 or over, regardless of the amount of the net income.

(b) Under such rules and regulations as the commissioner may prescribe, a return filed by one of two or more joint fiduciaries shall be sufficient compliance with the above requirement. Such fiduciary shall state under oath (1) that he has sufficient knowledge of the affairs of the individual, estate, or trust, for which the return is made, to enable him to make the return, and (2) that the return is, to the best of his knowledge and belief, true and correct.

(c) Any fiduciary required to make a return under this act shall be subject to all the provisions of this act which apply to individuals.

SEC. 5. Imposition of Tax on Residents and Nonresidents.

Imposition of tax on residents and nonresidents

(a) There shall be levied, collected and paid for each taxable year upon the entire net income of every resident of this State and upon the net income of every nonresident which is derived from sources within this State, taxes in the following amounts and at the following rates upon the amount of net income in excess of credits against net income provided in section 10:

Upon net incomes not in excess of $5,000, 1 per centum of such net incomes.

$50 upon net incomes of $5,000; and upon net incomes in excess of $5,000 and not in excess of $10,000, 2 per centum in addition of such excess.

$150 upon net incomes of $10,000; and upon net incomes in excess of $10,000 and not in excess of $15,000, 3 per centum in addition of such excess.

$300 upon net incomes of $15,000; and upon net incomes in excess of $15,000 and not in excess of $20,000, 4 per centum in addition of such excess.

$500 upon net incomes of $20,000; and upon net incomes in excess of $20,000 and not in excess of $25,000, 5 per centum in addition of such excess.

$750 upon net incomes of $25,000; and upon net incomes in excess of $25,000 and not in excess of $30,000, 6 per centum in addition of such excess.

$1,050 upon net incomes of $30,000; and upon net incomes in excess of $30,000 and not in excess of $40,000, 7 per centum in addition of such excess.

$1,750 upon net incomes of $40,000; and upon net incomes in excess of $40,000 and not in excess of $50,000, 8 per centum in addition to such excess.

$2,550 upon net incomes of $50,000; and upon net incomes in excess of $50,000 and not in excess of $60,000, 9 per centum in addition of such excess.

$3,450 upon net incomes of $60,000; and upon net incomes in excess of $60,000 and not in excess of $70,000, 10 per centum in addition of such excess.

$4,450 upon net incomes of $70,000; and upon net incomes in excess of $70,000 and not in excess of $80,000, 11 per centum in addition of such excess.

$5,550 upon net incomes of $80,000; and upon net incomes in excess of $80,000 and not in excess of $100,000, 12 per centum in addition of such excess.

$7,950 upon net incomes of $100,000; and upon net incomes in excess of $100,000 and not in excess of $150,000, 13 per centum in addition of such excess.

$14,450 upon net incomes of $150,000; and upon net incomes in excess of $150,000 and not in excess of $250,000, 14 per centum in addition of such excess.

$28,450 upon net incomes of $250,000; and upon net incomes in excess of $250,000, 15 per centum in addition of such excess.

Net Income

SEC. 6. Net Income. The words "net income" mean the gross income computed under section 7 of this act less the deductions allowed by section 8 of this act.

Gross Income.

SEC. 7. Gross Income. (a) Gross income includes gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever, and includes any salary, wages or compensation of any officer or employee of this State, or any political subdivision, district or municipality thereof.

Exemptions.

(b) The following items shall not be included in gross income and shall be exempt from taxation under this act:

(1) Amounts received under a life insurance contract paid by reason of the death of the insured, whether in a single sum or otherwise (but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income);

(2) Amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts and other than amounts received as annuities) under a life insurance or endowment contract, but if such amounts (when added to amounts received before the taxable year under such contract) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year) then the excess shall be included in gross income. Amounts received as an annuity under an annuity or endowment contract shall be included in gross income; except that there shall be excluded from gross income the excess of the amount received in the taxable year over an amount equal to 3 per centum of the aggregate premiums or consideration paid for such annuity (whether or not paid during such year), until the aggregate amount excluded from gross income under this act in respect of such annuity increased by the amount which would have been excluded from gross income in respect of such annuity had this act been in effect continuously from and after the date at which payments under such annuity were first received equals the aggregate premiums or consideration paid for such annuity. In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance, endowment, or annuity contract, or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be exempt from taxation under paragraph (1) or this paragraph;

(3) The value of property acquired by gift, bequest, devise, or inheritance (but the income from such property shall be included in gross income);

(4) Amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness;

(5) The rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation;

(6) Income which this State is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this State.

Inventories

(c) Whenever in the opinion of the commissioner the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the commissioner may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

Computation of gain or loss

(d) In the case of a sale or other disposition of property, the gain or loss shall be computed as provided in sections 111, 112, and 113 of the Revenue Act of 1934 which sections and the sections referred to therein are hereby referred to and incorporated with the same force and effect as though fully set forth herein; provided, however, that the words "with the approval of the secretary" in said sections shall be deemed omitted.

(e) In the case of sales or exchanges of capital assets, the gain or loss shall be taken into account in computing net income in the manner provided in section 117 of the Revenue Act of 1934 which section and the sections of the Revenue Act of 1934 referred to therein are hereby referred to and incorporated with the same force and effect as though fully set forth herein.

Gross income of nonresidents

(f) In the case of taxpayers other than residents the gross income includes only the gross income from sources within this State. Gross income from sources within and without this State shall be allocated and apportioned under rules and regulations to be prescribed by the commissioner.

Dividends

(g) (1) The term "dividend" when used in this act means any distribution made by a corporation to its shareholders, whether in money or in other property, out of its earnings or profits accumulated after February 28, 1913.

(2) For the purposes of this act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-

Dividends.

free distribution shall be applied against and reduce the adjusted basis of the stock provided in subsection (d) of this section.

(3) Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under subsection (d) of this section, but shall be recognized only to the extent provided in subsection (d) of this section. Despite the provisions of subsection (e) of this section, 100 per centum of the gain so recognized shall be taken into account in computing net income. In the case of amounts distributed (whether before January 1, 1934, or on or after such date) in partial liquidation (other than a distribution within the provisions of subdivision (8) of this subsection or stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits within the meaning of subdivision (2) of this subsection for the purpose of determining the taxability of subsequent distributions by the corporation.

(4) If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not out of earnings or profits, then the amount of such distribution shall be applied against and reduce the adjusted basis of the stock provided in subsection (d) of this section. and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property.

(5) Any distribution made by a corporation, which was classified as a personal service corporation under the provisions of the Federal Revenue Act of 1918 or the Federal Revenue Act of 1921, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Federal Revenue Act of 1921, shall be exempt from tax to the distributees.

(6) A stock dividend shall not be subject to tax.

(7) If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(8) The distribution before January 1, 1934, in pursuance of a plan of reorganization, by or on behalf of a corporation a party to the reorganization, of its stock or securities or

stock or securities in a corporation a party to the reorganization, if no gain to the distributee from the receipt of such stock or securities was recognized under the Federal Revenue Act applicable to such distribution, shall not be considered a distribution of earnings or profits within the meaning of this subsection for the purpose of determining the taxability of subsequent distributions by the corporation. As used in this subdivision, the terms "reorganization" and "party to the reorganization" shall have the meanings assigned to such terms in section 112 of the Federal Revenue Act of 1932.

(9) As used in this subsection the term "amount distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

Deductions from gross income

SEC. 8. Deductions from Gross Income In computing net income there shall be allowed as deductions:

(a) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

In the case of any taxpayer the deductions permitted by this subsection shall not be allowed if, and to the extent that they are connected with the production of income not taxable under this act, and proper apportionment and allocation of such deductions with respect to taxable and nontaxable income shall be determined under rules and regulations to be prescribed by the commissioner.

(b) All interest paid or accrued within the taxable year on indebtedness of the taxpayer; provided, however, in the case of any taxpayer the deduction permitted by this subdivision shall not be allowed if, and to the extent that such deduction is connected with income not taxable under this act; and provided further, no such deduction shall be allowed or taken for interest paid or accrued within the taxable year on indebtedness incurred or continued to purchase or carry obligations, the interest upon which is wholly exempt from taxes imposed by this act. The proper apportionment and allocation of such deductions with respect to taxable and nontaxable income shall be determined under rules and regulations to be prescribed by the commissioner.

(c) Taxes or licenses paid or accrued during the taxable year, other than taxes paid to the State under this act, and other than taxes on or according to or measured by income or profits paid or accrued within the taxable year imposed by the

authority of (1) the Government of the United States or any foreign country, (2) any State, Territory, county, city and county, school district, municipality or other taxing subdivision of any State or Territory, and other than estate, inheritance, legacy, succession and gift taxes, and other than taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this shall not exclude the allowance as a deduction of so much of said taxes assessed against local benefits as is properly allocable to maintenance or interest charges.

Deductions.

(d) Losses sustained during the taxable year and not compensated for by insurance or otherwise:

(1) If incurred in trade or business; or

(2) If incurred in any transaction entered into for profit, though not connected with the trade or business; or

(3) Of property not connected with the trade or business, if the loss arises from fires, storms, shipwreck, or other casualty, or from theft.

The basis for determining the amount of deduction for losses sustained, to be allowed under this subsection shall be the adjusted basis provided in section 7 of this act for determining the loss from the sale or other disposition of property.

(e) Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(f) Debts ascertained to be worthless and charged off within the taxable year (or in the discretion of the commissioner a reasonable addition to a reserve for bad debts) and when satisfied that a debt is recoverable only in part, the commissioner may allow such debt, in an amount not in excess of the part charged off within the taxable year, as a deduction.

(g) In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning thirty days before the date of such sale or disposition and ending thirty days after such date, the taxpayer has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law) or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed. If the amount of stock or securities acquired (or covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the loss from the sale or other disposition of which is not deductible shall be determined under rules and regulations prescribed by the commissioner.

If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility of the loss shall be determined under the rules and regulations prescribed by the commissioner.

(h) Losses from sales or exchanges of capital assets shall be allowed only to the extent provided in subsection (d) of section 117 of the Revenue Act of 1934 which subsection is hereby referred to and incorporated with the same force and effect as though fully set forth herein. Deductions.

(i) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

(j) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the commissioner. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate. In the case of leases the deductions shall be equitably apportioned between the lessor and the lessee. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. The percentage of depletion allowable under this subsection shall be computed in accordance with the provisions of subdivisions (3) and (4) of subsection (b) of section 114 of the Revenue Act of 1934 which subdivisions and the sections of said revenue act referred to therein are hereby referred to and incorporated with the same force and effect as though fully set forth herein.

(k) The basis upon which depletion, exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be as provided in section 114 of the Revenue Act of 1934 which section and all sections of said revenue act referred to therein are hereby referred to and incorporated with the same force and effect as though fully set forth herein, provided,

Deductions.

however, that the words "with the approval of the secretary" shall be deemed omitted.

(l) In the case of an individual, contributions or gifts made within the taxable year to or for the use of:

(1) The United States, any State, Territory or any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(2) A corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation;

(3) The special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924;

(4) Posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual; or

(5) A fraternal society, order, or association; operating under the lodge system, but only if such contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. The deductions under this subsection shall be allowed to an amount which in all the above cases combined does not exceed fifteen per centum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowed as deductions only if verified under rules and regulations prescribed by the commissioner.

In the case of an individual if in the taxable year and in each of the ten preceding taxable years the amount of the contributions or gifts described in this subsection plus the amount of income, war profits, or excess profits taxes paid during such year in respect of preceding taxable years, exceeds ninety per centum of the taxpayer's net income for each such year, as computed without the benefit of this subsection then the fifteen per centum limit imposed herein shall not be applicable.

In the case of a taxpayer other than a resident the deductions under this subsection shall be allowed only as to contributions or gifts to corporations or associations incorporated by or organized under the laws of this State or to the vocational rehabilitation fund above mentioned or to this State or any political subdivision thereof for exclusively public purposes.

(m) An employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to his employees (if such trust is exempt from tax under subsection

(f) of section 12, relating to trusts created for the exclusive benefit of employees) shall be allowed as a deduction (in addition to the contributions to such trust during the taxable year to cover the pension liability accruing during the year, allowed as a deduction under subsection (a) of this section) a reasonable amount transferred or paid into such trust during the taxable year in excess of such contributions, but only if such amount (1) has not theretofore been allowable as a deduction, and (2) is apportioned in equal parts over a period of ten consecutive years beginning with the year in which the transfer or payment is made.

(n) In the case of a taxpayer other than a resident the deductions allowed by this section shall unless otherwise provided in this section be allowed only if and to the extent that they are connected with the income arising from sources within this State and taxable under this act to a nonresident taxpayer, and the proper apportionment and allocation of the deductions with respect to sources of income within and without the State shall be determined under rules and regulations to be prescribed by the commissioner.

SEC. 9. Items Not Deductible.

Items not deductible

(a) In computing net income no deduction shall in any case be allowed in respect of—

(1) Personal, living, or family expenses;

(2) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate.

(3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;

(4) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy;

(5) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this act; or

(6) Loss from sales or exchanges of property, directly or indirectly, (A) between members of a family, or (B) except in the case of distributions in liquidation, between an individual and a corporation in which such individual owns, directly or indirectly, more than fifty per centum in value of the outstanding stock. For the purpose of this paragraph—(C) an individual shall be considered as owning the stock owned, directly or indirectly, by his family; and (D) the family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(b) Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by this act (except the deductions provided for in subsections (i) and (j) of section 8) for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

(c) The obligor of a covenant bond shall not be allowed a deduction for the payment of the tax imposed by this act, or any other tax pursuant to the tax-free covenant clause, nor shall such tax be included in the gross income of the obligee.

Credits of individual against net income.

SEC. 10. Credits of Individual Against Net Income.

There shall be allowed for the purpose of the tax herein imposed:

(a) Personal Exemptions.—In the case of a single person, a personal exemption of $1,000; or in case of the head of a family or a married person living with husband or wife, a personal exemption of $2,500. A husband and wife living together shall receive but one personal exemption. The amount of such personal exemption shall be $2,500. If such husband and wife make separate returns, the personal exemption may be taken by either or divided between them;

Credit for dependents

(b) Credit for Dependents.—$400 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer if such dependent person is under eighteen years of age or is incapable of self-support because mentally or physically defective;

Change of status.

(c) Change of Status.—If the status of the taxpayer, in so far as it affects the personal exemption or credit for dependents changes during the taxable year, the personal exemption and credit shall be apportioned, under such rules and regulations as are prescribed by the commissioner, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

Installment basis

SEC. 11. Installment Basis.

(a) Under regulations prescribed by the commissioner a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when payment is completed, bears to the total contract price.

(b) In the case (1) of a casual sale or other casual disposition of personal property (other than property of a kind

which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year), for a price exceeding one thousand dollars, or (2) of a sale or other disposition of real property, if in either case the initial payments do not exceed thirty per centum of the selling price, the income may, under regulations prescribed by the commissioner be returned on the basis and in the manner prescribed by this section. As used in this section the term "initial payment" means the payments received in cash or property other than evidence of indebtedness of the purchaser during the taxable period in which the sale or other disposition is made.

(c) If a taxpayer entitled to the benefits of subsection (a) of this section elects for any taxable year to report his net income on the installment basis, then in computing his income for the year of change or any subsequent year, amounts actually received during any such year on account of sales or other dispositions of property made in any prior year shall not be excluded.

(d) If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and (1) in the case of satisfaction at other than face value or a sale or exchange—the amount realized, or (2) in case of a distribution, transmission, or disposition otherwise than by sale or exchange—the fair market value of the obligation at the time of such distribution, transmission or disposition. Any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received. The basis of the obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full. This subsection shall not apply to the transmission at death of installment obligations if there is filed with the commissioner at such time as he may by regulation prescribe, a bond in such amount and with such sureties as he may deem necessary, conditioned upon the return as income, by the person receiving any payment on such obligations, of the same proportion of such payment as would be returnable as income by the decedent if he had lived and had received such payment.

SEC. 12. Imposition of Tax on Estates and Trusts.

Imposition of tax on estates and trusts

(a) The taxes imposed by this act upon individuals shall apply to, and be imposed upon, the income of estates or of any kind of property held in trust (other than so-called Massachusetts trusts), including—

(1) Income accumulated in trust for the benefit of unborn or unascertained person or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust;

(2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a

Same.

guardian of an infant which is to be held or distributed as the court may direct;

(3) Income received by estates of deceased persons during the period of administration or settlement of the estate; and

(4) Income which, in the discretion of the fiduciary may be either distributed to the beneficiaries or accumulated.

(b) The tax shall be computed upon the net income of the estate or trust, shall be a charge against such estate or trust, and shall be paid by the fiduciary, except as provided in subsections (g) and (h) of this section.

For the purposes of this section the word "settlor" shall mean and include every creator of a trust and every decedent and where in this section the settlor is spoken of as a resident or a nonresident the same shall be taken to include a decedent who upon his or her death is a resident or a nonresident as the case may be.

The taxable income of the estate or trust shall include the following:

(1) The income from real property and tangible personal property located and from business transacted in this State.

(2) The income from intangible property with a situs in this State.

(3) The income from real property and tangible personal property located outside this State and the income from intangible property with a situs outside this State in the following cases:

(A) Where the beneficiary and the fiduciary and the settlor are all residents of this State.

(B) Where the beneficiary and the fiduciary are residents of this State regardless of the residence of the settlor.

(C) Where the beneficiary and the settlor are residents of this State regardless of the residence of the fiduciary.

(D) Where the beneficiary is a resident of this State regardless of the residence of the fiduciary and the settlor.

(E) Where the fiduciary is a resident of this State regardless of the residence of the beneficiary and the settlor.

(F) Where the settlor is a resident of this State regardless of the residence of the beneficiary and the fiduciary.

(G) Where the fiduciary and the settlor are residents of this State regardless of the residence of the beneficiary.

Where the taxability of income under this section depends on the residence of the fiduciary and there are two or more fiduciaries for the estate or trust, the income taxable under this section shall be apportioned according to the number of fiduciaries resident in this State, such apportionment being determined according to rules and regulations prescribed by the commissioner.

Where the taxability of income under this section depends on the residence of the beneficiary and there are two or more beneficiaries for the estate or trust, the income taxable under this section shall be apportioned according to the number of beneficiaries resident in this State, such apportionment being

determined according to rules and regulations prescribed by the commissioner.

(c) The net income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual, except that—

(1) There shall be allowed as a deduction (in lieu of the deduction for charitable, etc., contributions authorized by subsection (1) of section 8), any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust, is during the taxable year paid or permanently set aside for the purposes and in the manner specified in subsection (1) of section 8 or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance or operation of a public cemetery not operated for profit;

(2) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and the amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not. Any amount allowed as a deduction under this paragraph shall not be allowed as a deduction under paragraph (3) of this subsection in the same or any succeeding taxable year. In the case of the income of a beneficiary not a resident derived through such an estate or trust, such income shall be taxable only to the extent provided in subsection (f) of section 7 of this act.

Tax on estates and trusts.

(3) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and in the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year, which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir or beneficiary. In such cases the income of the legatee, heir, or beneficiary not a resident shall be taxable only to the extent provided in subsection (f) of section 7 of this act.

(d) For the purpose of the tax herein imposed, the estate or trust shall be allowed the same personal exemption as is allowed to a single person under section 10 (a).

(e) If the taxable year of a beneficiary is different from that of the estate or trust, the amount which he is required, under subsection (c) (2) of this section, to include in computing his net income, shall be based upon the income of the

estate or trust for any taxable year of the estate or trust ending within his taxable year.

(f) A trust created by an employer as a part of a stock bonus, pension, or profit-sharing plan for the exclusive benefit of some or all of his employees, to which contributions are made by such employer, employee, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, shall not be taxable under this section, but the amount actually distributed or made available to any distributee shall be taxable to him in the taxable year in which so distributed or made available to the extent that it exceeds the amounts paid in by him.

(g) Where at any time the power to revest in the grantor title to any part of the corpus of the trust is vested—

(1) In the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, or

(2) In any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, then the income of such part of the trust shall be included in computing the net income of the grantor.

(h) Where any part of the income of a trust—

(1) Is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be held or accumulated for future distribution to the grantor; or

(2) May, in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor; or

(3) Is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified in subsection (1) of section 8, relating to the so-called "charitable contribution" deduction); then such part of the income of the trust shall be included in computing the net income of the grantor.

(i) As used in this section the term "in the discretion of the grantor," means "in the discretion of the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question."

Time and place for filing returns.

SEC. 13. Time and Place for Filing Returns

(a) Returns shall be under oath, in such form as the commissioner may from time to time prescribe, and shall be filed with the commissioner, at his main office or at any branch office which he may establish. The commissioner shall cause to be prepared blank forms for the said returns and shall cause them to be distributed throughout the State and to be furnished upon application, but failure to receive or secure

the form shall not relieve any taxpayer from the obligation of making any return herein required.

(b) Returns made on the basis of the calendar year shall be filed on or before the fifteenth day of April following the close of the calendar year. Returns made on the basis of a fiscal year shall be filed on or before the fifteenth day of the fourth month following the close of the fiscal year.

(c) The commissioner, under such rules and regulations as he shall prescribe, may grant a reasonable extension of time for filing the return and/or for payment of the tax, or any installment thereof, disclosed by the return, due or to become due within the period of the extension, whenever in his judgment good cause exists therefor, and he shall keep a record of every such extension. No such extension or extensions shall aggregate more than six months from the due date provided in subsection (b) of this section.

SEC. 14. Time, Place, and Method of Payment of Tax.

Time, place and method of payment of tax

(a) The total amount of tax imposed under this act shall be paid on the fifteenth day of April following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the fourth month following the close of the fiscal year.

(b) The taxpayer may elect to pay the tax in three equal installments, in which case the first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on the fifteenth day of the fourth month, and the third installment on the fifteenth day of the eighth month, after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of tax unpaid shall be paid upon notice and demand from the commissioner.

(c) The tax imposed under this act, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

(d) The tax, and any additions thereto, imposed by this act, shall be paid to the commissioner at Sacramento, or to his authorized representatives at any branch office. Remittances may be in the form of uncertified check, payable to the State Treasurer, during such time and under such regulations as the commissioner may prescribe, but if a check so received is not paid by the bank on which it is drawn, the taxpayer by whom such check is tendered shall remain liable for the payment of the tax, and all additions thereto, the same as if such check had not been tendered.

SEC. 15. Interest and Additions to the Tax.

Interest and additions to the tax. Failure to file return

(a) Failure to File Return.

(1) If any taxpayer fails to make and file a return required by this act, within the time prescribed by law or prescribed by the commissioner in pursuance of law, twenty-five per centum of the tax shall be added to the tax, except that when a return is filed after such time and it is shown that the failure to file the return was due to reasonable cause and not due to wilful

neglect no such addition shall be made to the tax. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

(2) If any taxpayer, upon notice and demand by the commissioner, fails or refuses to make and file a return required by this act, the commissioner is authorized to make an estimate of the net income and to compute and levy the amount of tax due under this act from any available information, and in such case fifty per centum of the tax shall be added to the tax as a part of the tax and collected in the same manner as the tax.

Interest on deficiencies

(b) Interest on Deficiencies.—Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the commissioner, and shall be collected as a part of the tax, at the rate of six per centum per annum from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed.

Additions in case of deficiency

(c) Additions to the Tax in Case of Deficiency:

(1) Negligence.—If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, five per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of section 19, relating to the prorating of a deficiency, and of subsection (b) of this section, relating to interest on deficiencies, shall not be applicable

(2) Fraud.—If any part of any deficiency is due to fraud with intent to evade tax, then fifty per centum of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, and shall be paid upon notice and demand from the commissioner.

Additions in case of nonpayment.

(d) Additions to Tax in Case of Nonpayment:

(1) General Rule.—Where the amount determined by the taxpayer as the tax imposed by this act, or any installment thereof, or any part of such amount or installment, is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of one per centum a month from the date prescribed for its payment until it is paid.

(2) If Extension Granted.—Where an extension of time for payment of the amount so determined as the tax by the taxpayer, or any installment thereof, has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under paragraph (4) of this subsection, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided

in paragraph (1) of this subsection, interest at the rate of one per centum a month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(3) Deficiency.—Where a deficiency, or any interest or additional amounts assessed in connection therewith under subsections (b) and (c) of this section, or any addition to the tax in case of delinquency provided for in subsections (a) (1) and (2) of this section is not paid in full within ten days from the date of notice and demand from the commissioner, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of one per centum a month from the date of such notice and demand until it is paid. If any part of a deficiency prorated to any unpaid installment under section 19 is not paid in full on or before the date prescribed for the payment of such installment, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of one per centum a month from such date until it is paid.

(4) Interest on Extension.—If the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, is extended under the provisions of section 13 (c), there shall be collected as a part of such amount, interest thereon at the rate of six per centum per annum from the date upon which such payment should have been made if no extension had been granted to the date of expiration of the period of extension, or to the date the tax is paid, whichever is earlier.

(5) Fiduciaries.—For any period an estate is held by a fiduciary appointed by order of any court of competent jurisdiction or by will, there shall be collected interest at the rate of six per centum per annum in lieu of the interest provided in subsections (d) (1), (2) and (3) of this section.

SEC. 16. Accounting Periods:

Accounting periods

(a) The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in section 2 (i) or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year.

(b) If a taxpayer, with the approval of the commissioner, changes the basis of computing net income from fiscal year to calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If the change is from calendar year to the fiscal year, a separate return shall

be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.

(1) Where a separate return is made under subsection (b) of this section on account of a change in the accounting period, and in all other cases where a separate return is required or permitted, by regulations prescribed by the commissioner, to be made for a fractional part of a year, then the income shall be computed on the basis of the period for which separate return is made.

(2) If a separate return is made under subsection (b) of this section, on account of a change in the accounting period, the net income, computed on the basis of the period for which separate return is made, shall be placed on an annual basis by multiplying the amount thereof by twelve and dividing by the number of months included in the period for which the separate return is made. The tax shall be such part of the tax computed on such annual basis as the number of months in such period is of twelve months.

(c) In the case of a return made for a fractional part of a year, except a return made under subsection (b), on account of a change in the accounting period, the personal exemption and the credit for dependents shall be reduced respectively to amounts which bear the same ratio to the full credits provided as the number of months in the period for which return is made bears to twelve months.

(d) The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under the methods of accounting permitted under subsection (a) of this section, any such amounts are to be properly accounted for as of a different period. In the case of the death of the taxpayer there shall be included in computing net income for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly includable in respect of such period or a prior period.

(e) The deductions and credits provided for in this act shall be taken for the taxable year in which "paid or accrued" or paid or incurred, dependent upon the method of accounting upon the basis of which the net income is computed, unless in order clearly to reflect the income the deductions or credits should be taken as of a different period. In the case of the death of a taxpayer there shall be allowed as deductions and credits for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly allowable in respect of such period or a prior period.

Supplementary returns.

SEC. 17. Supplementary Returns. If the commissioner shall be of the opinion that any taxpayer has failed to file a

return, or to include in a return filed, either intentionally or through error, items of taxable income, he may require from such taxpayer a return, or a supplementary return, under oath, in such form as he shall prescribe, of all the items of income which the taxpayer received during the year for which the return is made, whether or not taxable under the provisions of this act. Every taxpayer required by the Federal government to file a supplementary return shall file a supplementary return with the commissioner. If from a supplementary return, or otherwise, the commissioner finds that any items of income, taxable under this act, have been omitted from the original return he may require the items so omitted to be disclosed to him, under oath of the taxpayer, and to be added to the original return. Such supplementary return and the correction of the original return shall not relieve the taxpayer from any of the penalties to which he may be liable under any provision of this act. The commissioner may proceed under the provisions of section 19 of this act whether or not he requires a return or a supplementary return under this section.

Jeopardy assessments

SEC. 18. Jeopardy Assessments.

(a) If the commissioner finds that a taxpayer designs quickly to depart from this State or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the commissioner shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing the return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable. In any proceeding in court brought to enforce payment of taxes made due and payable by virtue of the provisions of this section the finding of the commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design.

(b) If the commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by this act) and the amount so assessed shall be due and payable upon notice and demand from the commissioner.

(c) If any taxpayer fails to file a return, or files a false or fraudulent return with intent to evade tax, for any taxable year, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(d) The commissioner is hereby authorized to prescribe such rules and regulations as may be necessary to properly carry out the provisions of this section.

Assessment of deficiency tax.

SEC. 19. Assessment of Deficiency Tax. Protest. Appeal. As soon as practicable after the return is filed, the commissioner shall examine it and shall determine the correct amount of the tax. If the commissioner determines that the tax disclosed by the original return is less than the tax disclosed by his examination he shall mail notice to the taxpayer at his last known address of the deficiency proposed to be assessed. The notice shall set forth the details and computation of such deficiency.

Protest

Within sixty days after mailing of said notice the taxpayer may file with the commissioner a written protest against the levy of the proposed deficiency, specifying therein the grounds upon which the protest is based. The protest must be under oath.

If no such protest is so filed the amount of the deficiency shall be final upon the expiration of said sixty-day period. If a protest is so filed it shall be the duty of the commissioner to reconsider the computation and levy of the deficiency complained of, and, if the taxpayer has so requested in his protest, it shall be the duty of the commissioner to grant said taxpayer, or his authorized representatives, an oral hearing.

Appeal

The commissioner's action upon the protest shall be final upon the expiration of thirty days from the date when he mails notice of his action to the taxpayer, unless within that thirty day period the taxpayer appeals in writing from the action of the commissioner to the State board. The appeal must be addressed and mailed to the State Board of Equalization at Sacramento, California, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento, California. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination, and the reasons therefor. Such determination shall be final, unless, within sixty days from the time of such determination, the commissioner shall apply to the Supreme Court of the State for a writ of certiorari or review for the purpose of having the lawfulness of the decision of said board inquired into and determined.

Notice and demand

When a deficiency has been determined and the tax has become final under the provisions of this section, the commissioner shall mail notice and demand to the taxpayer for the payment thereof, and such tax shall be due and payable at the expiration of ten days from the date of such notice and demand, unless the taxpayer has elected to pay the tax in installments, in which case the deficiency shall be prorated to the three installments. Except as provided in section 18 (relating to jeopardy assessments), that part of the deficiency so prorated to any installment the date for payment of which has not arrived, shall be collected at the same time as, and as part of,

such installment. That part of the deficiency so prorated to any installment the date for payment of which has arrived shall be due and payable at the expiration of ten days from the date of such notice.

A certificate by the commissioner or of said board, as the case may be, of the mailing of the notices specified in this section shall be prima facie evidence of the computation and levy of the deficiency in tax and of the giving of said notices.

Except in the case of a fraudulent return, every notice of a proposed deficiency tax shall be mailed to the taxpayer within three years after the return was filed and no deficiency shall be assessed or collected with respect to the year for which such return was filed unless such notice is mailed within such period. For the purposes of this paragraph a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

Any amount of tax in excess of that disclosed by the return, due to a mathematical error, notice of which has been mailed to the taxpayer, shall not be considered a deficiency assessment within the meaning of this section. The taxpayer shall have no right of protest or appeal as herein provided, based on such notice, nor shall such assessment or collection be prohibited by any of the provisions of this section.

Refund of tax.

SEC. 20. Refund of Tax, Interest on Refunds, Appeal.

If in the opinion of the commissioner, or State board, as the case may be, a tax has been computed in a manner contrary to law or has been erroneously computed by reason of a clerical mistake on the part of the commissioner or said board, or, if any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected, or has been erroneously or illegally computed, such fact shall be set forth in the records of the commissioner, and the amount collected in excess of what was legally due shall be credited on any taxes then due from the taxpayer under this act, and the balance refunded to the taxpayer; but no such credit or refund shall be allowed or made after three years from the time the return was filed by the taxpayer or within two years from the time the tax was paid, whichever period expires the later, unless before the expiration of such period a claim therefor is filed by the taxpayer. If no return is filed by the taxpayer, then no credit or refund shall be allowed or made after two years from the time the tax was paid unless before the expiration of such period a claim therefor is filed by the taxpayer. Every claim for refund must be in writing under oath and must state the specific grounds upon which the claim is founded.

If the commissioner disallows any claim for refund he shall notify the taxpayer accordingly. Within thirty days after the mailing of such notice, or if the commissioner does not act upon any claim for a refund within six months after the time the claim was filed, then within thirty days after the expiration of said six months, the commissioner's action upon the claim shall be final, unless within such thirty day period

the taxpayer appeals in writing from the action of the commissioner to the State board. The appeal must be addressed to the State Board of Equalization at Sacramento, California, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento, California. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination. Such determination shall be final, unless, within sixty days from the time of such determination, the commissioner shall apply to the Supreme Court of the State for a writ of certiorari or review for the purpose of having the lawfulness of the decision of said board inquired into and determined.

Interest

Interest shall be allowed and paid upon any overpayment of any tax, if the overpayment was not made because of an error or mistake on the part of the taxpayer, at the rate of six per centum per annum as follows:

(1) In the case of a credit, from the date of the overpayment to the date of the allowance of the credit. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this act.

(2) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund warrant by not more than thirty days, such date to be determined by the commissioner.

Recovery of refunds or credits.

Any refund or any portion thereof which is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be recovered, together with interest at the rate of six per centum per annum from the date the refund was made or the credit allowed, in an action brought by the commissioner in a court of competent jurisdiction in the county of Sacramento in the name of the people of the State of California, and such action shall be tried in the county of Sacramento unless the court with the consent of the prosecutor, order a change of place of trial. The Franchise Tax Counsel or the Attorney General must prosecute such action, and the provisions of the Code of Civil Procedure, relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for.

In the event that a tax has been illegally levied against a taxpayer, the commissioner shall set forth on his records the reasons therefor and thereafter shall authorize the cancellation of such tax.

Action to recover tax.

SEC. 21. Action to Recover Tax.

Any taxpayer claiming that the tax computed and levied against him is void in whole or in part may pay the tax under protest and bring an action against the State Treasurer for the recovery of the whole or any part of the amount paid. The protest must be in writing under oath and must state in detail the grounds upon which the claim is founded. Such action must be filed within ninety days after the notice and demand for the payment of the tax under section 19 hereof;

provided, however, no action shall be filed for the recovery of a deficiency assessment unless the taxpayer has made protest to the commissioner of the computation and levy complained of under the provisions of such section; and provided further, that no action shall be brought to recover any deficiency assessment, or any part thereof, if the taxpayer has at any time appealed to the State board from the action of the commissioner in overruling the taxpayer's protest to the commissioner's proposal of the said deficiency assessment.

When a refund claim has been filed under the provisions of section 20 hereof, and the same has been denied or no action has been taken thereon by the commissioner within six months from the filing thereof, the taxpayer may bring an action against the State Treasurer on the grounds set forth in such claim for the recovery of the whole or any part of the amount claimed as an overpayment, but such action must be brought within ninety days from the date of the commissioner's denial of such claim or within ninety days from the expiration of the said six months if no action has been taken by the commissioner; provided, that no action shall be filed if the taxpayer has appealed to the State board from the action of the commissioner with respect to any refund claim.

Interest

In any judgment of any court rendered for any overpayment in respect of any tax imposed by this act, interest shall be allowed at the rate of six per centum per annum upon the amount of the overpayment, from the date of the payment or collection thereof to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than thirty days, such date to be determined by the commissioner.

Service of papers

Whenever under the provisions of this section an action is commenced against the State Treasurer, a copy of the complaint and the summons must be served upon the Treasurer or his deputy and the commissioner. At the time the Treasurer demurs or answers, he may demand that the action be tried in the superior court of the county of Sacramento, which demand must be granted. The Franchise Tax Counsel or the Attorney General of the State of California must defend the action. A failure to begin such action within the time herein specified shall be a bar against the recovery of such taxes.

Review.

Within sixty days after the determination of the State board of any appeal from the action of the commissioner the appellant may apply to the Supreme Court of the State for a writ of certiorari or review for the purpose of having the lawfulness of the decision or order of the State board inquired into and determined. Such writ shall be made returnable not later than thirty days after the date of the issuance thereof, and shall direct the State board to certify its record in the case to the court. On the return day, the cause shall be heard by the Supreme Court, unless for a good reason the same be continued. The State board and each party to the proceeding before such board shall appear in the review proceeding.

The provisions of the Code of Civil Procedure of this State relating to the writs of review shall apply to proceedings instituted in the Supreme Court under the provisions of this section.

Partnership not taxable

SEC. 22. Partnership Not Taxable.

(a) An individual carrying on business in partnership shall be liable for income tax only in his individual capacity and shall include in his gross income the distributive share of the net income of the partnership received by him or distributable to him during the taxable year.

(b) The net income of the partnership shall be computed in the same manner and on the same basis as in the case of an individual.

(c) Every partnership shall make a return for each taxable year, stating specifically the items of gross income and the deductions allowed by this act, and shall include in the return the names and addresses of the individuals, whether residents or nonresidents, who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners.

(d) If the taxable year of a partner is different from that of the partnership, the distributive share of the net income of the partnership to be included in computing the net income of the partner for his taxable year shall be based upon the net income of the partnership for any taxable year of the partnership ending within the taxable year of the partner.

Information at source

SEC. 23. Information at Source.

(a) Every individual, partnership, corporation, joint stock company or association, insurance company, business trust, or so-called Massachusetts trust, being a resident or having a place of business in this State, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers and all officers and employees of this State or any political subdivision of this State, having the control, receipt, custody, disposal or payment of interest (other than interest coupons payable to bearer), rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable annual or periodical gains, profits and income amounting to $1,000 or over, paid or payable during any year to any taxpayer, shall make complete return thereof under oath, to the commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by him.

(b) Such returns may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by persons undertaking as a matter of business

or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

(c) When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

(d) The provisions of this section shall not apply to the payment of interest obligations not taxable under this act.

(e) The commissioner, whenever he deems it necessary to insure compliance with the provisions of this act, may under rules and regulations prescribed by him, require any individual, partnership, corporation, joint stock company or association or insurance company, including lessees or mortgagors and employees of the State or of any political subdivision of the State having control, receipt, custody, disposal or payment of interest (other than interest coupons payable to bearer), rent, salaries, wages, premiums, annuities, compensation, remunerations, emoluments or other fixed or determinable annual or periodical gains, profits and income paid or payable to any taxpayer, to deduct and withhold the tax due from such taxpayer and make return thereof and pay the tax to the commissioner.

Allocation of income and deductions

SEC. 24. Allocation of Income and Deductions.—In any case of two or more organizations, trades or businesses (whether or not incorporated, whether or not organized in the State of California, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the commissioner is authorized to distribute, apportion or allocate gross income or deductions between or among such organizations, trades, or businesses, if he determines that such distribution, apportionment, or allocation is necessary (1) in order to prevent evasion of taxes of any taxpayer taxable hereunder, or (2) clearly to reflect the income of any of such organizations, trades, or businesses where the income of any taxpayer taxable hereunder is affected thereby in such manner as to permit evasion of taxes.

Credit for taxes paid other States

SEC. 25. Credit for Taxes Paid Other States by Resident or Nonresident Taxpayers.

Resident taxpayers.

(a) Whenever a resident taxpayer of this State has become liable to income tax to another State or country upon his net income, or any part thereof, for the taxable year, derived from sources without this State, and subject to taxation under this act, the amount of income tax payable by him under this act shall be credited with the amount of income tax so paid by him to such other State or country, but such credit shall not exceed such proportion of the tax payable under this act as the income subject to tax in such other State or country bears to the taxpayer's entire income upon which the tax is imposed by this act.

Nonresident taxpayers

(b) Whenever a nonresident taxpayer taxable under this act has become liable to income tax to the State or country where he resides upon his net income for the taxable year, derived from sources within this State and subject to taxation

under this act, the amount of income tax payable by him under this act shall be credited with such proportion of the tax so payable by him to the State or country where he resides as his income subject to taxation under this act bears to his entire income upon which the tax so payable to such other State or country was imposed; provided, that such credit shall be allowed only if the laws of said State or country grant a substantially similar credit to residents of this State subject to income tax under such laws, or impose a tax upon the personal incomes of its residents derived from sources in this State and exempt from taxation the personal incomes of residents of this State. No credit shall be allowed against the amount of the tax on any income taxable under this act which is exempt from taxation under the laws of such other State.

(c) The credits provided in this section shall be allowed only on presentation to the commissioner of satisfactory proof that the taxpayer is entitled to same.

Tax upon settlement of fiduciary's account.

SEC. 26. Tax Upon Settlement of Fiduciary's Account. (a) No final account of a fiduciary shall be allowed by the probate court unless such account shows and the judge of said court finds, that all taxes imposed by the provisions of this act upon said fiduciary, which have become payable, have been paid, and that all taxes which may become due are secured by bond, deposit or otherwise. The certificate of the commissioner and the receipt for the amount of the tax therein certified shall be conclusive as to the payment of the tax, to the extent of said certificate.

(b) For the purpose of facilitating the settlement and distribution of estates held by fiduciaries, the commissioner may on behalf of the State agree upon the amount of taxes at any time due or to become due from such fiduciaries under the provisions of this act, and payment in accordance with such agreement shall be full satisfaction of the taxes to which the agreement relates.

(c) Upon notice to the commissioner that any person is acting in a fiduciary capacity, such fiduciary shall assume the powers, rights, duties, and privileges of the taxpayers in respect of any tax imposed by this act (except as otherwise specifically provided and except that the tax shall be collected from the estate of the taxpayers), until notice is given that the fiduciary capacity has terminated. Notice under this section shall be given in accordance with rules and regulations prescribed by the commissioner.

Contract to assume tax illegal

SEC. 27. Contract to Assume Tax Illegal.—It shall be unlawful for any person to agree or contract directly or indirectly to pay or assume or bear the burden of any tax payable by any taxpayer under the provisions of this act. Any such contract or agreement shall be null and void and shall not be enforced or given effect by any court.

Enforcement of tax.

SEC. 28. Enforcement of Tax.—In any case in which any tax or any portion or installment thereof, interest or penalty imposed under this act is not paid when due, the commissioner

shall file in the office of the county clerk of Sacramento County, or any other county, a certificate specifying the amount of the tax, penalty and interest due, the name and last known address of the taxpayer liable for the same, that the commissioner has complied with all the provisions of this act in relation to the computation and levy of the tax and a request that judgment be entered against the taxpayer in the amount of the tax, penalty and interest set forth in the certificate. The county clerk immediately upon the filing of such certificate shall enter a judgment for the people of State of California against the taxpayer in the amount of the tax, penalty and interest set forth in the certificate. The judgment may be filed by the county clerk in a loose-leaf book entitled "Personal Income Tax Judgments."

Tax lien.

An abstract of such judgment or a copy thereof shall be recorded with the county recorder of any county and from the time of such recording, the amount of the taxes, penalty and interest therein set forth shall constitute a lien upon all property of the taxpayer in such county, owned by him or which he may afterwards and before the lien expires acquire, which lien shall have the force, effect and priority of a judgment lien. Execution shall issue upon such a judgment upon request of the commissioner in the same manner as execution may issue upon other judgments, and sales shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section the commissioner shall be authorized to act on behalf of the people of the State of California.

Action to recover tax.

The commissioner may, at any time, bring an action in a court of competent jurisdiction, in the name of the people of the State of California, to recover the amount of any taxes, penalties, and interest due under this act. The Franchise Tax Counsel or the Attorney General of this State must prosecute such action and such action shall be tried in the county of Sacramento unless the court with the consent of the prosecutor, order a change of place of trial. In such action a writ of attachment may be issued, and no bond or affidavit previous to the issuing of said attachment is required. In such action a certificate by the commissioner showing the delinquency shall be prima facie evidence of the levy of the tax, of the delinquency and of compliance by the commissioner and the State board with all the provisions of this act in relation to the computation and levy of the tax.

It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by the commissioner shall be or be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

Tax a debt.

SEC. 29. Tax a Debt—Every tax imposed by this act, and all increases, interest and penalties thereon, shall become, from the time it is due and payable, a personal debt, from the

person or persons liable to pay the same, to the State of California.

Penal provisions

SEC. 30. Penal Provisions.—Any person who, with or without fraudulent intent, fails to pay any tax or to make, render, sign or verify any return, or to supply any information, within the time required by or under the provisions of this act, shall be liable to a penalty of not more than $1,000, to be recovered by the Franchise Tax Counsel or the Attorney General, in the name of the people, by action in any court of competent jurisdiction.

Any person or any officer or employee of any corporation, or member or employee of any partnership, who, with or without intent to evade any requirement of this act or any lawful requirement of the commissioner thereunder, shall fail to pay any tax or to make, sign or verify any return or to supply any information required by or under the provisions of this act, or who, with like intent, shall make, render, sign or verify any false or fraudulent return or statement, or shall supply any false or fraudulent information, shall be liable to a penalty of not more than $1,000, to be recovered by the Franchise Tax Counsel or the Attorney General in the name of the people, by action in any court of competent jurisdiction, and shall also be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed $1,000 or be imprisoned not to exceed one year, or both, at the discretion of the court.

The prosecutor shall have the power, with the consent of the commissioner to compromise any penalty for which he is authorized to bring action under this section. The penalties provided by this section shall be additional to all other penalties in this act provided.

The certificate of the commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied as required by the provisions of this act, shall be prima facie evidence that such tax has not been paid, that such return has not been filed or that such information has not been supplied.

Disposition of proceeds

SEC. 31. Disposition of Proceeds.

(a) All moneys and remittances received by the commissioner in pursuance of the provisions of this act shall be transmitted promptly to the State Treasurer, and copies of the schedules covering such transmittals shall be furnished at the same time to the State Controller.

(b) All moneys and remittances so received and so transmitted shall be deposited, after clearance of remittances, in the State treasury and credited to the "Personal income tax fund."

(c) For expenditure by the commissioner in carrying out the provisions of this act there is hereby appropriated a sum of money equal to one hundred thousand dollars and three per cent, or so much thereof as may be necessary, of all other moneys deposited in the personal income tax fund; said one hundred thousand dollars being payable out of moneys in the

general fund not otherwise appropriated, the remainder of the moneys hereby appropriated being payable out of the personal income tax fund; provided, that, out of said three per cent of said other moneys deposited in the personal income tax fund on or before June 30, 1937, the sum of one hundred thousand dollars shall be returned into the general fund. For expenditure by the Controller in carrying out the provisions of this act there is hereby appropriated out of the personal income tax fund the sum of five thousand dollars or so much thereof as may be necessary, for expenditure by the State Treasurer in carrying out the provisions of this act there is hereby appropriated out of the personal income tax fund the sum of ten thousand dollars or so much thereof as may be necessary, and for expenditure by the Department of Finance in auditing the revenues and expenditures resulting from the provisions of this act there is hereby appropriated out of the personal income tax fund the sum of ten thousand dollars or so much thereof as may be necessary. The balance of the moneys in the personal income tax fund shall, upon order of the State Controller, be drawn therefrom for the purpose of making refunds hereunder or be transferred to the general fund of the State.

SEC. 32. Commissioner to Administer This Act.

Commissioner to administer act.

(a) The commissioner shall administer and enforce the tax herein imposed, for which purpose he may divide the State into a reasonable number of districts, in each of which a branch office or offices may be maintained during all or such part of the time as may be necessary. In the establishment of such districts and offices due consideration shall be given by the commissioner to the matter of economy of administration and service to the taxpayers.

(b) The commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income of any taxpayer, shall have power to examine or cause to be examined by any agent or representative designated by him for that purpose, any books, papers, records or memoranda, bearing upon the matters required to be included in the return, and may require the attendance of the taxpayer or of any other person having knowledge in the premises, and may take testimony and require proof material for his information, with power to administer oath to such person or persons.

Assistants

(c) The commissioner may appoint and remove, in the manner provided by law, such officers, agents, branch office income tax deputies, and other employees as he may deem necessary, such persons to have such duties and powers as the commissioner may from time to time prescribe. Any temporary appointments of branch office income tax deputies and other branch office employees shall be made from eligible residents of the district in which such branch office or offices are located. The salaries of the personnel required by the commissioner shall be such as he may prescribe, in the manner provided by

law, and the commissioner and such personnel shall be allowed reasonable and necessary traveling and other expenses incurred in the performance of their duties. The commissioner may require such of the officers, agents, deputies and other employees as he may designate, to give bond for the faithful performance of their duties in such sum and with such sureties as he may determine, and all premiums on such bonds shall be paid by the commissioner out of moneys appropriated for the administration of this act.

(d) The commissioner and such officers, as he may designate, shall have the power to administer an oath to any person or to take the acknowledgment of any person in respect of any return or report required by this act or the rules and regulations of the commissioner.

Secrecy required of officials, penalty for violation

SEC. 33. Secrecy Required of Officials, Penalty for Violation.

(a) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the commissioner, any deputy, agent, clerk or other officer or employee, to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this act. Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the Attorney General or other legal representatives of the State, of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this act. Reports and returns shall be preserved for four years and thereafter until the commissioner orders them to be destroyed.

(b) Any offense against subdivision (a) of this section shall be a misdemeanor.

(c) Notwithstanding the provisions of this section, the commissioner may permit the Commissioner of Internal Revenue of the United States, or the proper officer of any State imposing an income tax upon the incomes of individuals, or the authorized representative of either such officer, to inspect the income tax returns of any individual, or may furnish to such officer or his authorized representative an abstract of the return of income of any taxpayer or supply him with information concerning any item of income contained in any return, or disclosed by the report of any investigation of the income or return of income of any taxpayer; but such permission shall be granted or such information furnished to such officer or his representative, only if the statutes of the United States or of such other State, as the case may be, grant substantially similar privileges to the proper officer of this State charged with the administration of this act.

Personal holding companies.

SEC. 34. Personal Holding Companies. For the purpose of this act a personal holding company whether or not organ-

ized under the laws of this State shall not be recognized as a legal entity separate and distinct from the shareholders thereof. Any such company having more than one shareholder shall be deemed a partnership.

SEC. 35. Unconstitutionality or Invalidity. If any clause, sentence, paragraph, or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered. No caption of any section or set of sections shall in any way affect the interpretation of this act or any part thereof. Constitutionality

SEC. 36. Taking Effect of the Act.

This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of section 1 of Article IV of the Constitution, take effect immediately, and shall apply to the net income of persons taxable hereunder received or accrued on and after January 1, 1935. Tax levy

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CHAPTER 330.

An act to license, regulate and control the manufacture, transportation, sale, purchase, possession and disposition of alcoholic beverages; to levy an excise tax on the sale of alcoholic beverages; to provide for the licensing of the manufacture, distribution and sale of alcoholic beverages; to prescribe penalties for the violation of this act; to make an appropriation for the enforcement of this act; to take effect immediately. "Alcoholic Beverage Control Act"

[Approved by the Governor June 13, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. This act is known and may be cited as the "Alcoholic Beverage Control Act." Short title

SEC. 2. The following words, terms and phrases when used in this act have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: Definitions

(a) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

(b) "Alcoholic beverage" means and includes alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one per cent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

Definitions.

(c) "Beer" means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof in water, and shall include ale, porter, brown, stout, lager beer, small beer and strong beer but shall not include sake known as Japanese rice wine.

(d) "Distilled spirits" means ethyl alcohol, spirits of wine, whiskey, rum, brandy, gin and other distilled spirits for beverage use, including all dilutions and mixtures thereof.

(e) "Wine" means the product obtained by the fermentation of grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage fortified with grape brandy and containing not more than twenty-four per cent of alcohol by volume and shall include sake known as Japanese rice wine.

(f) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate or any other group or combination acting as a unit, and the plural as well as the singular number.

(g) "Board" means the State Board of Equalization of the State of California.

(h) "Club" means a corporation or association which is the owner, lessee or occupant of an establishment operated solely for objects of a social or athletic nature, having a bona fide membership list, and the majority of the members of which pay dues at least once in every year, but not for pecuniary gain, and the property as well as the advantages of which belong to the members.

(i) "Manufacturer" means every person, who within the State of California, brews, ferments, distills, cuts, blends, rectifies, or otherwise processes, produces, or manufactures alcoholic beverages containing one-half of one per cent or more of alcohol by volume; provided that any person who manufactures not to exceed two hundred gallons of wine per year for his own consumption, shall not, because of such manufacture, be considered a manufacturer within the meaning of this act.

(j) "Rectifier" means every person who colors, flavors, or otherwise processes distilled spirits by distillation, blending, percolating or other processes.

(k) "Importer" means every person who, in the case of alcoholic beverages brought into this State from outside of this State, is the first in possession thereof within this State after the act of importation is completed.

(l) "Sell" or "sale" and the phrase "to sell" means and includes any of the following: to exchange, barter, traffic in; to solicit or receive an order for; to keep or expose for sale; to serve for a consideration with or without meals; to traffic in or deliver for value or in any way other than gratuitously; to possess with intent to sell. The transfer of title to alcoholic

beverages unaccompanied by a transfer of possession of such beverages shall not be deemed a sale of such beverages.

(m) "Public bar" means any bar, counter or other structure over which beverages of an alcoholic content in excess of four per cent by weight are sold or served by the drink to the public for consumption on the premises; provided, however, that counters or other structures used for the sale, service and consumption of meals, and not as a subterfuge for a public bar, shall not be deemed to be a public bar within the meaning of this act. "Public barroom" or "public saloon" means any room to which the public has access in which is maintained a "public bar."

(n) "Package" or "original package" means any container or receptacle used for holding alcoholic beverages which is corked or sealed with a stub, stopper or cap, or in any other manner.

(o) "To bottle" or "to package" means to bottle, barrel, or otherwise place alcoholic beverages in a container.

(p) "Distiller" means a manufacturer who produces distilled spirits from naturally fermented material.

(q) "Proof spirits" means that alcoholic liquor which contains one-half of its volume of pure ethyl alcohol of a specific gravity of 0.7939 at sixty degrees Fahrenheit, referred to water at sixty degrees Fahrenheit as unity.

(r) "Proof gallon" means a gallon of proof spirits, or an equivalent amount of alcohol.

(s) "Wholesaler" means and includes every person other than a manufacturer or rectifier who is engaged in business as a broker, jobber or wholesale merchant, dealing in alcoholic beverages.

(t) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(u) "Retailer's on-sale license" means and includes on-sale beer licenses, on-sale beer and wine licenses, and on-sale distilled spirits licenses.

(v) Gallon or "Wine gallon" means that liquid measure containing two hundred thirty-one cubic inches.

(w) "Wine manufacturer" means any person engaged in the manufacture of wine as the term "wine" is defined in this act.

(x) "Still" means a still used in the production or capable of being used in the production of alcoholic beverages and does not include stills or apparatus used solely in the production of distilled water or substances other than alcoholic beverages.

SEC. 3. On and after July 1, 1935, no person shall perform any act or acts which would constitute such person a manufacturer, rectifier, importer, wholesaler, or retailer of any alcoholic beverage within the meaning of this act or shall package, label or sell any alcoholic beverage unless such person is authorized to do so by a license duly issued pursuant to the provisions of this act, or pursuant to the provisions of the State Liquor Control Act, Chapter 658, Statutes of 1933.

Operation without license.

Stats. 1933, p. 1697.

Misdemeanor.

Any person violating any provision of this section shall be guilty of a misdemeanor.

Stills

SEC. 4. On and after July 1, 1935, every still located within the limits of this State must be registered with the board. Every person owning or possessing a still who fails to register the same as herein required or who fails to obtain a license issued pursuant to the provisions of this act authorizing the ownership and possession of such still shall be guilty of a felony.

The board may seize and summarily destroy any still which is not registered or for which a license has not been obtained as required by this act.

Fees and types of licenses.

SEC. 5. The following are the types of licenses to be issued under this act and the annual fees to be charged therefor:

1. Beer manufacturer's license	$750.00 per year
2. Wine manufacturer's license, one thousand gallons or less per year	5.00 per year
Over one thousand gallons to two thousand five hundred gallons per year	10.00 per year
Over two thousand five hundred gallons to five thousand gallons per year	20.00 per year
Over five thousand gallons to twenty thousand gallons per year	40.00 per year
Over twenty thousand to one hundred thousand gallons per year	75.00 per year
Over one hundred thousand to two hundred thousand gallons per year	100.00 per year
Over two hundred thousand gallons to one million gallons a year	150.00 per year
For each million gallons or fraction thereof over a million gallons an additional	100.00 per year
3. Distilled spirits manufacturer's license	250.00 per year
4. Still license	10.00 per year per still
5. Rectifier's license	250.00 per year
6. Fruit brandy manufacturer's license	150.00 per year
7. Distilled spirits and wine importers license	100.00 per year
8. Beer importers license	500.00 per year
9. Wine bottling or packaging license	10.00 per year
10. Distilled spirits bottling or packaging license	250.00 per year
11. Beer bottling or packaging license	500 00 per year
12. Distilled spirits wholesaler's license	250.00 per year
13. Beer and wine wholesaler's license	50.00 per year
14. Retail package off-sale beer and wine license	10.00 per year
15. Retail package off-sale distilled spirits license for the first $10,000 retail sales per year	100.00 per year

For each $1,000 retail sales or fraction thereof over $10,000 per year	$10 00 per year
16. Industrial alcohol dealer's license	50 00 per year
17. On-sale beer license	25 00 per year
18. On sale beer and wine license	75.00 per year
19. On sale beer and wine license for trains (per train)	15.00 per year
20. On sale beer and wine license for boats (per boat)	50 00 per year
21. On sale distilled spirits license	As set by the board

Fees for part of year

The fees specified above shall be reduced twenty-five per cent for each full quarter of a year elapsing between the first day of the year for which the license is issued and the date on which the application for the license is filed with the board; provided, that where an application clearly indicates that the applicant does not desire to exercise the privileges granted by the license applied for until on or after the beginning of the quarterly period following the quarterly period in which the application is filed with the board, such fees shall be reduced twenty-five per cent for each full quarter of a year elapsing between the first day of the year for which the license is issued and the date so indicated in the application.

Where the fee for any license is graduated according to the amount of alcoholic beverages manufactured or sold under the license, and the license is applied for after the beginning of the year, the amount of alcoholic beverage authorized to be manufactured or sold under the license shall be reduced proportionately with the reduction in fee provided in the preceding paragraph in accordance with such rules and regulations as the board may prescribe.

Rights and privileges of licensees.

SEC. 6. Except as otherwise provided in this act and subject to the provisions of section 22 of Article XX of the Constitution, the licenses provided for in the preceding section shall authorize the person to whom issued to exercise the following rights and privileges and no others at the premises for which issued during the year for which issued.

(a) Any manufacturer's license authorizes the person to whom issued to become a manufacturer of the alcoholic beverage specified in the license, to package, mix, flavor and color and label the same and to export or sell such alcoholic beverages to persons holding licenses issued by the board authorizing the sale of such alcoholic beverage; provided that a wine manufacturer's license authorizes the manufacture of grape brandy to be used exclusively for fortifying purposes by its holder on the premises for which issued.

(b) A still license authorizes the person to whom issued to own or possess the number of stills indicated in the license upon the premises for which issued.

(c) A rectifier's license authorizes the person to whom issued to cut, blend, mix, flavor, color and bottle distilled spirits and to export or sell such products to persons holding

licenses issued by the board authorizing the sale of distilled spirits.

(d) Any importer's license authorizes the person to whom issued to become an importer of alcoholic beverages specified in the license and to export such alcoholic beverage.

(e) A bottling or packaging license authorizes the labeling, bottling or packaging of the alcoholic beverages specified in the license.

(f) Any wholesaler's license authorizes the sale of the alcoholic beverage specified in the license only to persons holding licenses issued by the board authorizing the sale of such alcoholic beverage.

(g) An off-sale beer and wine license authorizes the sale, to consumers only and not for resale, of beer in packages and in quantities of thirty-one gallons or less, per sale and the sale of wine in packages and in quantities of fifty-two gallons or less, per sale for consumption off the premises where sold.

(h) An off-sale distilled spirits license authorizes the sale, to consumers only and not for resale, of distilled spirits in quantities of less than five gallons per sale and in packages of one gallon or less for consumption off the premises where sold.

(i) An industrial alcohol dealer's license authorizes the sale of undenatured ethyl alcohol or other distilled spirits in packages of more than one gallon for use in the trades, professions or industries.

(j) Any on-sale license authorizes the sale of the alcoholic beverage specified in the license for consumption on the premises where sold. An on-sale beer and an on-sale beer and wine license also authorizes the exercise, with respect to the particular beverage or beverages mentioned in such license, of the rights and privileges granted by an off-sale beer and wine license. On trains and boats, under such licenses, alcoholic beverages may be sold only to passengers or employees.

Conditions of license

SEC. 7. Each license issued under this act shall be issued to a specific person, and, except in the case of licenses authorizing the sale of alcoholic beverages on trains or boats, shall be issued for a specific location, the principal address of which shall be indicated on the license. Separate licenses shall be issued for each of the premises of any business establishment having more than one location.

Licenses for trains and boats shall be based on the average number in actual operation, during the license year, of each class of operating units, viz, trains and boats upon which the license privileges are exercised, such average number to be determined as the board may prescribe.

Each license issued under this act is separate and distinct, shall be nontransferable from one person to another, and shall be transferable from the premises for which issued only as may be permitted by the board, upon payment of a transfer fee of five dollars for each license.

Whenever a license certificate issued under the act is lost or destroyed, the board shall issue a duplicate license upon the payment of a fee of five dollars. Lost or destroyed license

SEC. 8. All retailer's on-sale licenses shall be issued on a calendar year basis and shall automatically expire at midnight on the last day of December of the year for which issued. All other licenses issued under this act shall be issued on the basis of a fiscal year commencing July first and ending June thirtieth, and shall automatically expire at midnight on the last day of June of the year for which issued. Retailer's on sale. Calendar year Others, fiscal year

All licenses issued under the provisions of the State Liquor Control Act, Chapter 658, Statutes of 1933, which authorize the sale of liquor specified in the licenses for consumption on the premises shall automatically expire at midnight on December 31, 1935. Licenses under Stats 1933, p. 1697

All other licenses issued under said act and all licenses issued under the provisions of Chapter 178, Statutes of 1933, shall automatically expire at midnight on June 30, 1935. One-half the annual fee for any license so expiring at midnight on June 30, 1935, shall be allowed as a credit against the fee for any comparable license issued under this act during 1935. Licenses under Stats. 1933, p. 625. Credit under this act.

For failure to reapply for a license prior to the time when any license expires, the board may by regulation prescribe that in addition to the license fees specified in section 5 hereof a penalty of not to exceed twenty-five per cent of such fees must be paid. Penalty

SEC. 9. Upon receipt of any license issued hereunder the licensee shall sign said license and shall post the license in a conspicuous place upon the licensed premises. Licenses issued for trains or boats may, in lieu of being posted upon the train or boat for which issued, be posted in such other place in this State as the board shall designate. Posting of licenses

SEC. 10. To obtain a license under this act application therefor, accompanied by the license fee therefor, must be made to the board upon a form prescribed by the board. The application must contain the name of the applicant, and in the case of a copartnership, the names of the individual parties, in the case of a corporation the principal officers and directors, the location of the premises for which a license is applied and such other information as the board may require to assist it in determining whether the applicant and the premises qualify for a license. The board may require that the application for any on-sale license be verified under oath and be endorsed by five freeholders or householders of the city or county in which the applicant resides or the premises are located. Application

SEC. 11. Upon receipt of an application for a license and the license fee the board shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied qualify for a license. The board must deny an application for a license if either the applicant or the premises for which a license is applied do not qualify for a license under this act. Investigation

Fee if application denied.

If an application is denied, three-fourths of the license fee paid, or an amount equal to the license fee paid less ten dollars, whichever is greater shall be returned to the applicant and the balance shall be deposited in the alcoholic beverage control fund hereinafter created.

Citizenship

SEC. 12. No on-sale distilled spirits license shall be issued to any applicant who is not a citizen of the United States; and where a corporation, partnership or other business association is the applicant no such license shall be issued to it unless the majority of the members of the board of directors and all of its officers who are charged with the duty of managing, directing or conducting said business, are citizens of the United States.

Vicinity of churches, hospitals, schools, playgrounds

SEC. 13. The board is specifically authorized to refuse the issuance of on-sale retail licenses for premises located within the immediate vicinity of churches, hospitals, schools and children's public playgrounds

Prior forfeiture, or revocation

SEC. 14. No retail license shall be issued to any applicant for any premises for which a license has been forfeited, or revoked, during the three months immediately preceding the filing of such application.

Zoning ordinances

SEC. 15. No retail license shall be issued for any premises which are located in any territory where the exercise of the rights and privileges conferred by the license is contrary to a valid zoning ordinance of any county, city and county or municipality unless such premises had been used in the exercise of such rights and privileges at a time prior to the effective date of any such valid zoning ordinance.

Nothing in this act contained shall be deemed to interfere with the powers of cities, counties, and cities and counties, conferred upon them by Chapter 734, Statutes of 1917, the same being an act of the Legislature entitled, "An act to provide for the establishment within municipalities of districts or zones within which the use of property, height of improvements and requisite open spaces for light and ventilation of such buildings, may be regulated by ordinance."

Stats 1917, p 1419

Incompatible licenses.

SEC. 16. No retailer's on-sale license shall be issued to any person to whom or for any premises for which a manufacturer's, importer's, wholesaler's or rectifier's license shall have been issued, and no manufacturer's, importer's, wholesaler's or rectifier's license shall be issued to any person to whom or for any premises for which a retailer's on-sale license is issued.

Premises near work of public or quasi public character.

SEC. 17. No license shall be issued to any applicant for any premises situated more than one mile outside the limits of an incorporated city or town and within four miles of any camp or establishment of men numbering twenty-five or more, engaged upon or in connection with the construction, repair or operation of any work, improvement or utility of a public or quasi public character; provided, however, that nothing in this section shall be deemed to apply to the renewal of any licenses for any premises which have been established and licensed under this act or under the State Liquor Control

Act, Chapter 658, Statutes of 1933 at least six months prior to the establishment of such camp or establishment of men. Stats 1933, p 1697.

SEC. 18. Retailer's "on-sale beer and wine licenses" or "on-sale distilled spirits licenses" shall be issued only to bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships or other public eating places, or bona fide clubs after such clubs have been lawfully operated for not less than one year. On-sale licensees, qualifications.

SEC. 19. Fruit brandy manufacturer's licenses shall be issued only to persons holding a wine manufacturer's license. Fruit brandy.

SEC. 20. Industrial alcohol dealers' licenses shall be issued only to persons to whom, and for premises, for which, either a distilled spirits manufacturer's importer's or wholesaler's license has been issued. Industrial alcohol

SEC. 21. Before commencing to engage in the sale of any alcoholic beverage at any premises, notice of intention to so commence, must be posted in a conspicuous place at the entrances to such premises. Licenses will not be issued for such premises until such notice has been so posted for fifteen consecutive days immediately prior to the issuance of the licenses. The notice herein specified shall be in such form as the board shall prescribe. Notice of intention to engage in sale.

Upon the receipt by the board of an original application for any license, notice thereof shall immediately be given by said board to the sheriffs, chiefs of police and district attorneys of such locality, and to the city clerks and city planning commissions in such locality upon request. Notice by board to local authorities.

SEC. 22. In the case of any applicant whose license fee varies with the total amount of alcoholic beverages manufactured or sold, the applicant shall at the time of filing application for license, accompany such application with the minimum license fee required, or such larger fee as the applicant shall elect. Variable fees

The licensee shall report quarterly at such time and in such manner as the board may prescribe, the amount of alcoholic beverages manufactured or sold during the preceding quarter.

If any such report shows that the total amount of alcoholic beverages manufactured or sold during the year exceeds the amount permitted annually by the license fee already paid the board, the licensee shall accompany such report with such additional license fee as shall authorize him to continue to manufacture or sell additional amounts of alcoholic beverages in accordance with the schedule provided in section 5.

Failure to report the amount of alcoholic beverages manufactured or sold as herein required and to pay such additional license fees when due within ten days of the date set by the board, shall be considered a violation of this act, and shall also subject the licensee to an arbitrary assessment of such license due by the board.

Failure to make a final report and payment of any license due at the end of any tax year shall operate to prevent the board from issuance of any license to any delinquent licensee.

Excise tax on beer and wine.

SEC. 23. An excise tax is hereby imposed upon all beer and wine sold in this State by a manufacturer or importer on or after July 1, 1935, at the following rates:

(a) On all beer, sixty-two cents for every barrel containing thirty-one gallons, and at a proportionate rate for any other quantity;

(b) On all wine, two cents per wine gallon, and at a proportionate rate for any other quantity;

(c) On champagne, or sparkling wine, whether naturally or artificially carbonated, three cents per pint or fraction thereof.

Beer and wine consumed by employees of manufacturers or importers upon the premises of such manufacturers and importers shall be exempt from tax under such rules and regulations as the board may prescribe.

It shall be presumed, for the purposes of this act, that all beer and wine produced, brewed, fermented, or manufactured in this State by a manufacturer, or delivered to a manufacturer or importer here, has been sold by such manufacturer or importers unless proven to the satisfaction of the board that such beverages are still in the possession of such manufacturer or importer, or, prior to the termination of such possession, have been lost through evaporation, leakage, spillage or destruction by the elements.

Excise tax on distilled spirits.

SEC. 24. An excise tax is hereby imposed upon all distilled spirits sold in this State on and after July 1, 1935, at the following rates:

On all distilled spirits of proof strength or less, two cents on each bottle containing two ounces or fraction thereof; five cents on each bottle containing eight ounces or fraction thereof greater than two ounces; ten cents on each bottle containing one pint or fraction thereof greater than a half pint; sixteen cents on each bottle containing one-fifth gallon or fraction thereof greater than one pint; twenty cents on each bottle containing one quart or fraction thereof greater than one-fifth gallon; forty cents on each bottle containing one-half gallon or fraction thereof, greater than one quart; eighty cents on each bottle containing one gallon or fraction thereof greater than one-half gallon.

All distilled spirits in excess of proof strength shall be taxed at double the above rate.

Bond of manufacturer or importer

SEC. 25. Every person who engages in business as, or becomes a manufacturer or importer of beer or wine, as defined in this act, shall be required by the board to file with said board a bond duly executed by such person as principal and a corporation such as is mentioned in section 1056 of the Code of Civil Procedure in this State, as surety, payable to the people of the State of California, conditioned upon the payment of all excise taxes and penalties assessed against or imposed upon such person, arising out of this act.

The bond shall contain the provisions and be in the form substantially as follows: Form of bond

"Know all men by these presents:

That we, ------, as principal, and ------ a corporation, duly organized and doing business under and by virtue of the laws of ------, and duly licensed for the purpose of making, guaranteeing or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of California, as surety, are held and firmly bound unto the people of the State of California in the sum of ------ dollars ($------), lawful money of the United States of America, for the payment whereof well and truly to be made, we bind ourselves, our heirs, executors, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that,

Whereas, the above bounden principal has made application to the State Board of Equalization of the State of California for a license authorizing said principal to engage in business as a manufacturer or importer of beer or wine within the meaning of the Alcoholic Beverage Control Act and amendments thereto, and

Whereas, under the terms of said act a bond is required of said principal and good and sufficient surety, payable to the people of the State of California, conditioned upon the payment to the State of California of all of the excise taxes and penalties assessed against or imposed upon said principal arising out of said act.

Now therefore, if the above bounden principal shall pay all excise taxes and penalties assessed against or imposed upon said principal arising out of said act, or if the board, within thirty days after any default by said principal in the payment of any such tax or penalty shall fail to notify the surety thereof, personally or by mail, then this obligation shall be null and void: otherwise to remain in full force and effect.

That said bond shall remain in force and effect until the surety or sureties are released from liability by said board or until said bond is canceled by said surety or sureties as hereinafter provided.

The surety herein reserves the right to withdraw as such surety, except as to any liability already incurred or accrued hereunder, and may do so upon giving written notice of such withdrawal to the State Board of Equalization; provided, however, that no withdrawal shall be effective for any purpose until thirty days shall have elapsed from and after receipt of such notice by said board: and further provided, that no withdrawal shall in anywise affect the liability of said surety arising out of any sale of beverage made by the principal herein prior to the expiration of such period of thirty days, regardless of whether or not the excise tax based upon such sale shall have been due prior to the expiration of such period

Signed and sealed this _____ day of _____, 193___.

_____
Principal.

By _____

_____
Surety.

By _____"

Amount of bond.

The total amount of the bond or bonds required of any such manufacturer or importer shall be fixed by the board and may be increased or reduced by said board at any time subject to the limitations herein provided. In fixing the total amount of the bond or bonds required of any such manufacturer or importer, the board must require a bond or bonds equivalent in total amount to one and one-half times his estimated monthly excise tax determined in such manner as said board may deem proper; provided, that the total amount of the bond or bonds required of any such manufacturer or importer shall never be less than five hundred dollars.

Report by manufacturer or importer

SEC. 26. Every manufacturer or importer of alcoholic beverages taxable under this act shall render to the board on or before the tenth day of August, 1935, and on or before the tenth day of each month thereafter, a verified statement of the quantity of such alcoholic beverage sold by such manufacturer or importer during the preceding calendar month. Such statement shall be in such form as the board may prescribe, together with such other information as the board may require.

If any manufacturer or importer shall fail, neglect or refuse to file said report, within the time prescribed for filing such report, the board must note such failure, neglect or refusal upon the tax roll hereinafter described, and must estimate the amount of alcoholic beverage sold by said manufacturer or importer assessing the excise tax thereon, adding to said excise tax a penalty of fifteen per cent thereof for failure, neglect, or refusal to report. Such action of the board shall be final, and subject only to review by a court of competent jurisdiction.

Tax.

The board shall, on or before the twenty-second day of August, 1935, and on or before the twenty-second day of each calendar month thereafter, assess the excise tax due hereunder, and prepare and complete an assessment roll showing the amount of the excise tax assessed against each manufacturer and importer and immediately deliver said assessment roll to the State Controller.

Excise taxes herein required to be paid by the manufacturer or importer shall be payable in monthly installments to the State Controller for the month ending July 31, 1935, and for each and every calendar month thereafter. The amount of such excise tax for each month shall be paid on or before the tenth day of the second calendar month thereafter, and if not paid prior thereto, shall become delinquent at five o'clock in the afternoon of said day, and ten per cent penalty shall be added thereto for delinquency.

SEC. 27. The board may examine the books and records of any person required to make said statement, and may also examine the books and records of any licensee as herein defined, and such books and records shall at all times be subject to the inspection of said board or its representatives during regular business hours. Books and records.

If any examinations or investigations made by the board shall disclose that any reports of manufacturers or importers theretofore filed with said board by said manufacturers or importers pursuant to the requirements of this act, have shown incorrectly the amount of alcoholic beverage sold or the excise tax accruing thereon, said board shall have the power and is hereby authorized, to make such changes in subsequent assessments of said manufacturers or importers under this act as it may deem necessary to correct the errors disclosed by its examination of the records of said manufacturers or importers or its investigations in pursuance of its powers hereunder.

SEC. 28. Any person refusing to permit the board or any of its representatives to make the inspection for which provision is made in the preceding section or failing to keep books of account as may be prescribed by the board or failing to preserve such books for the inspection of the board for such time as the board may deem necessary, and any person altering, canceling or obliterating entries in such books of account for the purpose of falsifying the records of sales of alcoholic beverages made under this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than one month nor more than six months, or by both such fine and imprisonment. Refusal to permit inspection. Penalty

SEC. 29. No excise tax shall be imposed by this act in any transaction whereby any alcoholic beverages are sold and delivered by a manufacturer or importer to another manufacturer or importer holding a valid manufacturer's or importer's license. Sales between certain licensees

In order to obtain the exemption granted under this section, the manufacturer or importer selling alcoholic beverages must present to the board at the time of filing his monthly report required under section 26, a verified statement, in a form to be prescribed by the board, obtained from the purchaser showing the date, kind and quantity of alcoholic beverage sold and delivered to the purchaser, that the purchaser holds at the time of such purchase, a manufacturer's or importer's license, the number of such license, and such other information as the board may require. A copy of this statement must at all times be kept on file at the place of business of the manufacturer or importer desiring to obtain the exemption herein granted. Report

SEC. 30. None of the provisions of this act shall apply, or be construed to apply, to commerce with foreign Nations or commerce with the several States, except in so far as the same may be permitted under the provisions of the Constitution and Interstate and foreign commerce.

laws of the United States nor shall the excise tax imposed by section 23, of this act apply to alcoholic beverages sold and actually exported from this State by a licensed manufacturer or importer, or by a subsidiary of a licensed manufacturer or importer, but every manufacturer and importer shall be required to report such exports to the board in such detail as the board may require, otherwise the exemption herein granted shall be null and void and such alcoholic beverage shall be considered sold in this State subject fully to the provisions of this act.

In support of any exemption from excise taxes claimed under this section on account of the exportation of alcoholic beverage every manufacturer must execute an export certificate in such form as shall be prescribed, prepared and furnished by the board containing a sworn statement made by some person having knowledge of the fact of such exportation that the alcoholic beverage has been exported from this State, and giving such detail with reference to shipment as said board may require. All exportation certificates must be completed and on file in the office of the board within thirty days after the close of the calendar month in which the shipments were made and no certificate not completed and filed within such period shall be recognized for any purpose by the State or any agency thereof. The board may demand of any manufacturer or importer such additional data as is deemed necessary by said board in support of any such certificate and failure to supply such data will constitute waiver of all right to exemption claimed by virtue of said certificate.

Unpaid tax.

SEC. 31. In any case in which any tax, interest or penalty imposed under this act is not paid when due the Controller shall notify the board and may file in the office of the county clerk of Sacramento County or any other county a certificate specifying the amount of the tax, interest and penalty due, the name and last known address of the manufacturer or importer liable for the same, that the board has complied with all the provisions of this act, in relation to the computation and levy of the tax and a request that judgment be entered against the manufacturer or importer in the amount of the tax, interest and penalty set forth in the certificate. The county clerk immediately upon the filing of such certificate shall enter a judgment for the people of the State of California against the manufacturer or importer in the amount of the tax, interest and penalty set forth in the certificate. The judgment may be filed by the county clerk in a loose-leaf book entitled "Special Judgments for State Excise Tax."

Judgment.

Lien.

An abstract of such judgment or a copy thereof may be recorded with the county recorder of any county and from the time of such recording, the amount of the taxes, interest and penalty therein set forth shall constitute a lien upon all the real property of the manufacturer or importer in such county, owned by him or which he may afterwards and before the lien expires acquire, which lien shall have the force, effect and

priority of a judgment lien. Execution shall issue upon such a judgment upon the request of the Controller in the same manner as execution may issue upon other judgment and sales shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section the Controller shall be authorized to act on behalf of the people of the State of California. Execution

In the event that any manufacturer or importer is delinquent in the payment of the excise tax herein provided for, the Controller shall notify the board forthwith and may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control, any credits or other personal property belonging to such manufacturer or importer, or owing any debts to such manufacturer or importer, at the time of receipt by them of such notice, and thereafter any person so notified shall neither transfer nor make other disposition of such credits, other personal property or debts until the Controller shall have consented to a transfer or disposition, or until twenty days shall have elapsed from and after the receipt of such notice. All persons so notified must, within five days after receipt of such notice, advise the Controller of any and all such credits, other personal property or debts, in their possession under their control or owing by them, as the case may be. Notice

Whenever any manufacturer or importer shall be delinquent in the payment of the excise tax herein provided for, the Controller or his duly authorized representative may proceed forthwith to collect the excise tax due from such manufacturer or importer in the following manner: The Controller shall seize any property, real or personal, of the taxpayer, and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the excise tax due hereunder, together with any penalty or penalties imposed hereby for such delinquency, and any and all costs that may have been incurred on account of such seizure and sale. Notice of such intended sale and the time and place thereof, shall be given to such delinquent manufacturer or importer and to all persons appearing of record to have an interest in such property, in writing at least ten days before the date set for such sale by inclosing such notice in an envelope addressed to said manufacturer or importer at his last known residence or place of business in this State if any, and, depositing same in the United States registered mail, postage prepaid, and by publication for at least ten days before the date set for such sale in a newspaper of general circulation published in the county or city and county in which the property seized is to be sold; provided, however, that if there be no newspaper of general circulation in such county or city and county, then by the posting of such notice in three public places in such county or city and county for said ten days period. The said notice shall contain a description of the property to be sold, together with a statement of the amount of the excise taxes, penalties and costs, Seizure and sale Notice

the name of the manufacturer or importer and the further statement that, unless such excise taxes penalties and costs are paid on or before the time fixed in said notice for such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

At any such sale, the property shall be sold by the Controller or by his duly authorized agent in accordance with law and said notice, and the Controller shall deliver to the purchaser a bill of sale for the personal property, and a deed for any real property so sold, and such bill of sale or deed shall vest title in the purchaser subject to a right of redemption as prescribed in the Code of Civil Procedure upon sales of real estate on execution. The unsold portion of any property so seized may be left at the place of sale at the risk of the manufacturer or importer. If, upon any such sale, the moneys so received shall exceed the amount of all license taxes, penalties and costs due the State from such manufacturer or importer, any such excess shall be returned to the manufacturer or importer, and his receipt therefor obtained; provided, however, that if any person having an interest in or lien upon the property has filed with the Controller prior to any such sale notice of such interest said Controller shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If, for any reason, the receipt of such manufacturer or importer shall not be available, the Controller shall deposit such excess moneys with the State Treasurer, as trustee for such owner, subject to the order of such manufacturer or importer, his heirs, successors or assigns.

The Controller must also immediately transmit notice of such delinquency to the Attorney General who shall at once proceed to collect all sums due to the State from any such manufacturer or importer hereunder by bringing suit against the necessary parties to effect forfeiture of the bond or bonds of the manufacturer or importer, reducing any deficiency to judgment against the manufacturer or importer.

Cumulative remedies

It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by the board, Controller or Attorney General shall be or be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

In any suit brought to enforce the rights of the State hereunder the assessment roll prepared by the board pursuant to section 26 of this act, or a copy of so much thereof as is applicable in such suit, duly certified by the Controller showing unpaid excise taxes assessed against any manufacturer or importer, shall be prima facie evidence of the assessment of the excise tax, the delinquency thereof, the amount of the excise tax, penalties and costs due and unpaid to the State, that the manufacturer or importer is indebted to the people of the State of California in the amount of such excise tax

and penalties therein appearing unpaid and that all the forms of law in relation to the assessment and levy of such excise tax have been fully complied with by all persons required to perform administrative duties under this act.

Limitation of action

SEC. 32. Any action to recover any excise tax levied pursuant to this act and paid under protest must be instituted within sixty days after the payment of such excise tax, and failure to bring suit within said sixty days shall constitute waiver of any and all demands against this State on account of alleged overpayment of excise taxes hereunder. No grounds of illegality of the excise tax shall be considered by the court other than those set forth in the protest filed at the time of the payment of the excise tax.

If in any such action judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any excise taxes due from the plaintiff under this act, and the balance of the amount of the judgment shall be refunded to the plaintiff. In any such judgment, interest shall be allowed at the rate of six per cent per annum upon the amount of excise tax found to have been illegally collected from the date of payment of such excise tax to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than thirty days, such date to be determined by the Controller.

In no case shall any judgment be rendered in favor of the plaintiff in any action brought against the State Treasurer to recover any excise tax paid hereunder, when such action is brought by or in the name of an assignee of the manufacturer or importer paying said excise tax, or by any person, other than the person who has paid such excise tax.

Tax stamps.

SEC. 33. The tax imposed by section 24 of this act upon the sale of distilled spirits shall be collected by means of attaching to each package containing such distilled spirits a stamp or stamps of a denomination equivalent to the amount of excise tax imposed upon the sale of the contents of such package. Such stamps shall be attached by the holders of on- or off-sale distilled spirits licenses issued under this act and by the holders of on-sale licenses for liquor other than beer and wine issued under the State Liquor Control Act, immediately upon opening the original cases in which the distilled spirits were packed and in which such distilled spirits were purchased from the manufacturer, rectifier, importer or wholesaler. In the case of distilled spirits not in original cases at the time of purchase the stamps shall be attached immediately upon bringing such distilled spirits upon the premises for which such on- or off-sale licenses are issued.

Sale of stamps

Such stamps shall be sold by the board only to persons holding valid distilled spirits manufacturer's licenses, rectifier's licenses, distilled spirits and wine importer's licenses or distilled spirits wholesaler's licenses issued under this act or the State Liquor Control Act; provided, that until July 1, 1935, the board shall sell a sufficient number of such stamps, to stamp

stocks of distilled spirits on hand, to persons holding valid on- or off-sale licenses for liquor other than beer and wine issued under the State Liquor Control Act; provided further, that the board may thereafter, in its discretion, sell such stamps to such holders of on- or off-sale distilled spirits licenses as it may determine.

On and after July 1, 1935, all distilled spirits delivered by any manufacturer, rectifier, importer or wholesaler of distilled spirits to any person holding an on- or off-sale distilled spirits license issued under this act or an on-sale license for liquor other than beer and wine issued under the State Liquor Control Act, must be accompanied by a sufficient number of stamps purchased from the board, to stamp the packages containing such distilled spirits. Every manufacturer, rectifier, importer or wholesaler of distilled spirits who delivers distilled spirits in violation of this section shall be guilty of a misdemeanor.

Such stamps shall be of such size, type, and character as the board shall determine; provided, that all such stamps must be of a character, design, and process which will give the State the maximum amount of protection against counterfeiting. The board shall have full charge and control of the issuance, securing, or purchase and of the sale of all such stamps and shall keep a record of all stamps sold.

Cancellation

At the time such stamps are attached to the packages of distilled spirits, they shall immediately be canceled by indelibly writing or stamping thereon the number of the licensee attaching the stamp and the date of cancellation.

Certain acts unlawful

SEC. 34. On and after July 1, 1935, it shall be unlawful for any person holding an on- or off-sale distilled spirits license issued under this act, or an on-sale license for liquor other than beer or wine issued under the State Liquor Control Act to have upon the premises for which any such license is issued any distilled spirits unless the stamps required by this act to be attached to the packages of such distilled spirits are so attached to said packages and canceled as herein required or unless such distilled spirits are still in the original cases in which such distilled spirits were purchased from the manufacturer, rectifier, importer or wholesaler, and such cases have not been opened since delivery to the premises for which such on- or off-sale licenses are issued.

On and after July 1, 1935, it shall be unlawful for any person holding an off-sale distilled spirits license issued under the act to sell under such license any distilled spirits unless the stamps required by this act to be attached to the packages of such distilled spirits are so attached to said packages, and canceled as herein required.

On and after July 1, 1935, it shall be unlawful for any person holding an on-sale distilled spirits license issued under this act or an on-sale license for liquor other than beer and wine issued under the State Liquor Control Act to serve or remove any distilled spirits from any packages at the premises for which such licenses are issued unless the stamps required by

this act to be attached to the packages are so attached to said packages and canceled as herein required.

On and after July 1, 1935, it shall be unlawful for any person to deliver to any premises, for which an on- or off-sale distilled spirits license is issued under this act or for which an on-sale license for liquor other than beer or wine is issued under the State Liquor Control Act, any distilled spirits unless the containers of such distilled spirits bear a label or labels plainly indicating the quantity and proof strength of the contents of such containers and the name of the manufacturer or distributor thereof.

On and after July 1, 1935, it shall be unlawful for any manufacturer, rectifier, importer or wholesaler of distilled spirits to deliver to any premises for which an on- or off-sale distilled spirits license is issued under this act or an on-sale license for liquor other than beer or wine is issued under the State Liquor Control Act, and it shall be unlawful for any such on- or off-sale licensee to sell at the premises for which any such license is issued distilled spirits in packages containing more than one gallon.

Penalties

Any person violating the provisions of this section shall be guilty of a misdemeanor.

The board may seize and summarily destroy any distilled spirits found upon any premises in violation of this section.

Unlawful disposal of stamps.

SEC. 35. It shall be unlawful for any person other than the board or its duly authorized agents or the holder of a valid distilled spirits manufacturer's license, rectifier's license, distilled spirits and wine importer's license or distilled spirits wholesaler's license issued under this act or the State Liquor Control Act to sell or give away any stamps issued by the board pursuant to the provisions of this act unless such stamps are attached to packages of distilled spirits as herein required Any person violating the provisions of this section shall be guilty of a misdemeanor.

Counterfeit stamp or die

SEC. 36. Every person who makes, sells, or uses any false or counterfeit stamp or die for printing or making stamps which is in imitation of or purports to be a lawful stamp, or die of the kind before mentioned in this act, or who procures the same to be done, and every person who shall remove or cause to be removed, from any package of distilled spirits any stamp denoting the tax thereon, with intent to reuse such stamp, or who with intent to defraud the State, knowingly uses, or permits to be used any stamp removed from another package, or receives, buys, sells, gives away, or has in his possession, any stamp so removed, or makes any fraudulent use of any stamp for distilled spirits, shall be guilty of a felony and shall be fined not less than one hundred dollars nor more than one thousand dollars, and imprisoned not less than six months nor more than three years in the State prison.

Penalty

Disposition of money.

SEC. 37. All moneys collected as license fees and under the excise tax provisions of this act shall be deposited in the State treasury to the credit of the alcohol beverage control

fund, which fund is hereby created. Moneys in said fund are hereby appropriated as follows:

1. Six hundred thousand dollars for expenditure by the board in carrying out the provisions of this act for collecting the excise taxes levied by this act;

2. Twelve thousand dollars, or so much thereof as may be necessary, for expenditure by the Controller in carrying out the provisions of this act requiring the collection of excise taxes;

3. Sixty thousand dollars to be used by the State Department of Public Health for enforcement work directed toward preventing the manufacture, sale or transportation of adulterated, misbranded or mislabeled alcoholic beverages;

4. One million four hundred thousand dollars to pay the salaries and expenses of auditors, inspectors and clerks employed by the board and to defray the necessary expenses arising by reason of the administration and enforcement of the provisions of this act;

5. Ten thousand dollars for expenditure by the State Department of Finance in auditing the revenues and expenditures resulting from the provisions of this act;

6. Fifty per cent of all moneys collected yearly from fees, to be paid to the counties, cities and counties, and cities of this State in the proportion that the amount of the fees collected in the particular county, city and county, or city bears to the total amount so collected throughout the State, and the State Controller shall, on or before March 31 of the year following that in which such moneys were collected, draw his warrants upon said fund in favor of the treasurer of each county, city and county, and city for the amount to which each is entitled hereunder;

7. The expenditures authorized by subdivisions 1, 2, 3, 4 and 5 of this section shall be made exclusively from the remaining fifty per cent of moneys collected from fees and no part thereof from the fifty per cent of fees payable to counties, cities and counties, and cities under the provisions of subdivision 5 of this section.

8. Such amount as is necessary for the allowance of the refunds provided for in this act;

9. Any remaining balance to be transferred to the general fund on the order of the Controller approved by the board.

The moneys to be used by the State Department of Public Health for enforcement work shall be expended as provided in "An act preventing the manufacture, sale or transportation of adulterated, mislabeled or misbranded food, liquor and drugs, and making an appropriation," approved March 11, 1907. The Director of Public Health shall communicate to the State Board of Equalization any findings which indicate that such act has been violated by any holder of a license under this act.

Stats 1907, p. 208.

SEC. 38. The board shall administer all of the provisions of this act and to that end shall prescribe all necessary rules and regulations to carry out such provisions. The board shall have the power to require any report from any licensee, or transportation companies, and to make any examination of the books and records of any licensee it may deem necessary to perform its duties under this act, and for the performance of its duties shall have all the powers conferred upon it by section 3692 of the Political Code.

Administration

Power of board

The members of the board and the persons employed by the board for the enforcement of the provisions of this act shall have the power to administer and certify oaths, and shall have all the powers of peace officers in administering the provisions of this act.

The board and persons employed by it for the enforcement of this act shall at all times have the right to visit and inspect any portion of any premises for which licenses are issued under this act or under the State Liquor Control Act.

SEC. 39. A written report of a member of the board or of an employee of the board engaged in the enforcement of this act disclosing that an applicant for a license or the premises for which a license is applied are not qualified for a license under this act shall constitute grounds for the denial of an application for a license.

Denial of license

Immediately upon the denial of any application for a license the board shall notify the applicant thereof in writing. Within ten days after mailing the notice the applicant may present his written petition for a license to the board.

Upon receipt by the board of a petition for a license in proper form it shall be referred to a representative of the board for hearing.

Protests may be made to the board at any time prior to the issuance of a license against either the original issuance of a license or the renewal of a license.

Protests against issuance or renewal of license.

Protests must be in writing and filed in the main office of the board at Sacramento, and must state one or more grounds which would authorize the board, to deny or refuse the issuance of the license. The original copy of the protest must be verified unless made by public officers acting in their official capacity.

Upon receipt by the board of a protest in proper form it shall be referred to a representative of the board for hearing.

If a license has been issued to the applicant before receipt of the protest by the board, the protest shall be considered as a complaint against the licensee and a hearing had thereon as if a complaint had been filed.

SEC. 40. Complaints may be made to the board by any person against any licensee. Complaints must be in writing and must state one or more grounds which would authorize the board to suspend or revoke the license or licenses of the licensee against whom the complaint is made.

Complaints against licensee

A written report of a member of the board or of an employee of the board engaged in the enforcement of this act, or of a public officer disclosing grounds for the suspension or revocation of the license or licenses of any licensee shall be deemed a complaint against the licensee within the meaning of this act, even though not in the form of a complaint.

The original copy of complaints must be verified unless made by public officers acting in their official capacity or by employees of the board engaged in the enforcement of this act.

Grounds for suspension or revocation of license

The following are the grounds which constitute a basis for the suspension or the revocation of licenses:

(a) The violation or the causing or the permitting of a violation of this act or of the rules and regulations of the board by any licensee.

(b) The misrepresentation of a material fact by any applicant in obtaining any license hereunder.

Hearing on protests, complaints, petitions for license.

SEC. 41. Upon receipt by a representative of the board of a protest, a complaint or a petition for a license, the representative shall forthwith cause written notice of the time and place of the hearing of said protest, complaint or petition for a license to be given to the protesting or complaining party as well as the applicant, licensee or petitioner. The hearing shall be set for a date not more than fifteen days nor less than five days subsequent to the mailing of the notice and shall be held in the county seat of the county in which the premises of the applicant or licensee are located.

Enclosed with a copy of the notice of the time and place of hearing sent to the applicant or licensee shall be a copy of the protest or complaint as filed with the board.

The failure of an applicant for a license or a licensee to appear before the representative of the board at the time set for the hearing, except for the intervention of an act of God, shall be deemed an admission by him of the facts or acts charged in the protest or complaint and thereupon the representative of the board shall have the power to act as if the facts charged in the protest or complaint were found to be true.

The board or any member thereof or any representative appointed by the board to conduct hearings shall have the power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the State.

Each witness who shall appear, by order of the board or member thereof or a representative appointed by it, shall be entitled to receive, if demanded, for each attendance the same fees and mileage allowed by law to witnesses in civil cases in the superior court, which amount shall be paid by the party at whose request such witness is subpoenaed, unless otherwise ordered by the board or the representative. When any witness who has not been required to attend at the request of any party is subpoenaed by the board, or a member thereof or a

representative of the board, his fees and mileage may be paid from the funds appropriated for the use of the board in the administration of this act in the same manner as other expenses of the board are paid in the administration of this act.

The superior court in and for the county, or city and county in which any inquiry, investigation, hearing or proceeding may be held by the board or a representative appointed by it shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, including books, accounts and documents as required by any subpoena issued by the board or any member thereof or a representative appointed by the board.

The board or any representative appointed by it, before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the superior court, in and for the county, or city and county, in which the proceeding or hearing is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or the production of said papers, and that the witness had been subpoenaed in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpoena, or has refused to answer questions propounded to him in the course of such proceeding or hearing, and ask an order of said court, compelling the witness to attend or testify or produce said papers before the board or representative. The court, upon the petition of the board or any member thereof or a representative appointed by the board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he did not attend and testify or produce said papers before the board or representative of the board. A copy of said order shall be personally served upon said witness, and service shall not be made by registered mail as otherwise provided in this act.

If it shall appear to the court that said subpoena was regularly issued by the board or member thereof or a representative of the board and the witness was legally bound to comply therewith, the court shall thereupon enter an order that said witness shall appear before the board or representative at a time and place to be fixed in such order, and testify or produce the required papers, and upon failing to obey such order said witness shall be dealt with as for contempt of court.

Law applicable to hearings and investigations.

SEC. 42. All hearings and investigations before the board or any representative appointed thereby shall be governed by this act and other applicable provisions of law not inconsistent herewith and in the conduct of said hearings neither the board nor any representative appointed by it shall be bound by the common law or statutory rules of evidence and procedure, but may make inquiry in such manner through oral testimony

and printed records as is best calculated to extend the substantial rights of the parties and carry out jointly the spirit and provisions of this act.

Depositions.

The board, or any member of the board or any representative appointed by it, or any party to the action or proceeding may, in any investigation or hearing before the board or a representative thereof cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the superior court of this State and to that end may compel the attendance of witnesses and the production of books, documents, papers and accounts; provided that depositions taken outside of the State may be taken before any officer authorized to administer oaths.

Findings at hearing

SEC. 43. Within ten days after the hearing the representative of the board shall certify to the board his findings of ultimate fact whether the protest, complaint or petition is true or not, and in the case of hearings on complaints the representative may make recommendations in respect to the suspending or revoking of licenses. The findings and recommendations of the representative shall not be open to public inspection, either to the applicant, licensee, protestant, complainant or any other person.

Decision of board

SEC. 44. After the findings of the representative of the board are filed, the board shall make its decision upon the petition for a license, protest or complaint, and shall notify the petitioner, protestant, complainant, and licensee thereof.

Reconsideration.

Within ten days after the mailing of the notice, the petitioner, protestant, complainant or licensee may petition the board for a reconsideration of the cause. Such petitions shall be verified unless filed by a public officer acting in his official capacity.

Rehearing de novo.

SEC. 45. Within thirty days after receipt by the board of a petition for reconsideration the board shall itself rehear the entire matter de novo and shall thereupon and within said thirty days either affirm, modify or set aside its original order.

Review by courts

SEC. 46. The action of the board upon a petition for a license, a protest, complaint, or a petition for reconsideration shall be subject to review by any court of competent jurisdiction.

Relief by courts

SEC. 47. The filing of a petition for reconsideration with the board shall not be a bar to any application to the courts for relief and shall not prevent a court from reviewing or setting aside the action of the board upon a petition for a license, protest or complaint.

Service of notices.

SEC. 48. Service of the notices required by this act may be made personally or by mail; if by mail service shall be made in the manner prescribed by section 1013 of the Code of Civil Procedure.

Transportation of alcoholic beverages into State

SEC. 49. Common or private carriers shall transport alcoholic beverages into the State only when such alcoholic beverages are to be consigned to a licensed importer. The carrier must obtain the receipt of such importer for the alcoholic

beverage so transported and delivered and, if the consignee refuses to give a receipt and show his importer's license to the carrier, the carrier shall be relieved of all responsibility for delivering said alcoholic beverage. Where the consignee is not a licensed importer the carrier shall immediately notify the board at Sacramento, giving full details as to the character of shipment, point of origin, destination, and address of the consignor and consignee and within ten days such alcoholic beverage shall be summarily forfeited to the State of California and shall be turned over to the board for sale at public auction.

Every person violating the provisions of this section shall be guilty of a misdemeanor. Penalty

SEC. 50. Postal authorities may refuse delivery of any shipment of alcoholic beverage originating outside of this State. Postal authorities may turn such alcoholic beverage over to the board. The beverage when received shall be summarily forfeited to the State, to be sold at public auction by the board. Every person violating the provisions of this section shall be guilty of a misdemeanor. Postal authorities

SEC. 51. It shall be unlawful for any licensee to have upon any premises for which licenses have been issued to such licensee any alcoholic beverages other than the alcoholic beverages which such licensee is authorized to sell at such premises under the license or licenses issued therefor. Illegal possession.

It shall be presumed that all alcoholic beverages found or located upon premises for which licenses have been issued belong to the person or persons to whom such licenses were issued.

Every person violating the provisions of this section shall be guilty of a misdemeanor. The board or its representatives may either seize and summarily destroy or may seize and sell at public auction any alcoholic beverages found upon any premises in violation of this section. Penalties

The board shall also have the power to seize and summarily destroy or sell at public auction the following alcoholic beverages: Additional powers of board

1. Alcoholic beverages manufactured in this State by any person other than a licensed manufacturer, regardless of where found;

2. Beer and wine upon the sale of which the excise tax imposed by this act has not been paid, regardless of where found;

3. Distilled spirits except (a) distilled spirits located upon premises for which licenses authorizing the sale of such distilled spirits have been issued; (b) distilled spirits consigned to and in the course of transportation to a licensee holding licenses authorizing the sale of such distilled spirits; (c) distilled spirits the containers of which bear the stamps herein required to be attached thereto; (d) distilled spirits in United States government bonded warehouses.

SEC. 52. Every person who sells, serves or otherwise disposes of any alcoholic beverage, except beer which may be so Sales over bar.

sold, served, or disposed of, over or at any public bar or in any public barroom, for consumption on the premises, shall be guilty of a misdemeanor.

Failure to file report

SEC. 53. Any person who fails, neglects or refuses to file any report required to be filed by this act within ten days after the report is required to be filed, or who makes any false statement or conceals any material fact in any application for a license or in any record, report, affidavit or claim provided for herein, shall be guilty of a misdemeanor unless such act is by any other law of this State declared to be a felony, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail not less than one month, nor more than six months, or by both such fine and imprisonment.

Penalty.

Certain acts prohibited.

SEC. 54. No manufacturer, rectifier, distiller, bottler, importer or wholesaler or any officer, director or agent of any such person shall

(a) Hold the ownership, directly or indirectly, of any interest in any "on-sale" license;

(b) Furnish, give or lend any money or other thing of value, directly or indirectly, to. nor guarantee the repayment of any loan or the fulfillment of any financial obligation of, any person engaged in operating, owning or maintaining any "on-sale" premises where alcoholic beverages are sold for consumption on such premises;

(c) Furnish give, rent, lend or sell, directly or indirectly, any equipment, fixtures or supplies, other than alcoholic beverage directly or indirectly to any person engaged in operating, owning or maintaining any "on-sale" premises where alcoholic beverages are sold for consumption on such premises, provided that this subdivision shall apply only to manufacturers, bottlers, importers or wholesalers of products of the brewing industry;

(d) Furnish, give, lend or rent directly or indirectly to any person any decorations, paintings or signs other than signs for interior use of not to exceed in area six hundred thirty square inches for use in or about or in connection with any premises where alcoholic beverages are sold for consumption on such premises, or pay money or any thing of value for the privilege of placing or painting a sign or advertisement, or window display on or in any premises selling alcoholic beverages at retail;

(e) Own any interest, directly or indirectly, in the business, furniture, fixtures, signs, except signs for interior use mentioned in subdivision (d) herein, refrigeration equipment or lease in or of any premises operated or maintained under any "on-sale" license for the sale of alcoholic beverages for consumption on the premises where sold; or own any interest directly or indirectly, in realty hereafter acquired upon which such "on-sale" premises are maintained unless the holding of

such interest is permitted in accordance with regulations of the board.

Any person violating any provision of this section shall be guilty of a misdemeanor and any holder of any retail "on-sale" or retail "off-sale" license who shall solicit the violation of the provisions of this section or accept or permit to be accepted on his behalf and with his consent any of the prohibited matters, articles or acts herein designated shall be guilty of a misdemeanor; provided, however, that the provisions of this section shall not apply to any equipment, fixtures or supplies furnished, given, lent or sold prior to the passage of this act so long as such equipment, fixtures or supplies remain in the premises in which installed prior to such time, nor shall the provisions of this act apply to carbonic acid gas or tapping accessories if sold at the reasonable open market value and the aggregate cost of tapping accessories furnished to any one person does not exceed $5.00 in any one calendar year.

Signs.

SEC. 55. No sign or signs, which in whole or in part advertise any alcoholic beverage, and exceed in area seven hundred twenty square inches and no sign using the words "bar," "barroom," "saloon," "cocktail bar" or "lounge," or words of like or similar import, shall be maintained, erected, used or placed upon or adjacent to the outside of any building and in connection with any premises therein licensed to sell alcoholic beverages at retail for consumption on such premises.

Signs or other advertising matter used in connection with the licensed premises of any retailer of alcoholic beverages shall not be of any obnoxious, gaudy, blatant or offensive nature and shall in no manner contrary to the rules or regulations of said board obstruct the view of the interior of the premises from the street.

Brand of draught beer

Each and every holder of an "on-sale" retail license who shall give, sell or otherwise dispense any draught beer, shall, upon the faucet, spigot or outlet where from such beer is drawn, attach and keep posted a clear and legible notice, placard or marker which shall in the English language indicate and declare the name or brand adopted by the manufacturer of such draught beer so given, sold or dispensed by such licensee, and which notice, placard or marker shall be so situated as to be clearly legible for a distance of at least ten (10) feet from such spigot, faucet or outlet to a person with normal vision, and such notice, sign or placard shall at all times be so situated as to be so clearly legible from the place where such "on-sale" licensee serves any customer or consumer of such beer, and provided further that if such faucet, spigot or other drawing device is in a location not within the room of the place of service and consumption of such beer, then, and in that event there shall also be kept posted a similar notice, placard or marker in the place of service and consumption of such beer which shall truthfully state

and indicate only the kinds and brands of draught beer actually on sale in the premises of the "on-sale" licensee.

Violations

Any person who shall violate any of the provisions of this section, or who shall substitute another or different brand of draught beer from that indicated by any of the notices, placards or markers hereinabove provided for; or who shall substitute one brand of beer for another, or misrepresent the brand or kind of beer served to a consumer, shall be guilty of a misdemeanor for such violation or noncompliance. Any person who sells or otherwise disposes of, except for export, any draught beer containing more than three and two-tenths per cent of alcohol by weight and any person who sells or otherwise disposes of, except for export, any bottled beer containing more than four per cent of alcohol by weight, shall be guilty of a misdemeanor, provided, that this limitation shall not apply to the sale of ale, porter, brown and stout in bottles bearing labels properly describing the contents under any licenses, other than on sale beer licenses, issued under this act or the State Liquor Control Act.

Alcohol content of beer

Employment of minors

SEC. 56. Every person who employs or uses the services of minors in or on that portion of any premises which are used for the sale and service of alcoholic beverages for consumption on the premises shall be guilty of a misdemeanor.

Payment of solicitors on basis of sales

SEC. 57. It shall be unlawful for any person to pay or agree to pay any hostess, waitress, entertainer or other person a percentage of the receipts from sales of alcoholic beverages solicited or made by such hostess, waitress, entertainer or other person a salary or remuneration the amount of which is in any way dependent upon the amount or number of sales of alcoholic beverages solicited or made by such hostess, waitress, entertainer or other person. Provided, that this section shall not prohibit the holders of manufacturer's, rectifier's or wholesaler's licenses from employing and paying salesmen engaged in selling or soliciting sales for alcoholic beverages on a commission basis.

Penalty

Every person who violates the provisions of this section shall be guilty of a misdemeanor.

Disorderly houses, etc

SEC. 58. Every person who keeps or permits to be used or suffers to be used any disorderly house or place in which people abide or to which people resort, to the disturbance of the neighborhood, or in which people abide or to which people resort for purposes which are injurious to the public morals, health, convenience or safety shall be guilty of a misdemeanor.

Sale on election days

SEC. 59. Every on- or off-sale licensee who sells, gives away or furnishes any alcoholic beverage in any election district or precinct in any county in the State where an election is in progress, during the hours when by law the polls are required to be kept open for voting shall be guilty of a misdemeanor.

Delivery times.

SEC. 60. Except as otherwise provided in this section, no person licensed to manufacture, import or wholesale any alcoholic beverage shall deliver or cause to be delivered any beer to or for any person holding an on-sale or off-sale license except

between the hours of six a.m. and eight p.m. and no such delivery of any alcoholic beverage shall be made or caused to be made by any such licensee on Sunday. Alcoholic beverages may be delivered at the platform of the manufacturing or distributing plant at any time. Every person violating the provisions of this section shall be guilty of a misdemeanor.

Minors.

SEC. 61. Every person who sells, furnishes, gives, or causes to be sold, furnished or given away any alcoholic beverage to any person under the age of twenty-one years shall be guilty of a misdemeanor; provided, that this section shall not apply to the parents or guardians of such persons under twenty-one years of age.

Drunkards

SEC. 62. Every person who sells, furnishes, gives or causes to be sold, furnished or given away, any alcoholic beverage to any habitual or common drunkard shall be guilty of a misdemeanor.

Penal institutions.

SEC. 63. Every person, not authorized by law, who brings into any State prison, town or county jail, or city and county jail, or reformatory in this State or within the grounds belonging to any such institution any alcoholic beverage of any kind whatsoever shall be guilty of a felony.

Public schoolhouse

SEC. 64. Every person who sells, gives or delivers to any other person any alcoholic beverage at any public schoolhouse or upon any portion of the grounds thereof shall be guilty of a misdemeanor. Any person convicted of a violation of this section shall, in addition to the penalty imposed for the misdemeanor, be barred from having or receiving any privilege of the use of public school property which is accorded by Chapter II of Part III of Division VI of the School Code of this State.

General penalty for misdemeanor

SEC. 65. Every person convicted of a misdemeanor for a violation of any of the provisions of this act for which another punishment is not specifically provided for herein, shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

Fines

All fines and forfeitures imposed for a violation of this act and collected in any court, except police courts, city justices' courts, city courts, and recorders' courts of cities or towns, must be paid to the county treasurer of the county in which the court is held; provided, that all fines and forfeitures collected in any police court, city justice's court, city court, or recorder's court, of any city or town that is maintained and the salaries of the officers thereof paid by the city shall be paid to the city treasurer of the city in which such court is located, excepting, however, all forfeitures collected by the judge of any of said courts when sitting as a committing magistrate.

General penalty for felony

SEC. 66. Every person convicted of a felony for a violation of any of the provisions of this act for which another punishment is not specifically provided for herein, shall be punished by a fine of not more than five thousand dollars or by imprisonment in the State penitentiary for not less than

one year nor more than five years or by both such fine and imprisonment.

Application of act.

SEC. 67. It is hereby declared that this act shall not apply to the manufacture, sale or use of completely denatured ethyl alcohol or special denatured ethyl alcohol, as these substances are defined in the various statutes and regulations of the United States government relating thereto.

Exemptions

Nothing in this act shall be deemed to prevent or restrict the use of tax-free ethyl alcohol under regulation of the Treasury Department of the United States government by any governmental agency, State or Federal, or any scientific university or college of learning or any laboratory for use exclusively in scientific research or to any hospital or sanitarium.

Nothing in this act shall be deemed to prevent or restrict the use of tax-free alcohol or of industrial alcohol or other distilled spirits or wine under regulation of the United States government in the manufacture of medicinal pharmaceutical, or antiseptic products, including prescriptions compounded by retail druggists; of toilet products, of flavoring extracts, sirups, of food products, of scientific, chemical, or industrial products; provided such products are unfit for beverage use.

Stats 1933, p. 1697.

SEC. 68. The State Liquor Control Act, Chapter 658, Statutes of 1933, and Chapter 178, Statutes of 1933, shall remain in effect until July 1, 1935, after which date said acts shall no longer be of any force and effect; provided, that any taxes imposed pursuant to Chapter 178, Statutes of 1933, prior to said date shall remain fully collectible.

Stats 1933, p. 625.

Schedule of repeals.

SEC. 69. The following acts and sections, together with all amendments thereof and all acts supplementary thereto, are repealed.

Year	Chapter	Page	Year	Chapter	Page
1855	188	240	1895	156	161
1858	232	193	1903	240	319
1860	223	186	1905	26	20
1871–72	188	231	1905	123	126
1873–74	13	12	1907	104	127
1873–74	27	27	1909	413	722
1873–74	198	297	1911	351	599
1873–74	300	434	1915	21	20
1873–74	345	509	1921	80	79
1875–76	473	691	1925	89	221
1880	83	80	1933	51	340
1889	241	352	1933	149	598
1891	87	91			

PENAL CODE SECTIONS.

63b 397b 680

POLITICAL CODE SECTIONS.

3381
3383

SCHOOL CODE SECTIONS.

3.80
3.81

SEC. 70. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portion of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional. Constitutionality

SEC. 71. This act, inasmuch as it provides for tax levies for the usual current expenses of the State, shall, under the provisions of section 1 of Article IV of the Constitution, take effect immediately. Tax levy

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CHAPTER 331.

An act providing for State planning and a State Planning Board, and prescribing the powers, duties and jurisdiction thereof.

[Approved by the Governor June 14, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. There is created as a division of the Department of Finance a State Planning Board to consist of the Director of Finance, the Director of Public Works, and the Director of Natural Resources, all ex officio, and of five citizens to be appointed by the Governor. The members of the board shall receive no compensation other than for their reasonable expenses incurred in the performance of their duties. The responsible executive, or representative appointed by the board, of each State department and institution shall constitute an advisory committee to such State Planning Board. State Planning Board created.

SEC. 2. The term of each appointive member of the board begins January first of the year of appointment and shall be three (3) years, except that of the first five (5) members appointed the Governor shall designate their respective terms as follows: One (1) member for one (1) year; two (2) members for two (2) years and two (2) members for three (3) years. In case of a vacancy in the office of an appointive member, the Governor shall appoint a successor to serve the unexpired term. Terms of members. Vacancies

SEC. 3. The board shall adopt rules for the transaction of its business and shall keep a record of its official actions, making reports as may be requested to the Governor and the Director of Finance. It shall annually select a chairman from Rules, records and reports. Chairman

its appointive members and a secretary who need not be a member of the board.

Director of planning.

SEC. 4. The board shall employ a director of planning who shall be qualified by special training, experience and demonstrated ability in the field of planning and may employ subject to the approval of the Director of Finance such other persons as may be necessary for its work.

Authority of board.

SEC. 5. The State Planning Board shall have authority to cooperate with any persons or organizations interested, for devising means to develop the natural and economic resources of the State, and it is authorized to accept grants from the Federal or State governments or their agencies, and may accept gifts for the purposes of State planning. The State Planning Board shall encourage the extension and correlation of State planning by agencies of the State government and participate in interstate and National planning efforts, both with a view to benefit to be derived by the larger region or Nation, and by the State.

The State Planning Board shall not exercise any of the powers or duties of any other State department or agency.

CHAPTER 332.

An act to add section 675.5 to the Vehicle Code, relating to glass.

[Approved by the Governor June 14, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 333.

An act authorizing a suit or suits against the State of California to quiet title against it to certain real property in the county of Contra Costa, State of California.

[Approved by the Governor June 14, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Quiet title suits authorized regarding certain property

SECTION 1. Any person or persons owning or claiming any interest in or to that certain real property situate in the county of Contra Costa, State of California, and described in this act, may bring suit against the State of California, in accordance with law, in any court of competent jurisdiction of the State of California, to quiet title to the said property and to prosecute said action to final judgment. If the judgment be given against the State in such suit, no costs shall be recovered against the State.

SEC. 2. Any suit brought under this authorization shall be commenced within one year after this act takes effect. Service of summons in any such suit shall be upon the Governor and Attorney General and it shall be the duty of the Attorney General to represent the State in any such suit. Limitation.

SEC. 3. The real property referred to in section 1 of this act is described as follows: Description

Parcel 1.

Beginning at a point on Line 51-52 of the survey of Fractional Lot 5 of Section 19, Township 2 N., Range 4 West, M. D. B. & M., and from which point a granite monument marked S. P. 621 on the north line of the San Pablo Rancho as established in Decree of Partition dated September 1st, 1893, bears as follows: S. 50°-30′W., 63.81 feet to a point on the north line of said San Pablo Rancho; thence N. 58°-48′W., 1199.88 feet, from said point of beginning running thence N. 48°-30′W., 44.20 feet to station 52 of said Fractional Lot 5 of said Section 19, T. 2 N., R. 4 W., M. D. B. & M.; thence running N. 55°-30′E., 517.88 feet to a point; thence running S. 50°-40′W., 509.00 feet to the point of beginning and containing an area of 0.26 acres.

Parcel 2.

Beginning at a point on line 53-54 of the survey of Fractional Lot 5 of Section 19, T. 2 N., R. 4 W., M. D. B. & M., from which point a granite monument marked S. P. 621 on the north line of San Pablo Rancho as established in Decree of Partition dated September 1st, 1893, bears as follows: S. 50°-40′W., 604.48 feet to a station; thence S. 50°-30′W., 63.81 feet to a station on the north line of said San Pablo Rancho; thence N. 58°-48′W., 1199.88 feet, from said point of beginning running thence N. 40°-00′W., 401.12 feet to station 54; thence S. 72°-30′E., 330.00 feet to station 55; thence N. 36°-45′E., 567.60 feet to station 56; thence N. 84°-45′W., 376.20 feet to station 57; thence N. 69°-00′W., 514.80 feet to station 58; thence N. 58°-00′W., 541.20 feet to station 59; thence N. 34°-45′W., 191.40 feet to station 60; thence S. 19°-30′W., 429.00 feet to station 61; thence West, 184.80 feet to station 62; thence N. 7°-15′W., 270.60 feet to station 63; thence S. 69°-00′W., 138.60 feet to station on line between Ranges 4 and 5 W., M. D. B. & M.; thence S. 2°-30′W., 492.36 feet to station; thence N. 46°-30′W., 541.20 feet to station; thence S. 57°-00′W., 336.60 feet to station; thence S. 12°-30′W., 227.04 feet to station on the northerly line of San Pablo Rancho as originally surveyed; thence N. 55°-15′W along the northerly line of said San Pablo Rancho as originally surveyed, 191.40 feet to a station; thence, leaving said line of San Pablo Rancho and continuing along said segregation line of Section 24, N. 18°-15′W., 151.80 feet to a station; thence N. 32°-15′E., 382.80 feet to station; thence N. 6°-45′E., 171.60 feet to station;

thence N. 72°-45′W., 112.20 feet to station; thence S. 28°-15′W., 264.00 feet to station; thence West, 204.60 feet to station, and thence S. 38°-30′W., 211.20 feet to a station on the said northerly line of the San Pablo Rancho; thence running N. 55°-15′W. along the said line of said San Pablo Rancho, 245.63 feet to a station; thence leaving northerly line of said San Pablo Rancho and running N. 45°-30′E., 29.02 feet to a station; thence N. 39°-00′E., 1047.42 feet to a station; thence N. 56°-30′E., 442.20 feet to station; thence S. 64°-20′E., 361.02 feet to station; thence N. 77°-20′E., 512.16 feet to station; thence S. 66°-45′E., 308.88 feet to station; thence S. 7°-35′E., 631.62 feet to station; thence S. 34°-36′E., 384.12 feet to station; thence S. 73°-00′E., 443.52 feet to station; thence S. 84°-00′E., 678.48 feet to station; thence S. 71°-10′E., 421.27 feet to station; thence S. 50°-40′W., 1218.40 feet to the place of beginning. Containing an area of 60.348 acres.

The total area of Parcels 1 and 2 is 60.608 acres.

Parcel 3.

Beginning at a point, from which a granite monument marked S. P. 621 on the north line of San Pablo Rancho as established in Decree of Partition dated September 1st, 1893, bears as follows: S. 50°-40′W., 1822.88 feet to station; thence S. 50°-30′W., 63.81 feet to station on the north line of San Pablo Rancho; thence N. 58°-48′W., 1199.88 feet; from said point of beginning running N. 50°-40′E., 77.68 feet to a station; thence running westerly as follows: N. 71°-10′W., 469.66 feet; thence N. 84°-00′W., 679.55 feet; thence N. 73°-00′W., 414.18 feet; thence N. 34°-36′W., 345.28 feet; thence N. 7°-35′W., 653.23 feet; thence N. 66°-45′W., 367.74 feet; thence S. 77°-20′W., 510.61 feet; thence N. 64°-20′W., 375.55 feet and S. 56°-30′W., 435.98 feet to a station; thence running South, 79.15 feet to a station; thence running easterly as follows: N. 56°-30′E., 442.20 feet; thence S. 64°-20′E., 361.02 feet; thence N. 77°-20′E., 512.16 feet; thence S. 66°-45′E., 308.88 feet; thence S. 7°-35′E., 631.62 feet; thence S. 34°-36′E., 384.12 feet; thence S. 73°-00′E., 443.52 feet; thence S. 84°-00′E., 678.48 feet; and thence S. 71°-10′E., 421.27 feet to the point of beginning. Containing an area of 6.39 acres.

CHAPTER 334.

Stats. 1933, p. 60. *An act to amend sections 1061, 1064, 1065, 1066, 1071 and 1073 of the Agricultural Code, relating to economic poisons.*

[Approved by the Governor June 14, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 237. SECTION 1. Section 1061 of the Agricultural Code is hereby amended to read as follows:

1061. As used in this article: Definitions

(a) "Economic poisons" includes any substance, or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all insects, fungi, bacteria, weeds, rodents, predatory animals or any other form of plant or animal life which is, or which the director may declare to be, a pest, which may infest or be detrimental to vegetation, man, animals or households, or be present in any environment whatsoever.

(b) "Insect" means any of the animals known as "insecta" and similar animals such as centipedes, spiders, mites, ticks and lice.

(c) "Weed" means any plant which grows where not wanted.

(d) "Rodent" means all members of the order Rodentia and all rabbits and hares.

(e) "Registrant" means a person who has registered an economic poison and has obtained a certificate of registration or license from the department.

SEC. 2. Section 1064 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p. 238

1064. Economic poison is misbranded when: Misbranding.

(a) The package or label thereon bears any false or misleading statement, design, or device regarding such article or the ingredients or substances contained therein.

(b) The package or label is falsely branded as to the place of manufacture or production.

(c) It is an imitation or offered for sale under the name of another article.

(d) It is labeled or branded so as to deceive or mislead the purchaser.

(e) The contents of the package as originally put up have been removed in whole or in part and other contents placed in such packages.

(f) In package form, and the contents, if stated in terms of weight or measure, are not plainly and correctly stated on the outside of the package.

(g) It consists partially or completely of any inert ingredients which are not effective as economic poisons, and does not have the names and percentage of each such inert ingredient plainly and correctly stated on the label. In lieu of naming and stating the percentage of each such inert ingredient, the producer may state the correct names and percentage of each active ingredient which is effective as economic poisons, and the total percentage of such inert ingredients present, except that the name and percentage of every ingredient of an economic poison intended for use on or sold for application to any food crop in such a way as to leave a residue declared deleterious to health by the United States Food and Drug Administration or by the director, must be plainly stated on the label.

Stats 1933, p. 238

SEC. 3. Section 1065 of the Agricultural Code is hereby amended to read as follows:

Labels

1065. The registrant of economic poisons shall attach to every separate lot, and every separate, finished, sealed or closed container or package of economic poisons which he intends to sell, within this State, a plainly printed label, stating the name, brand or trademark, if any, under which sold, and the name and address of the registered manufacturer, importer, or vendor.

Sales of economic poisons in any other than the registrant's sealed or closed container or package are prohibited. The director, in his discretion, in accordance with regulations prescribed by him, may authorize sales of economic poisons to be made out of registrant's opened but properly labeled lot, container or package. The director shall serve notice of his proposed action, by depositing a copy thereof in a United States post office, enclosed in a sealed envelope with postage prepaid thereon and addressed to each economic poisons registrant at his last address on file with the Division of Chemistry of the department, and allow fifteen days during which any protest may be filed.

Stats. 1933, p 238.

SEC. 4. Section 1066 of the Agricultural Code is hereby amended to read as follows:

Unlawful sale.

1066. It is unlawful to sell any adulterated or misbranded economic poison.

Stats 1933, p. 239

SEC. 5. Section 1071 of the Agricultural Code is hereby amended to read as follows:

Licenses

1071. Every manufacturer of, importer of, or dealer in any economic poison, except dealers or agents selling economic poison which has been registered by the manufacturer or wholesaler thereof, and persons selling raw material to manufacturers of economic poisons, before the same is offered for sale, shall obtain a license from the department. The annual fee is fifty dollars, payable to the director. The payment of such fee shall permit the registrant to manufacture, import, or deal in twenty-five variously labeled economic poisons of varying name or composition, and for each such variety over twenty-five an additional fee of two dollars shall be paid. Persons manufacturing an economic poison intended to be used in households or their immediate environment which does not exceed a total retail value of five hundred dollars per annum shall pay an annual license fee of ten dollars to the director. The payment of such fee shall permit the registrant to manufacture, import, or deal in five variously labeled economic poisons of varying name or composition, and for each such variety over five, an additional fee of two dollars shall be paid. County, State, and Federal officers or employees selling economic poison at cost shall not be required to pay a license fee. Each applicant for a license shall also file a statement of the brands, trade-marks, and kinds of economic poisons intended to be manufactured or sold, the correct name and percentage of each active ingredient

and the total percentage of inert ingredients contained therein. In lieu of the statement of the correct names and percentages of the active and inert ingredients, there may be delivered to the director a representative sample of not less than one pound of each economic poison desired to be registered. Additions or corrections to the above statement or new samples may be submitted at any time.

When any manufacturer, importer, or dealer in economic poisons has complied with this article and the rules and regulations provided for therein and applies for registration of economic poisons, and for a license, the director shall register each economic poison sought to be registered and issue a license to the applicant authorizing the manufacture and sale of economic poison in the State, or, if necessary, shall call a hearing. All licenses and registrations expire on June thirtieth of each year. If re-registration is not obtained within one calendar month after the expiration of a registration, there shall be added to the fee a penalty of ten per cent (10%), to which shall be added an additional penalty of five per cent (5%) of the original amount due, for each succeeding calendar month, but the total penalty shall not exceed fifty per cent (50%) of the original amount due. No penalty shall be collected if the person re-registered makes an affidavit that no business was done during the period of nonregistration. The payment of such fee or penalty is not a bar to any prosecution for doing business without proper registry.

Penalty for delinquent re-registration.

It shall be unlawful to manufacture, deliver, or sell, any economic poison without a license or which is not registered and described as required by this article.

SEC. 6. Section 1073 of the Agricultural Code is hereby amended to read as follows:

Stats. 1933, p. 240

1073. The director may, upon the receipt of a sample of economic poison, accompanied by the required fee, make an analysis, examination or test thereof, and shall inform the sender thereof the results of such analysis, examination or test. The schedule of fees required for analyses, examinations or tests shall be fixed by the director.

Analysis

Fees.

CHAPTER 335.

An act to provide for the sale and conveyance of certain swamp and overflowed, salt marsh and tidelands lying in the county of Contra Costa, State of California.

[Approved by the Governor June 14, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The State Department of Finance is hereby authorized and empowered to sell and dispose of, upon such conditions as to price and terms of sale as the Director of

Authority to sell certain lands.

Finance may deem to be most advantageous to the State, all those certain lots, pieces and parcels of swamp and overflowed salt marsh and tidelands, situate, lying and being within the county of Contra Costa, State of California, and more particularly described as follows:

Description

Parcel 1. Beginning at a point, from which a granite monument marked S. P. 621 on the north line of San Pablo Rancho as established in Decree of Partition dated September 1, 1893, bears as follows S.50°–40′ W., 1900.56 feet to a point; thence S.50°–30′ W., 68.81 feet to a point on the north line of the said San Pablo Rancho; thence N.58°–48′ W., 1199.88 feet; from said point of beginning running thence N.50°–40′ E., 847.65 feet to a station on low tide line of San Pablo Bay; thence running westerly along said low tide line of San Pablo Bay as follows: N.67°–30′ W., 2015.79 feet to station; thence N. 68°–45′ W., 1155.00 feet to station; thence N.72°–00′ W., 409.20 feet to station, and thence S.80°–45′ W., 673.20 feet to station; thence, leaving said low tide line and running south, 514.85 feet to station; thence N. 56°–30′ E., 435.98 feet to station; thence S.64°–20′ E., 375.55 feet to station; thence N.77°–20′ E., 510.61 feet to station; thence S.66°–45′ E., 367.74 feet to station; thence S.7°–35′ E., 653.23 feet to station; thence S.34°–36′ E., 345.28 feet to station; thence S.73°–00′ E., 414.18 feet to station; thence S.84°–00′ E., 679.55 feet to station; thence S.71°–10′ E., 469.66 feet to the point of beginning. Containing an area of 57.915 acres.

Preference to owners of adjacent lands.

SEC. 2. The owners of lands abutting upon said parcels shall be preferred purchasers for a period of sixty days following the date upon which the Director of Finance shall give notice by publication in one or more newspapers of general circulation published in said county that he has determined the price and conditions of sale of said parcels of land, such publication to be made for not less than five consecutive days. In the event said parcels of land shall remain unsold at the end of said sixty-day period, the Director of Finance shall thereupon proceed to offer the same for sale, and to sell the same, after giving notice of such sale, at public auction, to the highest bidder, for cash, in the manner prescribed by section 1274 of the Code of Civil Procedure; provided, that no bid which is less than the sum determined by the Director of Finance to be the value of the parcels for which it is offered shall be accepted. The Director of Finance is hereby authorized to execute on behalf of the State such deed or other conveyance as may be necessary to pass title to the purchaser or purchasers of such parcels, reserving to the State of California all coal, oil, gas and other mineral deposits contained in said lands, as provided by an act of the Legislature approved May 25, 1921 (Chapter 303, Statutes of California, 1921), and subject to the conditions prescribed in section 25 of Article I and Article XV of the Constitution of the State of California and in subordination to the public rights of commerce,

Stats 1921, p 404

navigation, fishing and hunting, in, over and upon all tidelands.

CHAPTER 336.

An act to amend sections 1, 2, 3, 4, 6, 7, 8 and 14 of "An act to authorize the counties of the State of California to establish systems for the retirement and pension of certain county and township officers and employees, namely county peace officers as defined in the act, and to provide certain benefits for their dependents, and empowering county boards of supervisors to levy a special tax," approved May 5, 1931, relating to the composition of the retirement board; time of meeting; manner of transacting business; the duties of said board and time for annual report; computation of time for retirement privilege; interest rate on contributions and deposits; time for payments; refund of sums in excess of sum necessary for prior service credit, and revising the arrangement of certain portions of said act.

Stats 1931, p. 477, amended

[Approved by the Governor June 14, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of said act is hereby amended to read as follows:

Stats 1931, p. 477.

Section 1. The chairman of the board of supervisors, the treasurer, the sheriff and the auditor of the county or city and county and one other person who shall be in active service as a peace officer and a member of the retirement system and who shall be elected by the members of the peace officers' retirement system, are hereby constituted ex officio the county peace officers' retirement board, which board shall exercise the powers and perform the duties hereinafter prescribed; provided, however, that the provisions of this act shall become effective in any particular county, only upon condition that the provisions of this act are accepted by ordinance passed by four-fifths (4/5) vote of its board of supervisors, in which event the provisions of this act shall become operative in such county on the first day of January, or on the first day of July next following the expiration of three months after the passage of said ordinance.

Peace officers' retirement fund.

SEC. 2. Section 2 of said act is hereby amended to read as follows:

Stats 1931, p. 477.

Sec. 2. (a) They shall organize as such county peace officers' retirement board by choosing from their number a chairman and treasurer, and thereafter said officers shall be chosen biennially by said board. The members of the said board shall serve without compensation, but they shall be reimbursed out of the funds of the county for any expense or loss of salary or wage which they may have incurred through

Organization of board.

services on the board and for costs of operation of this retirement system.

(b) Said board shall meet for the transaction of business at least once every three months in each calendar year and shall meet at such other times as said board or a majority thereof may order. Notice of all meetings shall be given by the secretary at least three days in advance thereof.

(c) A majority of said members may transact business in lieu of all of the members.

Stats 1931, p 478.

SEC. 3. Section 3 of said act is hereby amended to read as follows:

Powers of board

Sec. 3. In addition to the other powers herein granted, the said board shall be vested with the following powers and duties:

(a) To compel witnesses to attend and testify before it, upon all matters connected with the operation of this act, in the same manner as is or may be provided by law for the taking of testimony before notaries public; and its president, or any member of said board, may administer oaths to such witnesses.

(b) To appoint a secretary, and to provide for the payment from said fund of all its necessary expenses, including secretary hire and printing; provided, that no compensation or emolument shall be paid to any members of said board for any duty required or performed under this act.

(c) To make all needful rules and regulations not inconsistent with this act and such rules and regulations shall become effective when approved by the board of supervisors.

(d) It shall be the duty of said board to report annually in the month of January to the board of supervisors, or other governing authority of the county, or city and county, the condition of the county peace officers' retirement fund and the receipts and disbursements on account of the same with a full and complete list of the beneficiaries of said fund and the amounts paid them, for the preceding calendar year.

(e) The said board shall annually prepare a budget of the cost of maintaining the pension fund and for this purpose may employ an actuary to assist the board in preparing its budget and report to the end that said system may be scientifically financed and administered.

(f) Said board shall have charge and control of said fund or funds and shall administer the same and shall have power to order payments therefrom in accordance with the provisions of this act.

Stats 1931, p. 478

SEC. 4. Section 4 of said act is hereby amended to read as follows:

Sources of fund.

Sec. 4. For the purpose of providing and maintaining a fund to meet the payments of demands drawn for the payment of pensions and the expenses of said retirement board, a fund is hereby created to be known as the "County peace officers' retirement fund." There shall be paid into said fund the following moneys to wit:

(a) Salary. A portion of each month's salary of each peace officer who is included within the provisions of this act in an amount equal to two per cent of peace officer's monthly salary. Salary

(b) Credit for prior service. Upon election by any said person to come within the provisions of this act, said person shall automatically be excluded from any other retirement system as aforementioned, and any sums due or to the credit of such person under such other system shall be transferred to this pension system, to the credit of such person, in accordance with the law made and provided for such cases, it being the intention that the retirement system provided by this act shall be exclusive and that the persons, who having elected to come under the provisions of this act shall not participate in any other system now or hereafter provided by law for county or township officers or employees; provided, however, that where said person elects to come within the provisions of this act and elects to secure credit for prior service as a county peace officer under this act, and where the sum to the credit of said person so transferred from some other system to this system exceeds that necessary to entitle said person to credit for said prior service as a peace officer under this system, there shall be refunded to said person such portion of said sum so transferred to the credit of said person, as exceeds the amount necessary to entitle said person to the credit claimed for such prior service. Credit for prior service

(c) County donation. An amount to be determined and appropriated each year by the board of supervisors. Said amount to be sufficient, together with the contribution of peace officers to meet all of the demands, including interest, against said pension fund. The board shall monthly deposit all contributions received in the county treasury to the credit of said fund. County donation.

(d) All contributions and deposits shall bear simple interest at a rate to be fixed by the board of retirement with the approval of the board of supervisors but said rate shall in no event be greater than four per cent per annum. Interest.

SEC. 5. Section 6 of said act is hereby amended to read as follows: Stats 1931, p. 479.

Sec. 6. Investment of fund. The board shall have charge and control of and shall safely keep the funds of the system, and shall invest and reinvest the same, and may from time to time sell any securities held by them and invest and reinvest the proceeds therefrom, and any and all unappropriated income of said funds; provided, however, that all funds received by them not required for current disbursements shall be invested in those securities only which shall be legal for savings bank investments, or deposited at interest in any State or National bank doing business within the county; provided, that the credit of the county shall not be given or lent in aid of, or to, any person, association, or corporation, whether municipal or otherwise, nor shall it be pledged in any manner whatever for the payment of the liabilities of any individual, Investment of fund

association, municipal or other corporation whatever. They may, whenever they sell such securities, deliver the securities so sold upon receiving the proceeds thereof, and may execute any and all documents necessary to transfer the title thereto. The duties herein imposed upon the members of the board shall be deemed a part of their official duties and for the faithful performance of which they shall be liable on their official bonds.

Stats 1931, p 479

SEC. 6. Section 7 of said act is hereby amended to read as follows:

Fund created

Sec. 7. Fund created. A trust fund account to be known as "County peace officers' retirement fund" is hereby created to be opened upon the books of the auditor and treasurer of the counties adopting a retirement system under the provisions of this act. All transfers or payments to the retirement fund and all withdrawals and other cash transactions, shall be accounted upon the books of the auditor and treasurer in and out of this fund account, in the manner they would be accounted if they were county transactions.

Stats 1931, p. 480.

SEC. 7. Section 8 of said act is hereby amended to read as follows:

Warrants.

Sec. 8. All warrants drawn on the county peace officers' retirement fund shall be signed by the treasurer and at least one other member of the board of retirement, who shall be designated by such board, but no warrant so drawn shall be valid until it has been countersigned and numbered by the county auditor and a record made of it by him. Payments provided for in this act shall be made monthly upon proper vouchers.

Stats. 1931, p 482.

SEC. 8. Section 14 of said act is hereby amended to read as follows:

Other retirement systems.

Sec. 14. (a) Any person who is eligible to participate in the pension system provided by this act and who does so participate and who is a member of or participant in or is eligible for membership or participation in any other pension system provided by law for county or township officers or employees shall upon his election to participate in the pension system provided by this act be ineligible for membership or participation in any other retirement or pension system provided by law for county or township officers or employees.

Credits for prior service.

(b) Upon election by any said person to come within the provisions of this act said person shall automatically be excluded from any other system as aforementioned and any sums due such person under such other system shall be paid to him as in the case of separation from the service, it being the intention that the retirement system provided by this act shall be exclusive and that the persons entitled thereto shall not participate in any other system now or hereafter provided by law for county or township officers or employees; provided, however, that where said person elects to come within the provisions of this act and elects to secure credit for prior service as a county peace officer under this act, and where such person

has to his credit in any other pension system a sum exceeding that necessary to entitle said person to credit for said prior service as a county peace officer, there shall be refunded to said person so electing to come within this system only such sum due said person under said other pension system as exceeds the amount necessary to entitle said person to credit claimed for prior service as a county peace officer.

(c) No peace officer who receives compensation from the county for disability under any workmen's compensation act or by virtue of any judgment obtained against the county for disability shall receive any of the benefits provided by this act, nor in the event of his death shall any such benefits inure to his dependents as here provided; provided, however, that where such person is retired under the provisions of this act and would be entitled to a pension thereunder such person may receive such portion of the pension authorized as is represented by the difference between workmen's compensation and the full amount of the pension to which he might otherwise be entitled, it being the intention that the pension allowed for injury incurred in line of duty shall not be cumulative with the benefits under workmen's compensation which may be awarded for the same injury or disability. Workmen's compensation

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CHAPTER 337.

An act to provide for the formation, government, operation and dissolution of library districts. "Library District Act of 1935."

[Approved by the Governor June 14, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Library District Act of 1935. Short title

SEC. 2. A library district may be organized, as provided in this act; may establish, equip and maintain a public library for the dissemination of a knowledge of the arts, sciences and general literature; and may exercise the powers in this act granted or necessarily implied. Purpose.

SEC. 3. A library district may include incorporated or unincorporated territory, or both, in any one or more counties, so long as the territory of the district consists of contiguous parcels and the territory of no city is divided. Territory

SEC. 4. Whenever the formation of a library district is desired, a petition which may consist of any number of instruments, may be presented at a regular meeting of the board of supervisors of the county in which is located the largest proportionate value of the lands within the proposed district as shown by the last equalized county assessment roll. That board of supervisors is hereinafter referred to as the supervising board of supervisors. Such petition shall be signed by Petition

registered voters residing within the proposed library district equal in number to at least five per cent of the number of votes cast in the territory comprising the proposed district at the last preceding general State election at which a Governor was elected.

Stats 1933, p. 2280.

SEC. 5. The provisions of sections 103, 104, 105, 106, and 107 of Chapter I, Division II of the District Organization Act shall govern and control the proceedings for the filing and hearing of the petition.

Stats. 1933, p 2280.

SEC. 6. The provisions of Chapter II, Division I of the District Organization Act shall govern and control the proceedings for final hearing of the petition and the formation of the district.

Protests.

SEC. 7. On the filing of written protests by registered voters residing in the proposed district equal in number to at least fifty per cent of the number of votes cast in the territory comprising the proposed district at the last preceding general State election at which a Governor was elected, the proceeding for the formation of the district shall be terminated as provided in sections 159 and 160 of the District Organization Act.

Board of trustees.

SEC. 8. Within thirty days after the filing with the Secretary of State of the resolution declaring the organization of the district a board of three library trustees shall be appointed for the district. The board shall consist of one trustee to be appointed from each unit, in the case of any unincorporated territory by the board of supervisors and in the case of a city by the governing body thereof.

If a board thus appointed would consist of more than three members then the supervising board of supervisors shall appoint three library trustees from the district at large.

If the board thus appointed consists of less than three members, then the supervising board of supervisors shall appoint from the district at large enough additional members to make a board of three trustees.

As used in this section, "unit" means all unincorporated territory in the district which lies in a single county and also means each city in the district.

Vacancy in board

SEC. 9. A vacancy in the board of library trustees shall be filled for the unexpired term by appointment of the supervising board of supervisors. Each library trustee shall hold office until his successor is elected and qualified.

Term.

SEC. 10. The governing board of the district shall be called "the board of library trustees of _____ library district" (inserting the name of the particular district). The trustees shall hold office for the term of three years beginning on the second day of the calendar year next succeeding their appointment or election. The first board of library trustees appointed in a district shall at their first meeting so classify themselves by lot that their terms shall end one on the second day of the second calendar year next succeeding his appoint-

ment, one at the end of one year thereafter and one at the end of two years thereafter.

Annual election.

SEC. 11. An election must be held annually in each library district for the election of one library trustee who shall hold office for three years beginning on the second day of the calendar year next succeeding his election. This election shall be known as the general district election and shall be held in the district on the same day as the State general election in the even-numbered years and in the odd-numbered years on the first Tuesday after the first Monday in November.

Qualifications of electors.

SEC. 12. To be qualified to vote at any library district election a person must be a resident of the library district, a qualified elector of the county, and must be registered in the district in which the election is held at least thirty days before the election.

Organization of board.

SEC. 13. At its first meeting called after the original appointment of the board, and annually thereafter at its first meeting called after the second day of the calendar year, the board shall organize by electing one of its number president, and another one of its number secretary. They shall serve as such for one year or until their successors are elected and qualified. The board shall cause a proper record of its proceedings to be kept, and at the first meeting of the board of trustees of any library district, formed under the provisions of this act, it must immediately cause to be made out and filed with the State Librarian at Sacramento a certificate showing that such library district has been established, with the date thereof, the names of the trustees, and the officers of the board chosen for the current fiscal year.

Meetings

SEC. 14. The board of library trustees shall meet at least once a month, at such time and place as it may fix by resolution. Special meetings may be called at any time by two trustees, by written notices served upon each member at least twelve hours before the time specified for the meeting. Two members shall constitute a quorum for the transaction of business.

Powers of board

SEC. 15. The board of library trustees is authorized and empowered, and it shall be its duty:

(a) To make and enforce all rules, regulations and by-laws necessary for the administration, government and protection of the libraries under its management, and all property belonging thereto.

(b) To administer any trust declared or created for such libraries, and received by gift, devise, or bequest, and hold in trust or otherwise, property situated in this State or elsewhere, and where not otherwise provided, dispose of the same for the benefit of such libraries.

(c) To prescribe the duties and powers of the librarian, secretary and other officers and employees of any such library; to determine the number of and appoint all such officers and employees, and fix their compensation, which said officers and

employees shall hold their offices and positions at the pleasure of the board.

(d) To purchase necessary books, journals, publications and other personal property.

(e) To purchase such real property, and erect or rent and equip, such building or buildings, room or rooms, as in its judgment may be necessary properly to carry out the provisions of this act.

(f) To require the Secretary of State and other State officials to furnish such libraries with copies of any and all reports, laws, and other publications of the State not otherwise disposed of by law.

(g) To borrow books from, lend books to, and exchange the same with other libraries, and to allow nonresidents of the district to borrow books upon such conditions as the board may prescribe.

(h) To borrow money, give security therefor, purchase on contract and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this act; provided, however, no tax levy shall ever be made for any purpose above the maximum permitted by this act.

(i) To file, through its secretary, on or before the last day of the month of July of each year, a report with the State Librarian at Sacramento giving the condition of its library or libraries and the number of volumes contained therein on the thirtieth day of June preceding.

(j) To designate the hours during which the library or libraries shall be open for the use of the public; but all public libraries established under the provisions of this act shall be open for the use of the public during every day in the year.

Estimate of expenses

SEC. 16. Annually, at least fifteen days before the first day of the month in which county taxes are levied, the board of library trustees of each library district shall furnish to the board of supervisors of the county in which the district or any part thereof is situated, an estimate in writing of the amount of money necessary for all purposes required under the provisions of this act during the next ensuing fiscal year.

Tax levy

Thereupon it shall be the duty of each board of supervisors in which any part of the district is situated to levy a special tax upon all taxable property of the county lying within the district sufficient in amount to maintain the district. The tax shall in no case exceed the rate of fifteen cents on each one hundred dollars of the assessed valuation of all taxable property within the district, but it may be in addition to all other taxes allowed by law to be levied upon such property. The tax shall be computed, entered upon the tax rolls and collected in the same manner as county taxes are computed, entered and collected. All moneys so collected shall be paid into the county treasury to the credit of the particular library district fund and shall be paid out on the order of the district board, signed by the president and secretary thereof.

SEC. 17. If the district embraces territory lying in more than one county, the amount estimated shall be ratably apportioned among the several counties in the district in proportion to the exact value of the property in the several counties included within said district as shown upon the last equalized assessment rolls of those counties, and the estimates apportioned to the several counties shall be rendered to their respective boards of supervisors and the tax shall be levied and collected by the officials of those counties upon the property of the district lying therein. Apportionment of assessment, among counties

SEC. 18. All money acquired by gift, devise, bequest, or otherwise, for the purposes of the library, shall be paid into the county treasury to the credit of the library fund of the district, subject only to the order of the library trustees of said district. If payment into the treasury is inconsistent with the terms or conditions of any such gift, devise, or bequest, the board of library trustees shall provide for the safety and preservation of the same, and the application thereof to the use of the library, in accordance with the terms and conditions of such gift, devise or bequest. Gifts for library purposes

SEC. 19. Upon the receipt by the county auditor of an order of the library trustees of the district, he shall issue his warrant upon the county treasurer for the amount stated in such order. When any such warrant is presented to the treasurer for payment and the same is not paid for want of funds, the treasurer must endorse thereon "not paid for want of funds" with the date of presentation and sign his name thereto, and from that time the warrant shall bear interest at the rate of six per cent per annum until the warrant is paid or until funds are available for the payment of the same and the county treasurer gives notice to the warrant holder that funds are available for such payment. The giving of such notice shall be deemed complete upon the deposit thereof in the United States mail in a sealed envelope addressed to the warrant holder at the address of the latter given by him at the time of presentation of the warrant to the treasurer, with postage thereon fully prepaid and registered. Payment of warrants.

SEC. 20. Every library established under the provisions of this act shall be forever free to the inhabitants and nonresident taxpayers of the library district, subject always to such rules, regulations, and by-laws as may be made by the board of library trustees, and for violation of them a person may be fined or excluded from the privileges of the library. Free libraries.

SEC. 21. The board of library trustees and the boards of trustees of neighboring library districts, or the governing bodies of neighboring cities, or boards of supervisors of counties in which public libraries are situated, may contract to lend the books of libraries created under this act to residents of such counties or neighboring cities or library districts, upon a reasonable compensation to be paid by such counties, neighboring cities, or library districts. Contracts to lend books

Title to property

SEC. 22. The title to all property acquired for the purposes of such libraries, when not inconsistent with the terms of its acquisition, or not otherwise designated, shall vest in the district in which such libraries are or are to be situated.

Name of district.

Every library district must be designated by the name and style of _____ library district (using the name of the district) of _____ county (using the name of the county or counties in which said district is situated). In that name the trustees may sue and be sued, and may hold and convey property for the use and benefit of such district. A number must not be used as a part of the designation of any library district.

Stats 1933, p 2280

SEC. 23. The provisions of Chapters I and II of Division II of the District Organization Act relating to notices and elections shall govern and control this act.

Election for bond issue.

SEC. 24. The board of trustees of any library district may, when in their judgment it is deemed advisable, and must, upon a petition of fifty or more taxpayers and residents of said library district, call an election and submit to the electors of the district, the proposition of whether the bonds of the district will be issued and sold for the purpose of raising money for the purchase of suitable lots, of procuring plans and specifications and of erecting a suitable building, of furnishing and equipping the same and of fencing and ornamenting the grounds, for the accommodation of the public library, or for any or all of the said purposes, or for any or all of the purposes of this act; for liquidating any indebtedness incurred for said purposes, and for refunding any outstanding valid indebtedness, evidenced by bonds or warrants of the district.

Stats 1933, p. 2280.

SEC. 25. Such bond election shall be called and conducted and the results thereof canvassed, returned and declared in the manner provided in Chapter II of Division II of the District Organization Act.

Contents of resolution calling election

SEC. 26. In addition to the information required in section 232 of the District Organization Act, in the resolution calling a bond election the board of trustees shall set forth the amount and denomination of the bonds, the rate of interest and the number of years the whole or any part of the bonds are to run.

Voting

SEC. 27. Voting must be by ballot (without reference to the general election law in regard to form of ballot, or manner of voting), except that the words to appear on the ballot shall be "Bonds—Yes," and "Bonds—No," and except further, that persons voting at such bond election shall put a cross (+) upon their ballots, with pencil or ink, after the words "Bonds—Yes," or "Bonds—No" (as the case may be), to indicate whether they have voted for or against the issuance of the bonds.

Issuance of bonds

SEC. 28. Upon the canvass of the returns, if it appears that two-thirds of the votes cast at the election were cast in favor of issuing such bonds, then the board of library trustees shall cause an entry of such fact to be made upon its minutes and shall certify to the supervising board of supervisors all

the proceedings had in the premises. Thereupon said board of supervisors shall issue the bonds of said district, to the number and amount provided in such proceedings, payable out of the building fund of said district, naming the same. The money for the redemption of said bonds and the payment of interest thereon shall be raised by taxation upon the taxable property in said district.

Amount of issue

The total amount of bonds so issued shall not exceed five per cent of the taxable property of the district, as shown by the last equalized assessment roll of the county or counties in which the district is situated.

Term of bonds

SEC. 29. The supervising board of supervisors by an order entered upon its minutes shall prescribe the form of said bonds and of the interest coupons attached thereto, and must fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than forty years from the date thereof.

Interest

SEC. 30. The bonds must not bear a greater amount of interest than six per cent, to be payable annually or semi-annually.

Sale of bonds.

The bonds must be sold in the manner prescribed by the board of supervisors, but for not less than par, and the proceeds of the sale thereof must be deposited in the county treasury to the credit of the building fund of the library district, and be drawn out for the purposes aforesaid as other library moneys are drawn out.

Tax levy for payment of interest and redemption of bonds

SEC. 31. The board of supervisors of each county in which any part of the district is situated, at the time of making the levy of taxes for county purposes, must levy a tax for that year upon the taxable property in such district, at the equalized assessed value thereof for that year, for the interest and redemption of said bonds. Such tax must not be less than sufficient to pay the interest of said bonds for that year, and such portion of the principal as is to become due during such year. In any event such tax must be high enough to raise, annually, for the first half of the term said bonds are to run, a sufficient sum to pay the interest thereon, and during the balance of the term, high enough to pay such annual interest and to pay, annually, a proportion of the principal of said bonds equal to a sum produced by taking the whole amount of the bonds outstanding and dividing it by the number of years said bonds then have to run.

Deposit of money

SEC. 32. All moneys so levied, when collected, shall be paid into the county treasury to the credit of the said library district, and be used for the payment of principal and interest on said bonds, and for no other purpose. The principal and interest on the bonds shall be paid by the county treasurer, upon the warrant of the county auditor, out of the fund provided therefor. It shall be the duty of the county auditor to cancel and file with the county treasurer the bonds and coupons as rapidly as they are paid.

Unsold bonds

SEC. 33. Whenever any bonds issued under the provisions of this act remain unsold for the period of six months after

having been offered for sale in the manner prescribed by the supervising board of supervisors, the board of trustees of the library district for or on account of which the bonds were issued, or of any library district composed wholly or partly of territory which, at the time of holding the election authorizing the issuance of such bonds, was embraced within the district for or on account of which such bonds were issued, may petition the supervising board of supervisors to cause such unsold bonds to be withdrawn from the market and canceled.

Petition for cancellation of bonds.

SEC. 34. Upon receiving such petition, signed by a majority of the members of the board of trustees, the supervising board of supervisors shall fix a time for hearing the same, which shall be not more than thirty days thereafter, and shall cause a notice, stating the time and place of hearing, and the object of the petition in general terms, to be published as provided in this act.

Hearing

SEC. 35. At the time and place designated in the notice for hearing said petition, or at any subsequent time to which the hearing may be postponed, the supervising board of supervisors shall hear any reasons that may be submitted for or against the granting of the petition, and if they shall deem it for the best interests of the library district named in the petition that such unsold bonds be canceled, they shall make and enter an order in the minutes of their proceedings that said unsold bonds be canceled, and thereupon said bonds, and the vote by which they were authorized to be issued, shall cease to be of any validity whatever.

Stats 1933, p 2280

SEC. 36. Territory may be annexed to or excluded from a library district organized under this act in the manner provided in Division III of the District Organization Act, upon petition signed by the same number of qualified petitioners required for signature on the petition for organization of the district under this act.

Stats. 1933, p. 2280

SEC. 37. Two or more districts organized under this act may be consolidated in the manner provided in Chapter I of Division IV of the District Organization Act.

Stats. 1933, p. 2280

SEC. 38. A library district organized under this act may be dissolved in the manner provided in Chapter II of Division IV of the District Organization Act.

Territory in more than one county

SEC. 39. No library district including territory in more than one county shall be organized under this act without the concurrent consent by resolution of each board of supervisors involved, as well as the consent of the governing body of each city to be included.

Stats. 1911, p. 80.

SEC. 40. Anything in the County Free Library Act to the contrary notwithstanding, the property in any library district created under this act is subject to taxation for county free library purposes just as though such library district had not been created.

CHAPTER 338.

An act to renumber section 532a of the Penal Code, as added by Chapter 70 of the Statutes of 1913, to be section 532c of said code, relating to giving lots on the drawing of numbers.

[Approved by the Governor June 14, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 532a of the Penal Code, as added by Chapter 70 of the Statutes of 1913, is hereby renumbered to be section 532c of said code, to read as follows: Stats 1913, p 74

532c. Any person, firm, corporation or copartnership who knowingly and designedly offers or gives with winning numbers at any drawing of numbers or with tickets of admission to places of public assemblage, any lot or parcel of real property and charges or collects fees in connection with the transfer thereof, is guilty of a misdemeanor. Giving lot with ticket

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CHAPTER 339.

An act to amend sections 1030, 1038, and 1043 of the Agricultural Code, relating to fertilizing materials. Stats 1933, p 60

[Approved by the Governor June 14, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1030 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p 233

1030. The producer, manufacturer, importer, agent or dealer in any commercial fertilizer or any agricultural mineral, except as provided in section 1026, shall, before the engaging in the sale thereof obtain a certificate of registration from the director, authorizing him to sell commercial fertilizers or agricultural minerals, as the case may be, and shall securely fix to each container of commercial fertilizer or agricultural mineral the word "Registered" with the number of registry. In case one person desires authority to sell both commercial fertilizer and agricultural minerals, he shall register and pay the fee required for each registry. The producer, manufacturer, importer, agent, or dealer, obtaining such registry, shall pay to the director the sum of fifty dollars ($50). The registration shall expire on the thirtieth day of June of the fiscal year for which it was given. If reregistration is not obtained within one calendar month after the expiration of a registration there shall be added to the fee a penalty of ten per cent (10%), to which shall be added an additional penalty of five per cent (5%) of the original amount due, for each Certificate of registration of fertilizer producers, etc Penalty

succeeding calendar month, but the total penalty shall not exceed fifty per cent (50%) of the original amount due. No penalty shall be collected if the person reregistered makes an affidavit that no business was done during the period of non-registration. The payment of such fee or penalty is not a bar to any prosecution for doing business without proper registry. The provisions of this section do not apply to any agent whose principal has obtained a certificate of registration.

Stats. 1933, p. 235.

SEC. 2. Section 1038 of the Agricultural Code is hereby amended to read as follows:

Tax on sales of fertilizer.

1038. Upon any sale not exempt from the provisions of this article, of commercial fertilizer, the registered person selling the same shall pay twenty-five cents per ton, and upon such a sale of agricultural minerals, ten cents per ton except where the agricultural mineral is sold to be used and is used in the manufacture of commercial fertilizer. Each registered person shall keep accurate accounts of sales of commercial fertilizers and/or agricultural minerals, and such accounts shall be open at all times to inspection by the director. A statement of sales, sworn to by the registered seller, shall be rendered to the director quarterly within thirty days after March 31, June 30, September 30, and December 31, of each year, and shall be accompanied by the amount of tonnage license tax required by this section. Any delinquency in making a statement and return, or any deficiency in any return, shall subject the registrant to the payment of a penalty of ten per cent (10%) of the amount due, for the first calendar month after such payment became due, and an additional penalty of five per cent (5%) for each succeeding calendar month, but the total penalty shall not exceed fifty per cent (50%) of the original amount due.

Report

Penalty

On receipt of the tonnage license tax and statement, the director shall issue to the registered seller a certificate of compliance with this section.

Whenever a registered person shall have paid the tonnage license tax herein required, any person acting as his selling agent shall not be required to pay the tonnage license tax.

Stats. 1933, p. 236.

SEC. 3. Section 1043 of the Agricultural Code is hereby amended to read as follows:

Licenses of sellers of fertilizers.

1043. Every person who sells or deals in any of the substances defined in subdivisions (a), (b) and (c) of section 1022, before engaging in such occupation, shall be licensed by the director. If the applicant is employed in such business the application shall state the name and address of the employer. All licenses issued under the provisions of this section shall expire on December 31st of each year. Each application shall be accompanied by a fee of two dollars. When a license is issued to a corporation upon an application signed by or bearing the name of the president of the corporation a display license shall be issued to the corporation and a personal license to the president. For each officer and employee engaged in selling, other than the president, an addi-

tional fee of two dollars shall be paid, and a personal license issued to each such person. When the license is issued to a partnership a display license shall be issued to the partnership and a personal license issued to one member of the partnership whose name is designated in the application. For each additional member or employee engaged in selling, an additional fee of two dollars is required and a personal license shall be issued to each such person. If a new license is not obtained within one calendar month after the expiration of a license there shall be added to the fee a penalty of two dollars for each license. No penalty shall be collected if the licensee makes an affidavit that no business was done during the period he was not licensed. The payment of such fee or penalty is not a bar to prosecution for doing business without a license. When a license is issued to an individual engaged in such business both a display license and a personal license shall be issued to him. All display licenses shall be posted conspicuously in the place of business of the licensee. Where a licensee maintains more than one place of business duplicate display licenses shall be applied for and issued upon the payment of a fee of one dollar each. The director may investigate the actions of any licensee and may, after notice and hearing, suspend or revoke the license.

Penalty

CHAPTER 340.

An act ceding to the United States of America certain tide and submerged lands of the State of California upon certain trusts and conditions.

[Approved by the Governor June 14, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The State of California hereby cedes to the United States of America exclusive jurisdiction in and to those certain lands situate in the county of Solano, State of California, and more particularly described as follows, to wit:

Certain State lands ceded to United States.

Those filled tide and submerged lands in section 6, T. 2 N., R. 2 W., M. D. M., lying between Lot 1 of said section and the present ordinary high water mark and the U. S. Military Reservation (the Benicia Arsenal) and the north line of said section; and

Those tide and submerged land contained within a strip 300 feet in width measured perpendicularly from the ordinary high water mark and abutting the lands of the U. S. Military Reservation at Benicia.

SEC. 2. The hereinbefore described lands are ceded to the United States of America, upon the following conditions, to wit:

Conditions and reservations.

(a) That there is hereby reserved in the State of California the right and power to serve and execute upon the hereinbefore described lands, or any portion thereof, civil process not incompatible with this cession, and such criminal process as may lawfully issue under authority of the State of California against any person or persons charged with crimes or offenses committed without the exterior boundaries of the hereinbefore described lands; there is hereby further reserved in the State of California the right to tax and license persons and corporations, their franchises and property upon the hereinbefore described lands.

Reversion of lands

(b) That should the United States of America abandon Benicia Arsenal Reservation to which the hereinbefore described lands are adjacent, all of the right, title and interest of the United States of America in and to the lands hereby ceded shall ipso facto terminate, and any and all interest hereby ceded shall immediately revest in State of California.

Reservations

(c) That the cession of the hereinbefore described lands is made subject to the reservations to the people contained in the Constitution of California.

CHAPTER 341.

An act making appropriations for the support of the Government of the State of California and for several public purposes in accordance with the provisions of section 34 of Article IV of the Constitution of the State of California, approved and adopted by the people at the general election held November 7, 1922, declaring the urgency thereof, and providing that this act shall take effect immediately.

[Approved by the Governor June 14, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Budget appropriations

SECTION 1. The following sums of money, or so much thereof as may be necessary are hereby appropriated for the use and support of the State of California for the eighty-seventh and eighty-eighth fiscal years and, unless otherwise herein provided, shall be paid out of the general fund in the State treasury.

Special funds

Whenever by constitutional or statutory provision the revenues or receipts of any institution, department, board, bureau, commission, officer, employee, or other agency, or any moneys in any special fund created by law therefor, are to be used for salaries, support or any proper purpose, expenditures shall be made therefrom for all such purposes, and not from the general fund, to the extent only of the amount herein appropriated unless otherwise stated herein.

Recurrent appropriations.

Appropriations for purposes not otherwise provided for herein which have been heretofore made by any existing con-

stitutional or statutory provision shall continue to be governed thereby.

Whenever herein an appropriation is made for support it shall include salaries and all other proper expenses, including repairs and equipment, incurred in connection with the institution, department, board, bureau, commission, officer, employee, or other agency, for which such appropriation is made. Items included in appropriations

LEGISLATIVE. Legislative.

Item 1	For mileage of Lieutenant Governor, Senators, and statutory officers of the Senate, two thousand five hundred dollars	$2,500.00
Item 2	For pay of the officers, clerks, and all other employees of the Senate for the fifty-second session, thirty thousand dollars	$30,000.00
Item 3	For contingent expenses of Senate for fifty-second session and interim committees thereof, twenty thousand dollars	$20,000.00
Item 4	For pay of officers, clerks, and all other employees of Assembly for fifty-second session, thirty thousand dollars	$30,000.00
Item 5	For mileage of Assemblymen and statutory officers of the Assembly four thousand three hundred dollars	$4,300.00
Item 6	For salaries of Senators and Assemblymen, two hundred eighty-eight thousand dollars	$288,000.00
Item 7	For contingent expenses of the Assembly for fifty-second session, twenty thousand dollars	$20,000.00
Item 8	For legislative printing, binding, etc., for fifty-second session, two hundred fifty thousand dollars	$250,000.00
Item 9	For legislative mailing three thousand dollars	$3,000.00
Item 10	For support of the Legislative Counsel Bureau, fifty-one thousand one hundred thirty-eight dollars	$51,138.00
Item 10½	For support of the Los Angeles branch of the Legislative Counsel Bureau, ten thousand dollars	$10,000.00

JUDICIAL. Judicial

Item 11	For support of Supreme Court, four hundred six thousand six hundred eighty dollars	$406,680.00

Item 12—For support of Judicial Council and for extra compensation and traveling expenses of judges assigned by the Judicial Council, twenty thousand five hundred dollars ---------- $20,500.00

Item 13—For support of the First District Court of Appeal, one hundred ninety-five thousand dollars------ $195,000.00

Item 14—For support of the Second District Court of Appeal, two hundred six thousand seven hundred thirty dollars ---------- $206,730.00

Item 15—For support of the Third District Court of Appeal, one hundred three thousand five hundred twenty dollars ---------- $103,520.00

Item 16—For support of the Fourth District Court of Appeal, one hundred fifty thousand six hundred sixty dollars- $150,660.00

Item 17—For State's share of salaries of judges of superior courts, one million two hundred eighty thousand dollars ---------- $1,280,000.00

EXECUTIVE.

Executive

Item 18—For support of the Governor and of the Governor's office (exempt from provisions of sections 433, 669, and 677.5 of the Political Code), one hundred six thousand seven hundred dollars ---------- $106,700.00

Item 19—For special contingent expenses (secret service), Governor's office (exempt from provisions of sections 433, 669, 677.5 of the Political Code), five thousand dollars $5,000.00

Item 20—For support of the Governor's residence (exempt from provisions of sections 433, 669, and 677.5 of the Political Code), ten thousand dollars ---------- $10,000.00

Item 21—For salary and support of Lieutenant Governor, twelve thousand four hundred fifty dollars------ $12,450.00

ADMINISTRATIVE AND FISCAL.

Attorney General

Item 22—For support of Attorney General, three hundred nineteen thousand one hundred twenty dollars------ $319,120.00

Item 23—For support of Secretary of State, one hundred forty-eight thousand three hundred twenty dollars	$148,320.00	Secretary of State
Item 24—For printing constitutional amendments, Secretary of State's office, seventy thousand dollars	$70,000.00	
Item 25—For support of State Personnel Board, one hundred forty-eight thousand seven hundred forty dollars	$148,740.00	Personnel Board.
Item 25½—For additional support of the State Personnel Board to carry out the provisions of Article XXIV of the Constitution, fifty thousand dollars	$50,000.00	
Item 26—For support of Board of Administration of the State Employees' Retirement System, forty-one thousand nine hundred fifty dollars	$41,950.00	Employees' Retirement System.
Item 27—For support of State Controller, four hundred sixty-eight thousand eight hundred eighty dollars	$468,880.00	Controller.
Item 28—For support of Motor Transportation License Tax Division, State Controller, eighty-seven thousand one hundred eighty dollars, payable from Motor Transportation License Fund	$87,180.00	
Item 29—For support of motor vehicle fuel tax refund division, State Controller, sixty-four thousand five hundred dollars, payable from motor vehicle fuel fund	$64,500.00	
Item 30—For support of State Treasurer, one hundred ten thousand one hundred thirty dollars	$110,130.00	Treasurer
Item 31—For support of the Franchise Tax Commissioner, one hundred forty-nine thousand one hundred ninety dollars	$149,190.00	Franchise Tax Commissioner.
Item 32—For support of State Board of Equalization, four hundred forty-six thousand five hundred dollars	$446,500.00	Board of Equalization
Item 33—For support of retail sales tax division, State Board of Equalization, three million dollars; payable from retail sales tax fund; provided, that should the Retail Sales Tax Act make no provision for food exemptions the amount hereby appropriated shall be reduced to two million four hundred thousand dollars ($2,400,000.00)	$3,000,000.00	

Item 34—For support of motor transportation license tax division, State Board of Equalization, seven hundred thousand four hundred eighty dollars, payable from Motor Transportation License Fund $700,480.00

Item 35—For support of fuel tax division and transportation tax division, State Board of Equalization, two hundred fourteen thousand one hundred seventy dollars, payable from motor vehicle fuel fund $214,170.00

Unemployment relief

Item 36—For relief of hardship and destitution due to and caused by unemployment and the administration thereof, State Relief Administrator and the State Relief Commission, twenty-four million dollars (exempt from section 4 of this act) including not to exceed four hundred ninety-four thousand dollars ($494,000.00) for the administrative expenses of the State Controller in connection therewith $24,000,000.00

Department of Finance

Item 37—For support of Department of Finance, eight hundred ninety-six thousand, one hundred twenty-four and 80/100 dollars $896,124.80

Item 37½—For part purchase price of certain real property situated on the southwest corner of Ninth and L streets in the city of Sacramento in liquidation of assets at Delhi State Land Settlement and Durham State Land Settlement, State Department of Finance, thirty-two thousand dollars, payable from the land settlement fund $32,000.00

Item 38—For repairs, improvements, and equipment of State Capitol and State office buildings, State Department of Finance, thirty thousand dollars $30,000.00

Item 38½—For repairs, improvements and equipment of Senate and Assembly committee rooms and offices of the members of the Senate in the State Capitol, including ventilating system, State Department of Finance, thirty-six thousand dollars $36,000.00

Compensation benefits.

Item 39—For such proportion of the compensation benefits to State officers

and employees as in each case the contribution out of the general fund to the salary of such officer or employee, during the portion of the eighty-seventh and eighty-eighth fiscal years prior to the date when the benefit becomes payable, bears to the total salary of such officer or employee during the same period; or for premiums on insurance therefor, one hundred fifty thousand dollars $150,000.00

Item 40—For official advertising, three thousand dollars ..... $3,000.00 — Official advertising

Item 41—For premiums on official bonds, five thousand dollars ..... $5,000.00 — Official bonds

Item 42—For payment of automobile liability claims and salaries and expenses incident to investigation, adjustment and defense thereof, or for premiums for automobile liability insurance, Department of Finance, thirty-one thousand dollars $31,000.00 — Liability claims and insurance

COMMERCE, INVESTMENT AND UTILITIES.

Item 43—For support of collection agency license division, Secretary of State, sixteen thousand two hundred forty dollars, payable from collection agency license fund ..... $16,240.00 — Collection agency licensing

Item 44—For support of Division of Banking, Department of Investment, two hundred ninety-five thousand seventy dollars, payable from the banking fund ..... $295,070.00 — Division of Banking

Item 45—For support of Division of Building and Loan, Department of Investment, two hundred ten thousand eight hundred twelve dollars, payable from building and loan inspection fund ..... $210,812.00 — Division of Building and Loan

Item 46—For support of Division of Corporations, Department of Investment, six hundred eighty-eight thousand nine hundred thirty-nine and 20/100 dollars, payable from the corporation commission fund ..... $688,939.20 — Division of Corporations

Item 47—For support of Division of Insurance, Department of Investment, two hundred ninety-seven thousand one hundred twenty dollars, payable from the insurance fund ..... $297,120.00 — Division of Insurance

Division of Real Estate.

Item 48—For support of Division of Real Estate, Department of Investment, two hundred fifty-eight thousand thirty dollars, payable from the real estate fund $258,030.00

District Securities Commission.

Item 49—For support of California District Securities Commission, twenty-seven thousand eight hundred fifty dollars $27,850.00

Railroad Commission

Item 50—For support of the Railroad Commission, eight hundred fifty-six thousand nine hundred sixty dollars $856,960.00

INDUSTRIAL RELATIONS.

Industrial Relations

Item 51—For support of Department of Industrial Relations, one million four hundred thirty-four thousand seven hundred and 35/100 dollars $1,434,700.35

Item 52—For support of motor boat inspection, Department of Industrial Relations, five thousand eight hundred thirty-two and 24/100 dollars, payable from motor boat fund $5,832.24

Item 53—For support of Division of Industrial Fire Safety, Department of Industrial Relations, one hundred twenty-four thousand eight hundred forty-eight dollars, payable from State Fire Marshal's fund $124,848.00

PROFESSIONAL AND VOCATIONAL STANDARDS.

Board of Accountancy

Item 54—For support of State Board of Accountancy, seventeen thousand two hundred forty dollars, payable from Board of Accountancy fund $17,240.00

Board of Architecture

Item 55—For support of the State Board of Architecture, northern district, eleven thousand six hundred seventy-eight and 60/100 dollars, payable from Board of Architecture, northern district, fund $11,678.60

Item 56—For support of State Board of Architecture, southern district, twelve thousand six hundred twenty-two dollars, payable from Board of Architecture, southern district, fund $12,622.00

Board of Barber Examiners

Item 57—For support of State Board of Barber Examiners, one hundred four thousand six hundred eighty and 92/100 dollars, payable from State Board of Barber Examiners' fund $104,680.92

Item 58—For support of Board of Registration for Civil Engineers, fifty-six thousand seven hundred fourteen and 18/100 dollars, payable from civil engineers' fund ..... $56,714.18 — Board of Registration for Civil Engineers

Item 59—For support of Board of Registration for Civil Engineers, four thousand one hundred forty dollars, payable from licensed surveyors' fund $4,140.00

Item 60—For support of Contractors' License Bureau, two hundred ninety-five thousand nine hundred eighty-six and 56/100 dollars, payable from contractors' license fund ..... $295,986.56 — Contractors' License Bureau

Item 61—For support of State Board of Cosmetology, one hundred twenty-six thousand nine hundred fifty-one and 68/100 dollars, payable from Board of Cosmetology Contingent fund ..... $126,951.68 — Board of Cosmetology

Item 62—For support of Board of Dental Examiners, sixty-one thousand six hundred three and 56/100 dollars, payable from dentistry fund ..... $61,603.56 — Board of Dental Examiners.

Item 63—For support of Board of Funeral Directors and Embalmers, thirty-three thousand thirty-four dollars, payable from funeral directors and embalmers fund ..... $33,034.00 — Board of Funeral Directors and Embalmers

Item 64—For support of State Board of Medical Examiners, one hundred thousand eight hundred eleven and 62/100 dollars, payable from medical examiners' contingent fund ..... $100,811.62 — Board of Medical Examiners

Item 65—For support of State Board of Optometry, seven thousand one hundred ninety-five and 68/100 dollars, payable from board of optometry fund ..... $7,195.68 — Board of Optometry

Item 66—For support of State Board of Pharmacy, ninety-two thousand eight hundred eighty-seven and 84/100 dollars, payable from pharmacy board contingent fund ..... $92,887.84 — Board of Pharmacy

Item 67—For support of Board of Examiners in Veterinary Medicine, five thousand eight hundred dollars, payable from veterinary medicine examiners' contingent fund ..... $5,800.00 — Board of Examiners in Veterinary Medicine.

Item 68—For support of Board of Chiropractic Examiners, twenty-one thou- — Board of Chiropractic Examiners

sand three hundred fifty dollars, payable from chiropractic examiners' fund $21,350.00

Board of Osteopathic Examiners.

Item 69—For support of State Board of Osteopathic Examiners, twelve thousand four hundred dollars, payable from osteopathic examiners' contingent fund $12,400.00

Bureau of Registration of Nurses.

Item 70—For support of Bureau of Registration of Nurses, Department of Public Health, forty-six thousand seven hundred dollars, payable from nurses' examination and registration fund $46,700 00

State Athletic Commission

Item 71—For support of State Athletic Commission, sixty-seven thousand one hundred twenty-five dollars, payable from athletic commission fund $67,125.00

PUBLIC HEALTH.

Department of Public Health

Item 72—For support of Department of Public Health, exclusive of Bureau of Cannery Inspection and Bureau of Registration of Nurses, four hundred twenty-seven thousand three hundred twenty dollars $427,320.00

Cannery Inspection

Item 73—For support of Bureau of Cannery Inspection, Department of Public Health, one hundred eighty-one thousand one hundred seventy dollars, payable from cannery inspection fund $181,170.00

Subsidies, Bureau of Tuberculosis

Item 73½—For subsidies, Bureau of Tuberculosis, Department of Public Health, one million three hundred five thousand dollars $1,305,000.00

AGRICULTURE.

Agriculture

Item 74—For support of State Department of Agriculture and State Board of Agriculture, two million one hundred seventy thousand three hundred forty-seven and 45/100 dollars $2,170,347.45

Item 74½—In addition to any other money available by law for predatory animal control, State Department of Agriculture, nine thousand eight hundred dollars $9,800.00

Item 75—For support of the State Department of Agriculture, one million six hundred seventy-one thousand nine hundred sixty-four dollars,

payable from the Department of Agriculture fund subject to the limitation specified in sections 26, 27, 28 and 29 of the Agricultural Code ---------- $1,671,964.00

Item 75½—For support of the Agricultural Prorate Commission, to be repaid to the general fund from the Agricultural Prorate Commission fund in ten equal annual payments without interest, ten thousand dollars------ $10,000.00 Agricultural Prorate Commission.

Item 76—For support of State Agricultural Society, Division of Exhibits, Department of Finance, five hundred seventeen thousand seven hundred dollars, payable from the State Agricultural Society contingent fund ---------- $517,700.00 State Agricultural Society

Item 77—For support of Sixth District Agricultural Association, Division of Exhibits, Department of Finance, sixty-eight thousand two hundred ten dollars, payable from Sixth District Agricultural Association fund $68,210.00 Sixth District Agricultural Society

Item 78—For support of California Horse Racing Board, forty thousand dollars, payable from fair and exposition fund ---------- $40,000.00 Horse Racing Board

NATURAL RESOURCES.

Item 79—For support of Department of Natural Resources, including fire trails, breaks, and cooperative work with counties and other agencies, exclusive of Division of Fish and Game and Division of Oil and Gas, eight hundred seventy-eight thousand forty-two dollars ---------- $878,042.00 Natural Resources

Item 79½—For additional support, Division of Forestry, Department of Natural Resources, eighteen thousand eight hundred dollars, payable from State Board of Forestry fire prevention fund ---------- $18,800.00

Item 80—For support of Division of Fish and Game, Department of Natural Resources, including license commissions, State Fair and other exhibits, two million thirty-four thousand one hundred ninety-nine dollars, payable from fish and game preser- Fish and Game

vation fund; provided, that no money hereby appropriated shall be used for salary and expenses of a publicist or public relations employee or person employed for the purpose of compiling or disseminating data or information for publicity purposes ---------- $2,034,199.00

Predatory animal control.

Item 81—For predatory animal control, Division of Fish and Game, Department of Natural Resources, eighty thousand dollars, payable from the Fish and Game Preservation Fund------ $80,000.00

Game refuges, etc

Item 83—For purchase of game refuges and public shooting grounds, and construction, improvements and equipment, Division of Fish and Game, Department of Natural Resources, one hundred twenty-eight thousand dollars, payable from fish and game preservation fund ---------- $128,000.00

Regulation of ore buying.

Item 85—For expenses in connection with regulation of ore buying, Department of Natural Resources, Division of Mines, three thousand eight hundred forty dollars, payable from ore buyers' license fund ---------- $3,840.00

Oil and gas

Item 86—For support of Division of Oil and Gas, Department of Natural Resources, three hundred sixty-three thousand eight hundred dollars, payable from petroleum and gas fund ---------- $363,800.00

State Park System.

Item 87—For additional construction, improvements, equipment, maintenance and support of the State Park System, Department of Natural Resources, fifty-six thousand eight hundred eighty-eight dollars, payable out of the State park maintenance fund ---------- $56,888.00

PUBLIC WORKS.

Public Works

Item 88—For pro rata support of Department of Public Works, exclusive of Division of Architecture, Division of Water Resources, Division of Highways, and Division of Contracts and Rights of Way, twenty-eight thousand three hundred eighty dollars-- $28,380.00

Item 89—For support of the Division of

Works, one hundred forty-nine thousand nine hundred forty dollars $149,940.00

Item 90—For additional support of the Division of Architecture, Department of Public Works, three hundred twelve thousand four hundred eighty dollars, payable from Division of Architecture public building fund $312,480.00

Item 90½—For support of Eureka Harbor, Department of Public Works, three thousand seven hundred forty dollars $3,740.00

Item 91—For support of Division of Water Resources, Department of Public Works, including cooperative work with other agencies, seven hundred seven thousand five hundred twenty dollars $707,520.00

Item 91½—For construction, land, rights of way, easements, and general administrative operations and overhead, reclamation board pursuant to the provisions of Chapter 176 of California Statutes of 1925, approving the modified report of the California Debris Commission, dated January 5, 1925, which said report was adopted by the United States in section 13 of that certain act of Congress entitled "An act for the control of floods on the Mississippi River and its tributaries, and for other purposes," approved May 15, 1928, and for any other purpose to further carry out the legislation contained in said Chapter 176 of California Statutes of 1925, one million two hundred eleven thousand dollars $1,211,000.00

Reclamation Board.

Stats. 1925, p. 325.

LAW ENFORCEMENT.

Law enforcement

Item 92—For support of Division of Criminal Identification and Investigation, three hundred twelve thousand nine hundred thirty-six dollars $312,936.00

Item 93—For additional support of Division of Criminal Identification and Investigation, forty-two thousand dollars, payable from motor vehicle fund $42,000.00

Item 94—For support of Division of Narcotic Enforcement, Department of Penol-

ogy, one hundred thirty-nine thousand three hundred seventy-six dollars ---------- $139,376.00

Item 95—For support of Detective License Bureau, Board of Prison Directors, sixteen thousand six hundred dollars, payable from private detective agency contingent fund---------- $16,600.00

Item 96—For expenses of returning fugitives from justice from outside the State, one hundred ten thousand dollars--- $110,000.00

Item 97—For rewards offered by the Governor, two thousand five hundred dollars ---------- $2,500.00

MILITIA.

Department of Military and Veterans' Affairs.

Item 98—For support of the Department of Military and Veterans' Affairs, seventeen thousand dollars, payable from Veterans' Farm and Home building fund ---------- $17,000.00

Adjutant General and National Guard.

Item 99—For support of the Adjutant General and the California National Guard, including allowances to organizations, rental of armories, and maintenance of high school cadets, six hundred fifty-seven thousand seven hundred fifty-one dollars--- $657,751.00

Item 100—For minor construction, improvements, and equipment of armories, arsenals, stables, rifle ranges, and camp sites, Adjutant General and the California National Guard, twenty-five thousand dollars ------ $25,000.00

SOCIAL WELFARE.

Social Welfare.

Item 101—For support of Department of Social Welfare, including transportation of dependent children to homes outside the State, three hundred forty-nine thousand five hundred ninety dollars ---------- $349,590.00

VETERANS HOMES.

Veterans' Home

Item 102—For support of Veterans' Home of California, five hundred twenty-three thousand twenty-nine and 90/100 dollars---------- $523,029.90

Item 103—For minor construction, improvements, and equipment at Veterans' Home of California, ten thousand dollars, payable from the Athletic Commission fund---------- $10,000.00

Item 103½—For major construction, improvements and equipment at Veterans' Home of California, one hundred twenty thousand dollars, payable from the Athletic Commission fund $120,000.00

Woman's Relief Corps Home

Item 104—For support of Woman's Relief Corps Home, forty-six thousand five hundred sixteen and 70/100 dollars $46,516.70

Item 105—For minor construction, improvements and equipment, Woman's Relief Corps Home, twelve thousand dollars $12,000.00

INSTITUTIONS.

Institutions

Item 106—For support of Department of Institutions, one hundred ninety-six thousand eight hundred twenty-eight dollars $196,828.00

Item 107—For transportation of patients, juvenile delinquents, and other persons committed to State institutions of the Department of Institutions, Department of Institutions, two hundred forty-seven thousand five hundred dollars $247,500.00

Agnews State Hospital

Item 108—For support of Agnews State Hospital, one million five hundred seventy-four thousand two hundred fifty-three and 53/100 dollars $1,574,253.53

Item 109—For minor construction, improvements, and equipment at Agnews State Hospital, twenty-nine thousand four hundred dollars $29,400.00

Camarillo State Hospital

Item 110—For support of Camarillo State Hospital, six hundred fifty-one thousand six hundred eighty-eight dollars $651,688.00

Item 111—For major construction, improvements and equipment at Camarillo State Hospital, one million, eight hundred ninety thousand dollars $1,890,000.00

Mendocino State Hospital

Item 112—For support of Mendocino State Hospital, one million one hundred seventy-two thousand one hundred nineteen and 20/100 dollars $1,172,119.20

Item 113—For major construction, improvements and equipment at Mendocino State Hospital, three hundred twenty thousand dollars $320,000.00

Item 114—For minor construction, improvements, and equipment at Mendocino

State Hospital, twenty-five thousand dollars $25,000.00

Napa State Hospital

Item 115—For support of Napa State Hospital, one million four hundred seventy thousand seven hundred twenty-three and 90/100 dollars..... $1,470,723.90

Item 116—For minor construction, improvements, and equipment at Napa State Hospital, forty thousand dollars $40,000.00

Norwalk State Hospital

Item 117—For support of Norwalk State Hospital, one million sixty-three thousand two hundred seventy-eight and 40/100 dollars..... $1,063,278.40

Item 118—For major construction, improvements, and equipment, Norwalk State Hospital, one hundred thirty thousand dollars..... $130,000.00

Item 119—For minor construction, improvements, and equipment at Norwalk State Hospital, twenty-four thousand dollars $24,000.00

Patton State Hospital

Item 120—For support of Patton State Hospital, one million five hundred eighty-two thousand six hundred eighty-five and 23/100 dollars..... $1,582,685 23

Item 121—For major construction, improvements, and equipment, Patton State Hospital, three hundred eighty thousand dollars..... $380,000.00

Item 122—For minor construction, improvements, and equipment at Patton State Hospital, twenty-seven thousand dollars $27,000.00

Stockton State Hospital.

Item 123—For support of Stockton State Hospital, one million seven hundred eighteen thousand two hundred eighteen and 90/100 dollars..... $1,718,218.90

Item 124—For major construction, improvements, and equipment at Stockton State Hospital, one million forty-nine thousand five hundred dollars $1,049,500.00

Item 125—For minor construction, improvements, and equipment at Stockton State Hospital, sixty thousand dollars $60,000.00

Pacific Colony and State Narcotic Hospital.

Item 126—For support of Pacific Colony and State Narcotic Hospital, seven hundred two thousand one hundred thirty-five and 98/100 dollars..... $702,135 98

Item 127—For minor construction, improvements and equipment at Pacific Col-

ony and State Narcotic Hospital, fifteen thousand dollars ---------- $15,000.00

Sonoma State Home

Item 128—For support of Sonoma State Home, one million three hundred forty-six thousand seven hundred seventeen and 41/100 dollars ---------- $1,346,717.41

Item 129—For minor construction, improvements, and equipment at Sonoma State Home, seventy thousand dollars ---------- $70,000.00

Preston School of Industry

Item 130—For support of Preston School of Industry, eight hundred thirty-seven thousand seven hundred thirty-five and 60/100 dollars ---- $837,735.60

Item 131—For minor construction, improvements, and equipment at Preston School of Industry, fifteen thousand dollars ---------- $15,000.00

Ventura School for Girls

Item 132—For support of Ventura School for Girls, two hundred forty-seven thousand seventy-nine and 90/100 dollars ---------- $247,079.90

Item 133—For minor construction, improvements and equipment at Ventura School for Girls, eight thousand dollars ---------- $8,000.00

Whittier State School

Item 134—For support of Whittier State School, four hundred fifty-seven thousand one hundred twelve and 36/100 dollars ---------- $457,112.36

Item 135—For minor construction, improvements and equipment at Whittier State School, nine thousand dollars $9,000.00

Item 136—For support of California Bureau of Juvenile Research at Whittier State School, fifteen thousand dollars ---------- $15,000.00

Industrial Home for the Adult Blind

Item 137—For support of Industrial Home for the Adult Blind, one hundred twenty-seven thousand thirty-seven and 56/100 dollars ---------- $127,037.56

Item 138—For minor construction, improvements, and equipment at Industrial Home for the Adult Blind, three thousand dollars ---------- $3,000.00

Item 139—For support, field rehabilitation service, Industrial Home for the Adult Blind, thirty-one thousand two hundred dollars ---------- $31,200.00

Industrial Workshop for the Blind.

Item 140—For support of Industrial Workshop for the Blind, Department of Insti-

tutions, forty-three thousand five hundred twenty dollars $43,520.00

PRISONS

Folsom Prison.

Item 141—For support of the State Prison at Folsom, one million three hundred eight thousand five hundred sixty-six and 42/100 dollars $1,308,566.42

Item 142—For minor construction, improvements, and equipment, State Prison at Folsom, eighty-two thousand dollars $82,000.00

San Quentin Prison

Item 143—For support of State Prison at San Quentin, two million two hundred ninety thousand seven hundred forty and 40/100 dollars $2,290,740.40

Item 143½—For additional support of State Prison at San Quentin, four hundred eighteen thousand dollars to become available on executive order of the Director of Finance when the prisoner population within said prison exceeds four thousand six hundred eighty (4680) prisoners during the eighty-seventh fiscal year, or five thousand two hundred forty-three (5243) prisoners during the eighty-eighth fiscal year $418,000.00

Item 144—For minor construction, improvements, and equipment, State Prison at San Quentin, fifty thousand dollars $50,000.00

Female Department, San Quentin

Item 145—For support of San Quentin State Prison—Female Department, one hundred sixty-two thousand two hundred eighty-four and 90/100 dollars; provided, in the event Senate Constitutional Amendment Number 21 submitted by the fifty-first session of the Legislature is adopted by the people, the balance remaining in this item of appropriation on the effective date of said amendment shall be for the support of the California Institution for Women $162,284.90

Item 146—For minor construction, improvements, and equipment at San Quentin State Prison—Female Department, seven thousand five hundred dollars; except that if Senate Constitutional Amendment Number 21,

submitted by the fifty-first session of the Legislature, is adopted by the people, the balance remaining in this item of appropriation on the effective date of said amendment shall be for minor construction, improvements, and equipment at the California Institution for Women $7,500.00

Item 147—For support of parole department, Board of Prison Directors, one hundred twelve thousand nine hundred sixty dollars ..... $112,960.00 — Parole department, Board of Prison Directors

Item 147½—For deportation of aliens convicted of felonies, Parole Department, Board of Prison Directors, fifteen thousand dollars ..... $15,000.00 — Deportation of aliens.

Item 148—For support of Advisory Pardon Board, seven thousand four hundred dollars ..... $7,400.00 — Advisory Pardon Board

Item 149—For transportation of prisoners to State prisons, two hundred two thousand five hundred dollars ..... $202,500.00 — Transportation of prisoners.

Item 150—For support of Board of Prison Terms and Paroles, thirty-four thousand dollars ..... $34,000.00 — Board of Prison Terms and Paroles.

EDUCATION.

Item 151—For support of the Department of Education, Superintendent of Public Instruction, and California State Historical Association, including classes for children with defective speech, and for education of handicapped individuals, six hundred fifty-six thousand ninety dollars ..... $656,090.00 — Department of Education.

Item 152—For publishing, purchasing, and shipping free textbooks, Department of Education, seven hundred eighty-six thousand six hundred fifty dollars ..... $786,650.00 — Textbooks

Item 153—For support of Chico State Teachers College, three hundred forty thousand two hundred seventy dollars, and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said teachers college $340,270.00 — Chico State Teachers College.

Item 154—For minor construction, improvements, and equipment, Chico State Teachers College, ten thousand dollars $10,000.00

Fresno State Teachers College.

Item 155—For support of Fresno State Teachers College, five hundred fifty-three thousand seven hundred fifty dollars and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said teachers college $553,750.00

Item 156—For minor construction, improvements, and equipment, Fresno State Teachers College, ten thousand dollars $10,000.00

Humboldt State Teachers College

Item 157—For support of Humboldt State Teachers College, two hundred eleven thousand two hundred fifty dollars, and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said teachers college $211,250.00

Item 158—For minor construction, improvements, and equipment, Humboldt State Teachers College, twelve thousand dollars $12,000.00

San Diego State Teachers College.

Item 159—For support of San Diego State Teachers College, five hundred five thousand three hundred five dollars, and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said teachers college $505,305.00

Item 160—For minor construction, improvements, and equipment, San Diego State Teachers College, fifteen thousand dollars $15,000.00

San Francisco State Teachers College.

Item 161—For support of San Francisco State Teachers College, five hundred twenty-two thousand five hundred fifty dollars, and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said teachers college $522,550.00

Item 162—For minor construction, improvements, and equipment, San Francisco State Teachers College, twenty-one thousand three hundred dollars $21,300.00

San Jose State Teachers College.

Item 163—For support of San Jose State Teachers College, six hundred fifty-eight thousand six hundred seventy-five dollars, and in addition thereto the amount of such fees as may otherwise be made available by law

for the support of said teachers college ---------- $658,675.00

Item 164—For minor construction, improvements, and equipment, San Jose State Teachers College, three thousand dollars ---------- $3,000.00

Item 165—For support of Santa Barbara State Teachers College, three hundred twenty-one thousand seventy dollars, and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said teachers college $321,070.00 Santa Barbara State Teachers College

Item 166—For minor construction, improvements and equipment, Santa Barbara State Teachers College, twelve thousand dollars---------- $12,000.00

Item 167—For support of California School for Blind at Berkeley, one hundred sixty-two thousand nine hundred fifty-seven and 70/100 dollars------ $162,957.70 California School for Blind

Item 168—For minor construction, improvements, and equipment, California School for Blind at Berkeley, seven thousand dollars---------- $7,000.00

Item 169—For readers for blind college students, California School for Blind at Berkeley, seven thousand two hundred dollars---------- $7,200.00

Item 170—For support of California School for Deaf at Berkeley, three hundred seventy-eight thousand three hundred thirteen and 30/100 dollars $378,313.30 California School for Deaf.

Item 171—For minor construction, improvements, and equipment, California School for Deaf, two thousand five hundred dollars---------- $2,500.00

Item 172—For expenses of deaf graduates attending Gallaudet College, California School for Deaf at Berkeley, eight thousand four hundred dollars $8,400.00 Gallaudet College students

Item 173—For support of California Nautical School, sixty-five thousand dollars-- $65,000.00 California Nautical School.

Item 174—For support of California Polytechnic School, one hundred fifty thousand dollars---------- $150,000.00 California Polytechnic School.

Item 174½—For additional support of California Polytechnic School forty-nine thousand one hundred dollars, payable out of the balance of any moneys remaining in the "Fair and Exposition fund" after the

deductions have been made, as provided in section 13 of Chapter 769, Statutes of 1933, or as the same may be amended ---------- $49,100.00

Item 175—For minor construction, improvements, and equipment, California Polytechnic School, nine thousand five hundred dollars---------- $9,500.00

University of California

Item 176—For support of University of California, twelve million nine hundred three thousand four hundred ninety-eight dollars, provided, that not more than one-twentieth of such amount shall be expended during any one month and not more than one-half of such amount shall be expended during the eighty-seventh fiscal year ---------- $12,903,498.00

Hastings College of Law

Item 177—For support of Hastings College of Law, fourteen thousand dollars---- $14,000.00

Item 178—For rent, Hastings College of Law, sixteen thousand six hundred twenty-five dollars---------- $16,625.00

Junior college districts

Item 179—For apportionment to junior college districts, in accordance with the provisions of section 4.52 of the School Code, one million nine hundred eighteen thousand four hundred fifty dollars ---------- $1,918,450.00

HIGHWAYS.

Outdoor advertising

Item 180—For support of supervision of outdoor advertising, Department of Public Works, thirty-eight thousand three hundred thirteen and 56/100 dollars, payable from supervision of outdoor advertising fund--------- $38,313.56

MOTOR VEHICLES.

Department of Motor Vehicles

Item 181—For support of Department of Motor Vehicles, eight million three hundred eighty-two thousand three hundred eighty-seven and 50/100 dollars, payable from motor vehicle fund ---------- $8,382,387.50

MISCELLANEOUS.

San Francisco Harbor Commissioners

Item 182—For support of Board of State Harbor Commissioners, San Francisco, three million one hundred fifty-two thousand twenty-four and

82/100 dollars, payable from San Francisco harbor improvement fund $3,152,024.82

Item 183—For maintenance of fire boats, Board of State Harbor Commissioners, one hundred eighty-five thousand dollars, payable from San Francisco harbor improvement fund $185,000.00

Item 184—For construction and improvements of wharves, piers, sheds, bridges, tracks, and other construction, improvements and equipment as needed, Board of State Harbor Commissioners, San Francisco, two hundred thousand dollars, payable from San Francisco harbor improvement fund $200,000.00

Emergency fund.

Item 185—For emergency fund, one million dollars, to be expended only on written authorization of the State Department of Finance for emergencies; provided that loans may be made from the emergency fund to State agencies which derive funds from sources other than the general fund upon such terms and conditions for repayment as may be prescribed by the State Department of Finance $1,000,000.00

Emergencies within the meaning of this provision are hereby defined as contingencies for which no appropriation, or insufficient appropriations, has been made by law.

Special emergency fund

Item 185½—For special emergency fund, five hundred thousand dollars $500,000.00 (exempt from section 4 of this act) to be expended only on written authorization of the State Department of Finance for augmentation of the appropriations for support of the State prisons, State hospitals, and other State institutions, when and if commodity prices increase during the eighty-seventh and eighty-eighth fiscal years.

Publications

SEC. 2. When any State publication is printed and paid for out of any appropriation in this act, the disposition of the same shall be subject to the provisions of section 2295a of the Political Code of the State of California. The sums that are herein appropriated for expenses of the Senate and Assembly shall be disbursed under the direction of the bodies to which

Legislative expenses.

they respectively belong, and shall not be subject to any of the provisions of sections 669 or 677.5 of the Political Code; provided, that the State Controller shall not be required to draw such warrants until the original claims and vouchers, itemized and properly sworn to, are filed with him. The sums herein appropriated for the expenses of the National Guard shall be audited by the Adjutant General, as required by sections 190 and 192 of the Military and Veterans Code.

National Guard

Payments from appropriations

SEC. 3. The State Controller is hereby expressly prohibited from allowing any demands payable out of any appropriation herein contained, unless the same are presented in accordance with the provisions of section 669 of the Political Code; provided, that in instances where the duties of any State officers or board make necessary the use of moneys for purposes of a confidential nature, the State Controller may audit claims for such expense without requiring itemization or vouchers; but such claims must be accompanied by a statement of the fact surrounding the expenditure, which statement must be filed in the office of the State Controller; provided further, that the total amount so allowed for such confidential purposes from the moneys herein appropriated shall not exceed in any one fiscal year the sum of two thousand dollars. All bills and vouchers, which shall be presented for supplies furnished or services rendered, shall be original bills and vouchers of the parties furnishing supplies and rendering services provided, that no officer shall use or appropriate any money, appropriated by this act, for any purpose whatever, unless authorized thereto by law; and provided, that any officer, board, commission, or department for whom any appropriation is made herein, may, without at the time furnishing vouchers and itemized statements, draw from such appropriations a sum not to exceed one per cent of the total amount appropriated for any such officer, board, commission or department; and provided further, that any officer, board, commission or department for whom any appropriation is made herein, may with the permission and the approval of the Department of Finance, and without at the time furnishing vouchers or itemized statements, draw from such appropriation a sum in excess of one per cent, but not to exceed five per cent of the total amount appropriated for any such officer, board, commission or department.

Vouchers

Any sums drawn under the provisions of this section without at the time furnishing vouchers and itemized statements, shall be considered to have been withdrawn from the amount appropriated for the eighty-eighth fiscal year and need not be returned at the close of the eighty-seventh fiscal year, and shall be used as a revolving fund where payment of compensation earned or cash advances are necessary, and at the close of each biennium, or at any other time, upon the demand of the Department of Finance, must be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the Controller.

SEC. 4. The appropriations under this act shall, unless otherwise provided, be subject to the provisions of section 677.5 of the Political Code, and not more than one-half of the amount appropriated under this act for each office, board, commission, department, or institution for support shall be expended during the eighty-seventh fiscal year, unless the same has been expressly authorized by this act, or by the State Board of Control.

Eighty-seventh fiscal year

SEC. 5. The officers of the various departments, boards, commissions and institutions, for whose benefit and support appropriations are made in this act, are expressly forbidden to make any expenditure in excess of such appropriations, except the consent of the State Department of Finance be first obtained, and a certificate, in writing, duly signed by the director of said department, of the unavoidable necessity of such expenditure; and any indebtedness attempted to be created against the State in violation of the provisions of this section shall be absolutely null and void; and shall not be allowed by the State Controller nor paid out of any State appropriation; provided, that any member of any such department, board, commission or institution, who shall vote for any expenditure, or create any indebtedness against the State in excess of the respective appropriations made by this act, except by the consent of the State Department of Finance and the certificate in this section provided to be first obtained, shall be liable on his official bond for the amount of such indebtedness, to be recovered in any court of competent jurisdiction by the person or persons, firm or corporation to whom such indebtedness is owing.

Payments in excess of appropriations.

SEC. 6. No money appropriated by this act shall be used to renew, or to pay for the renewal of any fire insurance on any public building or property, nor to effect or pay for any new insurance on any public building or property, except the property of San Francisco harbor, the University of California, and the property referred to in section 6 of Chapter 264, Statutes of 1933.

Fire insurance

SEC. 7. Whenever the duties, powers, purposes, responsibilities, and jurisdictions of any office, board, commission or other State agency are transferred by law to a department of the State, the appropriations herein made from the general fund for the support of such office, board, commission or other State agency shall, by the State Controller, be transferred to, and the same shall become a part of, the appropriations herein made from the general fund for the support of the department to which the duties, powers, purposes, responsibilities, and jurisdictions of such office, board, commission or other State agency have been transferred.

Transfer of appropriations.

SEC. 8. Whenever the duties, powers, purposes, responsibilities and jurisdiction of any office, board, commission or other State agency are abolished by law the appropriation herein made for the support of such office, board, commission, or other State agency shall upon the effective date of the act

Reversion of appropriations.

abolishing such office, board, commission or other State agency revert to and become a part of the unexpended balance of the fund from which such appropriation was made.

Constitutionality.

SEC. 9. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Current expenses

SEC. 10. This act, inasmuch as it provides for an appropriation for the usual current expenses of the State, shall, under the provision of section 1, of Article IV of the Constitution of the State of California, take effect immediately.

CHAPTER 342.

Stats 1915, p 1502, amended.

An act to amend section 2 of the "Los Angeles County Flood Control Act," approved June 12, 1915, as amended, relating to powers of the district, declaring the urgency hereof and providing that this act shall take effect immediately.

[Approved by the Governor June 15, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Stats. 1935, Ch. 4

SECTION 1. Section 2 of the "Los Angeles County Flood Control Act" is hereby amended to read as follows:

Purposes of act.

Sec. 2. The objects and purposes of this act are to provide for the control and conservation of the flood, storm and other waste waters of said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining or causing to percolate into the soil within said district, or to save or conserve in any manner, all or any of such waters, and to protect from damage from such flood or storm waters, the harbors, waterways, public highways and property in said district.

Corporate powers

Said Los Angeles County Flood Control District is hereby declared to be a body corporate and politic, and as such shall have power:

1. To have perpetual succession.

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of real or personal property of every kind within or without the district necessary to the full exercise of its power.

5. To acquire or contract to acquire lands, rights of way, easements, privileges and property of every kind, and construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements acquired by it as herein authorized.

6. To have and exercise the right of eminent domain, and in the manner provided by law for the condemnation of private property for public use, to take any property necessary to carry out any of the objects or purposes of this act, whether such property be already devoted to the same use by any district or other public corporation or agency or otherwise, and may condemn any existing works or improvements in said district now used to control flood or storm waters, or to conserve such flood or storm waters or to protect any property in said district from damage from such flood or storm waters.

7. To incur indebtedness, and to issue bonds in the manner herein provided.

Borrowing money from Federal agencies.

7a. In addition to the powers given in the next preceding subsection, to borrow money from the United States of America, any agency or department thereof, or from any nonprofit corporation, organized under the laws of this State, to which the Reconstruction Finance Corporation, a corporation organized and existing under and by virtue of an act of Congress, entitled "Reconstruction Finance Corporation Act," or other agency, or department of the United States government, has authorized, or shall hereafter authorize, a loan to enable such nonprofit corporation to lend money to said Los Angeles County Flood Control District, for any flood control work authorized under this act, and to repay the same, in annual installments, over a period of not to exceed twenty (20) years, with interest at a rate of not to exceed four and one-fourth per centum (4¼%) per annum, payable semi-annually, and, without the necessity of an election when authorized by resolution of the board of supervisors, as evidences of such indebtedness, said district is hereby authorized to execute and deliver a note, or a series of notes, or bonds, or other evidences of indebtedness, signed by the chairman of the board of supervisors of said district, which notes, bonds, or other evidences of indebtedness, shall be negotiable instruments if so declared in said resolution of the board of supervisors providing for their issuance, and said notes, bonds, or other evidences of indebtedness, may have interest coupons attached to evidence interest payments, signed by the facsimile signature of said chairman of said board. All applications for such loans shall specifiy the particular flood control work or projects for which the funds will be expended, and when received, the money shall be deposited in a special fund, and shall be expended for those purposes only which are described and refererd to in the applications. If a surplus remains after

the completion of said work, such surplus shall be applied to the payment of the note, notes, bonds, or other evidences of indebtedness, executed as aforesaid, for the loan including interest coupons. The board of supervisors shall annually, levy a tax upon the taxable real property of said district, clearly sufficient to pay the interest and installments of principal, as the same shall become due and payable, under any loan made pursuant to the authority of this section, and to create and maintain a reserve fund to assure the prompt payment thereof, as may be provided by said resolution of the board of supervisors; provided, however, that the amount of taxes levied in any year, pursuant to the provisions of this subsection, shall, pro tanto, reduce the authority of the board of supervisors, during any such year, to levy taxes under section 14 of this act, but this proviso shall not be a limitation upon the power and duty to levy and collect taxes under this subsection.

Limitation on amount borrowed.

Notwithstanding anything in this subsection 7a to the contrary, the total amount which said district may borrow under the authority of any or all of the provisions of this subsection is limited to and shall not exceed in the aggregate the sum of four million five hundred thousand dollars.

Bonds.

7b. The power granted in the next preceding subsection is hereby extended to authorize the issuance and sale of bonds or other evidences of indebtedness of said district to the county of Los Angeles and the purchase thereof by said county in accordance with "An act authorizing the investment and reinvestment and disposition of any surplus moneys in the treasury of any county, city and county, incorporated city or town or municipal utility district or flood control district," approved April 23, 1913, as amended; all subject to the provisions and limitations of the next preceding subsection relative to the disposition and use of funds, interest rate, period of repayment, tax rate and mode of issuance. The total amount of bonds or other evidence of indebtedness, in the aggregate, which the district may issue and sell under the authority of subsection 7a and of this subsection is limited to and shall not exceed four million five hundred thousand dollars.

Taxes

8. To cause taxes to be levied and collected for the purpose of paying any obligation of the district in the manner hereinafter provided.

Exercise of powers

9. To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in said district, or any of the officers thereof, by this act.

Transfers.

10. To grant or otherwise convey to counties, cities and counties, cities or towns easements for street and highway purposes, over, along, upon, in, through, across or under any real property owned by said Los Angeles County Flood Control District.

Disposal of debris

11. To remove, carry away and dispose of any rubbish, trash, debris or other inconvenient matter that may be dis-

lodged, transported, conveyed or carried by means of, through, in, or along the works and structures operated or maintained hereunder and deposited upon the property of said district or elsewhere.

Premiums on contractors' bonds

12. To pay premiums on bonds of contractors required under any contract wherein the amount payable to the contractor exceeds five million dollars; provided, that the specifications in such cases shall specifically so provide and state that the bidder shall not include in his bids the cost of furnishing the required bonds.

Disposal of property.

13. To lease, sell or dispose of any property (or any interest therein) acquired in fee otherwise than by condemnation, whenever in the judgment of said board of supervisors said property, or any interest therein or part thereof, is no longer required for the purposes of said district, or may be leased for any purpose without interfering with the use of the same for the purposes of said district, and to pay any compensation received therefor into the general fund of said district and use the same for the purposes of this act; provided, however, that nothing herein shall authorize the board of supervisors or other governing body of the district or any officer thereof to sell, lease or otherwise dispose of any water, water right, reservoir space or storage capacity or any interest or space therein, except as hereinafter provided by section 17 of this act.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall therefore go into effect immediately.

The facts constituting the necessity are as follows:

A disastrous forest fire occurred in November, 1933, completely denuding approximately seven square miles of the mountainous watershed above the towns of La Crescenta, Montrose and La Canada, in Los Angeles County, thereby permitting boulders, debris and dirt to wash down upon the populous communities lying below said watershed. The immediate construction of debris dams at the mouths of various canyons below said burned-over watershed and the construction of channels below said debris basins are necessary in order to protect the lives of persons living in said communities and to protect the homes and other property from destruction.

There are surplus funds in the treasury of the county of Los Angeles not required for the immediate necessities of such county and which are available for investment in securities acceptable for such purpose, and said funds can be utilized immediately for the purpose of aiding in the prompt construction of said work.

CHAPTER 343.

Stats. 1933, p. 1531, amended.

An act to amend section 1 of "An act to regulate the construction of buildings in the State of California, in respect to resistance to horizontal forces, providing penalties for the violation thereof and providing that this act become effective immediately," approved May 26, 1933, relating to construction of buildings.

[Approved by the Governor June 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 1531.

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Building requirements.

Section 1. Every building of any character, and every part thereof which is hereafter constructed in any part of the State of California, including every incorporated city, incorporated city and county, and county except such buildings as are hereinafter expressly excepted from the operation of this act, shall be designed and constructed to resist and withstand horizontal forces from any direction of not less than either two (2) per cent of the total vertical design load or for the following applicable wind pressure on the vertical projection of the exposed surface the horizontal force used to be the one that produces the greatest stresses in the building: twenty (20) pounds per square foot on every portion thereof more than sixty (60) feet in height; fifteen (15) pounds per square foot on every portion thereof not more than sixty (60) feet in height.

Resistance to horizontal forces

CHAPTER 344.

An act amending section 1463 of the Penal Code, relating to the disposition of fines collected in municipal courts.

[Approved by the Governor June 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1929, p. 1383, amended

SECTION 1. Section 1463 of the Penal Code is hereby amended to read as follows:

Disposition of fines collected in municipal courts.

1463. Except where otherwise specifically provided by law:

(1) All fines and forfeitures collected upon conviction or upon the forfeiture of bail, together with moneys deposited as bail, in any municipal court, shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which such court is situated.

(2) All fines and forfeitures collected upon conviction or upon the forfeiture of bail in any municipal court following

complaints filed therein by officers or other persons employed by the State or by the county in which such court is situated, shall be paid or transferred, at least once a month, into the proper fund or funds of the county; and all fines or forfeitures collected in such court upon conviction or upon the forfeiture of bail following complaints filed therein by officers or other persons employed by the city for which such court is established shall be paid, at least once a month, to the treasurer of said city, by warrant of the county auditor, which shall be drawn upon the requisition of the clerk of said court.

Any money deposited with such court or with the clerk thereof which, by order of the court or for any other reason, should be returned in whole or in part to any person, or which is by law payable to the State or to any other public agency, shall be paid to such person or to the State or to such other public agency by warrant of the county auditor, which shall be drawn upon the requisition of the clerk of such court.

Unclaimed bail.

All money deposited as bail which has not been claimed within one year after the final disposition of the case in which such money was deposited, or within one year after an order made by the court for the return or delivery of such money to any person, shall be apportioned between the city and the county and paid or transferred in the manner hereinabove provided for the apportionment and payment of fines and forfeitures.

CHAPTER 345.

An act to amend section 844 of the Fish and Game Code, relating to nets.

Stats. 1933, p. 394.

[Approved by the Governor June 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 844 of the Fish and Game Code is hereby amended to read as follows:

Stats 1933, p. 471.

844. It is unlawful to use or operate or assist in using or operating any net for the purpose of taking fish in the waters of the State within that portion of district 19 lying between the northern boundary of Orange County and San Mateo Point at or near the southern boundary of said county, and extending oceanwards two miles from the line of mean high tide, except a bait seine net not exceeding 750 feet in length and 60 feet in depth.

Fishing with nets off coast

CHAPTER 346.

An act to amend section 3658a of the Political Code, relating to assessments by reference to maps.

[Approved by the Governor June 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1903, p 408.

SECTION 1. Section 3658a of the Political Code is hereby amended to read as follows:

Official map of additions to city

3658a. Whenever any city, town, or subdivision of land is platted or divided into lots or blocks, and whenever any addition to any city, town, or such subdivision shall be or has been laid out into lots or blocks for the purpose of sale or transfer, it shall be lawful for the city engineer, or the county or city and county surveyor, under the direction and with the approval of the city council or board of supervisors of said city, county, or city and county, to make an official map of such city, town, or subdivision, giving to each block on such map a number, and to each lot or subdivision in such block a separate number or letter, and giving names to such streets, avenues, lanes, courts, commons, or parks, as may be delineated on such official map.

Duty of assessor

Whenever the city council or board of supervisors of such city, county, or city and county, shall adopt such map as the official map of the subdivision, town, city, county, or city and county, it shall be lawful to, and the assessor shall, describe such lots, blocks, or parcels of land by numbers or letters as delineated on such map in assessing such property, and it shall be lawful and sufficient to describe such lots or blocks in any deeds, conveyances, contracts, or obligations affecting any such lots or blocks as designated on such official map, a reference to such map sufficient for the identification thereof being coupled with such description. Such engineer or surveyor, under the direction and with the approval of the city council or board of supervisors of such city, county, or city and county, may compile such map from maps on file, or may resurvey or renumber the blocks, or renumber or reletter the lots in such blocks, or change the names of streets.

Reference to map

Surveys and field notes

All surveys and the field notes thereof made by any such engineer or surveyor, under the provisions of this section, or in surveying officially any lots or parcels of land in any city, town, county, or city and county, for the purposes of any such map, shall be filed in the office of the surveyor or engineer, as the case may be, and shall become a part of the public records of such city, town, county, or city and county.

Maps to be certified and filed with recorder

Each and every map, made and adopted as hereinabove provided, shall be certified under the hands of a majority of the members and the presiding officer and secretary and official seal, if any, of the authority adopting the same. Such certificate shall set forth in full the resolution adopting such map, with the date of adoption; and such map, so certified, shall be

forthwith filed in the office of the county recorder of the county, or city and county, wherein the platted lands are situate, and the said recorder shall immediately securely fasten and bind, in one of a series of firmly bound books to be provided, together with the proper indexes thereof and appropriately marked for the reception of the maps herein provided for, each such map so filed with him; and the same shall become an official map for all the purposes of this section when so certified, filed and bound, but not before.

Applies to all cities, towns and villages, etc

This section is hereby made applicable to all cities, towns, and villages in this State, as well as to the counties, and cities and counties thereof, whether the same be incorporated or not; and the words "city council or board of supervisors" wherever used herein shall be deemed to include the proper corresponding governing board and authority in each such place; and the words "city engineer" and "county or city and county surveyor" shall be deemed to include the like or corresponding officer, subject to the direction of such "corresponding governing board and authority" in each such place; or, if there be no such officer subject to such direction, such "corresponding board and authority" may employ competent engineers and surveyors to the extent necessary for the carrying out of the purposes of this act in the places subject to its jurisdiction, and the persons so appointed shall have the same authority and shall perform the same duties as are given to and enjoined upon "city engineers" and "county or city and county surveyors," respectively, in like cases.

Costs How paid

The services of such engineers and surveyors so employed shall be contracted for, examined, passed upon, audited, and paid as are other debts contracted by such governing boards and authorities.

Use of other maps for assessment purposes.

An assessor or the State Board of Equalization may describe property for assessment purposes by reference to a map other than an official map as herein provided for, whenever such a map has been furnished by the owner, or claimant, or user of property to be assessed, and provided that such map contains sufficient information to clearly identify the property to be assessed and is properly identified by and filed with the assessor or the State Board of Equalization using such map for assessment purposes.

CHAPTER 347.

An act to add section 269 to the Political Code, relating to officers of the Assembly and declaring the urgency thereof.

[Approved by the Governor June 15, 1935. In effect immediately.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 269 is hereby added to the Political Code, to read as follows:

Compensation for services after close of session.

269. For services performed under the provisions of section 261 of this code, each of the officers therein named of the Assembly shall receive a compensation of fifty dollars.

Current expenses

SEC. 2. Inasmuch as this act provides for the payment of usual current expenses of the State and there is urgent need for adequate provision for the prompt completion of the records of this session of the Legislature, this act is hereby declared to be an urgency measure within the meaning of section 1 of Article IV of the Constitution and as such shall take effect immediately.

CHAPTER 348.

"Mortgage and Trust Deed Moratorium of 1935."

An act relating to the relief of debtors and guarantors; permitting postponement of sales conferred by mortgages, deeds of trust, or contracts of purchase of real property, or chattels attached to real property, or postponement of forfeitures and terminations under such contracts of purchase, or extensions of periods for redemption, or reduction of moneys to be paid on redemption; regulating the appointment of receivers in certain cases; repealing Chapter 1, Statutes of the Extra Session of 1934, and Chapter 7 of the Statutes of 1935; declaring the urgency hereof, and providing that it shall take effect immediately.

Stats 1935, p. 1
Stats 1935, Ch. 7.

[Approved by the Governor June 21, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Existence of economic emergency.

SECTION 1. A large proportion of the real property in this State is held subject to mortgage or deed of trust or under contract of purchase, and many owners and purchasers thereof are finding it extremely difficult or impossible, because of present economic conditions, to meet their obligations to retain their property. Prices for farm products are at present so low and unemployment in industry and business is so widespread, that farmers and wage earners, and those who do business with them, have as a class lost a considerable part of their income, and large numbers of such individuals have no income or scarcely enough for food and other necessities.

The value to the State of a large body of owners of land is inestimable, as such owners have a vital interest in the State and its welfare, and participate in governmental affairs to such an extent and in such a way that they constitute an essential factor in the political and economic life of the State.

If steps are not taken immediately to permit delay of sales under mortgages, deeds of trust, and contracts of purchase, and forfeitures and terminations under contracts of purchase, a large number of owners of real property will be forced to abandon their interests in their property.

An emergency therefore exists, and it is necessary to provide for the permitting of delays of sales under mortgages, deeds of trust, and contracts of purchase, or of forfeitures and terminations under contracts of purchase.

In making provisions permitting such delays the greatest care must be taken to prevent an economic result contrary to the purpose of moratoria legislation. Undue restrictions upon, and extended postponements of, the remedies of owners of mortgages, deeds of trust and contracts of purchase must, of necessity, result both in a material lessening of the loan value of the property of the State and of the value to the property owners of their equity over and above encumbrances, and also in the inability of property owners to refinance their obligations on favorable terms. Such results can not but impair the financial stability and prevent the financial rehabilitation of property owners of the State, and must eventually precipitate an unduly large number of foreclosures, sales and forfeitures. The conflicting economic principles involved in moratoria legislation and the inestimable value to the State, not only of a large body of landowners but also of the existence of sound property values, requires at this time a statement of the policy of this Legislature to be that relief by moratoria legislation should not be extended beyond the periods prescribed by this act, and although such policy will not be binding upon the succeeding Legislatures it may, nevertheless, serve as a recommendation.

Statement of policy

With these considerations in view, the following provisions are intended to permit such delays and such safeguards to the interests of creditors affected thereby as are required by the present emergency.

Petition for order postponing sale

SEC. 2. At any time within ninety days from and after the recording of notice of default under section 2924 of the Civil Code, or at any time within thirty days after the effective date of this act, but not later than January 1, 1937, the trustor under any deed of trust upon real property, or upon chattels attached to real property, or the mortgagor under any mortgage upon real property, or upon chattels attached to real property, conferring the power of sale, may file a petition in the superior court of the county in which such real property, or chattels attached to real property, or the major portion thereof, is situated, praying for an order postponing the sale of such property under the power of sale conferred by such deed of trust or such mortgage.

Service of copy

SEC. 3. A copy of such petition shall be served upon the trustee and the beneficiary under such deed of trust, or upon the mortgagee under such mortgage, as the case may be, in the manner provided by law for the service of summons in a civil action.

Recording notice

A notice of pendency of such petition shall immediately be recorded in each county in which any of such property is situated, and on the day of such recordation a copy thereof shall be mailed, postage prepaid, from a post office within this

State, addressed to such trustee and beneficiary, or such mortgagee, as the case may be, at their respective places of residence, if known to petitioner, if not, then at the county seat of the county, or at the city and county, where the proceeding is pending.

Such notice of pendency shall state the name of the petitioner, the nature of the petition, and the book and page of the records of the county recorder in which the mortgage or deed of trust is recorded.

Hearing.

SEC. 4. Upon application of the petitioner, after service of such petition, or upon application of any other interested party after the filing of the petition, a hearing shall be had thereon within twenty days after such application, upon such notice as the court shall reasonably prescribe; provided, however, that the court, if it finds equitable grounds therefor, may postpone such hearing for not to exceed ten days.

After the filing of such petition and the recording and mailing of the notice of the pendency thereof, as provided in sections 2 and 3 of this act, no sale under the power of sale conferred by such deed of trust or such mortgage shall be held until the court makes its order in the matter, but nothing herein contained shall prevent such sale at any time after February 1, 1937.

Order of court.

SEC. 5. Upon such hearing the court may make its order, if it finds equitable grounds for relief, ordering that such sale shall not be held until after such date as the court considers just and equitable, but in no event shall such date be beyond February 1, 1937, or may make its order dismissing such proceedings.

Income.

If the court orders the sale postponed it shall determine the reasonable value of the income from such property, or if the property has no income, then the reasonable rental value of such property, or if the property is unimproved, a reasonable sum to be paid by the trustor or mortgagor as determined by the court, and by such order shall require the trustor or mortgagor to pay all or at least a reasonable part of such income, rental value, or sum so determined by the court, in or toward the payment of taxes, insurance, interest, or principal of the indebtedness at such times and in such manner as are determined to be just and equitable under the circumstances.

Contents of order

SEC. 6. The court must include in such order provisions requiring maintenance and repair by the trustor or mortgagor, regulating the disposition of any income from the property and such other provisions as it deems just and equitable for the protection of the security, but in no event shall the court order the payment by the trustor or mortgagor of a lesser sum than necessary to pay (a) current taxes, (b) all delinquent taxes, except that such taxes may be paid in installments as may be provided by law, and (c) any insurance premiums required to be paid by the debtor under the contract between the parties.

SEC. 7. When any mortgage or deed of trust upon real property, or upon chattels attached to real property, has been foreclosed, and the property covered thereby has been sold in whole or in part under decree of foreclosure, and the period of redemption has not yet expired, the mortgagor or trustor thereof, having the right of redemption, may at any time not later than January 1, 1937, file a petition in the superior court of the county in which the property so sold or the major portion thereof is situated, praying for an order extending such period of redemption.

Petition for order extending period of redemption

SEC. 8. A copy of such petition shall be served upon the purchaser of such property at the foreclosure sale, or, if there has been a redemption, upon the last redemptioner, in the manner provided by law for the service of summons in a civil action.

Service of notice.

A notice of pendency of such petition shall immediately be recorded in each county in which any of such property is situated, and, on the day of such recordation, a copy thereof shall be mailed, postage prepaid, from a post office within this State, addressed to such purchaser or last redemptioner, as the case may be, at his place of residence, if known to petitioner, if not, then at the county seat of the county, or at the city and county, where the proceeding is pending.

Recording notice

Such notice of pendency shall state the name of the petitioner, the nature of the petition, and the book and page of the records of the county recorder in which the mortgage or deed of trust is recorded.

SEC. 9. Upon application of the petitioner after service of such petition, or upon application of any other interested party, after the filing of the petition, a hearing shall be had thereon within twenty days after such application, upon such notice as the court shall reasonably prescribe; provided, however, that the court, if it finds equitable grounds therefor, may postpone such hearing for not to exceed ten days.

Hearing

Upon the filing of such petition and the recording and mailing of the notice of pendency thereof as provided in sections 7 and 8 of this act, the period of redemption, if such period would sooner terminate, shall be extended until ten days after the court makes its order in the matter, but in no event beyond February 1, 1937.

Extension of period of redemption

SEC. 10. Upon such hearing the court may make its order, if it finds equitable grounds for relief, extending such period of redemption for such additional time as the court considers just and equitable, but in no event beyond February 1, 1937, or may make its order dismissing such proceeding.

Order of court.

If the court by its order extends the period of redemption, it shall determine the reasonable value of the income from such property, or if the property has no income, then the reasonable rental value of such property, or if the property is unimproved, a reasonable sum to be paid by the trustor or mortgagor as determined by the court.

Income.

The court shall require the trustor or mortgagor to pay all or at least a reasonable part of such income, rental value, or sum so determined by the court, in or toward the payment of taxes upon such property, the cost of insurance and the sums to which the purchaser of such property at such foreclosure sale, or the last redemptioner, as the case may be, is entitled under the provisions of section 707 of the Code of Civil Procedure, at such times and in such manner determined to be just and equitable under the circumstances.

Contents of order.

SEC. 11. The court must include in such order provisions requiring maintenance and repair by the trustor or mortgagor, regulating the disposition of any income from the property, and such other provisions as it deems just and equitable for the protection of the interest of the purchaser or last redemptioner, as the case may be.

In no event shall the court order the payment by the trustor or mortgagor of a lesser sum than the greater of (1) the amount of such reasonable value of the income, or such reasonable rental value, or such reasonable sum so determined by the court, or (2) a sum sufficient to pay (a) current taxes, (b) all delinquent taxes, except that such taxes may be paid in installments as provided by law, and (c) a sum reasonably necessary for fire and other insurance upon any improvement upon such property.

Credits

SEC. 12. Any sums paid to a purchaser or redemptioner pursuant to sections 10 or 11 of this act shall be a credit upon the redemption money to be paid as provided in section 707 of the Code of Civil Procedure; but in the event no redemption is made, the same shall belong to such purchaser or redemptioner.

Scope of act.

SEC. 13. Nothing in this act shall be construed as abridging or limiting the statutory right of redemption provided in sections 701, 702, 703, 704, 705, 706 and 707 of the Code of Civil Procedure, or as shortening the period of redemption as therein provided, or as altering the mode or procedure for redemption as therein provided.

Postponement of sale.

SEC. 14. In any decree hereafter rendered, prior to February 1, 1936, foreclosing a mortgage or deed of trust upon real property, the court may provide that the sale of the property shall not be held until on or after such date as the court considers just and equitable, but in no event later than February 1, 1936. If the court provides in such decree that the sale shall not be held until on or after such date as it shall fix, it shall determine the reasonable value of the income from such property, or if the property has no income, then the reasonable rental value of such property, or if the property is unimproved, a reasonable sum to be paid by the trustor or mortgagor as determined by the court, and shall require the trustor or mortgagor to pay all or at least a reasonable part of such income, rental value, or sum so determined by the court, in or toward the payment of taxes, insurance, interest, or principal of the indebtedness at such times and in such manner deter

mined to be just and equitable under the circumstances. The court may include in such order provisions requiring maintenance and repair, regulating the disposition of any income from the property, and such other provisions as it deems just and equitable for the protection of the security.

Contracts of purchase.

SEC. 15. The purchaser of any real property, or of chattels attached to real property, under any contract of purchase may, at any time prior to the foreclosure, termination, or forfeiture of his interest under such contract, but not later than February 1, 1937, file a petition in the superior court of the county in which such property, or the major portion thereof, is situated for an order postponing to a date not later than February 1, 1937, the foreclosure, termination, or forfeiture of his interest thereunder.

Notice

A copy of such petition shall be served upon the vendor, and notice of pendency of such petition shall be recorded and mailed, and a hearing shall be held thereon within the time, after the notice, and in the manner provided in sections 3, 4, 5 and 6 of this act in respect to petitions relating to sales under the power of sale conferred by deeds of trust and mortgages.

Hearing.

After such hearing the court, if it shall determine that it is equitable and just so to do, may make its order postponing to a date not later than February 1, 1937, the foreclosure, termination or forfeiture of the petitioners' interest under such contract of purchase on substantially the same terms and conditions as those prescribed in sections 5 and 6 of this act, or the court may make its order dismissing such proceeding.

Supplemental orders.

SEC. 16. Upon the petition of any interested party at any time or from time to time prior to the date to which any postponement or extension pursuant to this or any of the foregoing sections, or pursuant to Chapter 7, Statutes of 1935, was made, or prior to the time that a sale may be held under any decree or order rendered pursuant to this act, the court, upon hearing after such notice to the other interested parties as it shall reasonably prescribe, may make an order altering or supplementing or extending any previous order or decree or the postponement of sale therein provided rendered in the matter pursuant to this or any of the foregoing sections, or pursuant to Chapter 7, Statutes of 1935, upon the presentation of evidence showing that the provisions of such order or decree should be altered or supplemented or extended to make them just and equitable; provided, however, that the court by such order shall not require the payment of lesser sums than are under this act required to be paid, nor extend any periods of postponement or extension beyond the limits in this act prescribed.

Waste or default.

SEC. 17. If the trustor, mortgagor or purchaser under a contract of purchase commits waste or defaults in any payment or act required by order or decree of court, the court, unless good excuse therefor is shown, must order that the sale, foreclosure, termination or forfeiture postponed by its

order or decree proceed as provided by law, or that the period of redemption extended by its order or decree shall expire on the making of its order or within the time provided by law, whichever shall last occur, and that the moneys to be paid on redemption, if theretofore reduced, be increased to the extent of such previous reduction, if it finds after hearing upon such notice to the original petitioner or his attorney as it prescribes, that there has been such waste or such default, unless good excuse therefor is shown, amounting to a material breach of the order or decree of postponement or extension.

Guarantors

SEC. 18. No suit or action shall be commenced against the guarantor of any note secured by a mortgage or deed of trust upon real property, or upon chattels attached to real property, in any case while, pursuant to the provisions of this act, no sale may be made under any power of sale contained in such mortgage or deed of trust or while no sale may be made under the final decree of foreclosure rendered in an action to foreclose such mortgage.

Statutes of limitations

SEC. 19. Whenever the time within which an action may be commenced upon any obligation founded upon a written instrument secured by mortgage, deed of trust or contract of purchase, or founded upon any guarantee of such obligation or any contract of suretyship therefor or any indorsement of such instrument, would expire by virtue of section 337 of the Code of Civil Procedure, or by virtue of the provisions of Chapter I, Statutes of Extra Session of 1934, or by virtue of the provisions of Chapter VII, Statutes of 1935, or any other provision of law, during the period commencing with the effective date of this act and ending on February 1, 1937, such time is hereby extended so as not to expire until the first day of July, 1937.

Scope of act.

SEC. 20. Nothing contained in this act shall apply to or be deemed to affect:

(a) Any mortgage, deed of trust or contract of sale upon real property, or upon chattels attached to real property, executed after February 1, 1935;

(b) Any mortgage or deed of trust securing the payment of bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by public utilities subject to the provisions of the Public Utilities Act;

(c) Any mortgage or deed of trust while held and owned by the original lender securing any loan made by the United States Government or any agency thereof or any loan insured by the United States Government or any agency thereof;

(d) Any mortgage or deed of trust securing an obligation in default at the time the owner or owners acquired title by purchase subsequent to the effective date of this act.

Definitions

SEC. 21. As used in this act:

(a) The terms "mortgagor," "mortgagee," "trustor," "trustee," "purchaser," "vendor," and "guarantor" shall

include their personal representatives, assigns or successors in interest, and the singular shall include the plural.

(b) The term "trustee" shall also include the beneficiary of a deed of trust.

(c) As used in this act, the term "chattels attached to real property," or similar designation, includes anything which is deemed affixed or attached to land, or as forming part of the land.

Waiver.

SEC. 22. Nothing contained in this act shall preclude any trustor under a deed of trust or any mortgagor under a mortgage or any purchaser under a contract for the purchase of real property, or chattels attached to real property, from executing and delivering at any time a deed to his beneficiary, mortgagee or vendor, or the purchaser at any foreclosure sale or a redemptioner, as the case may be, and the execution and delivery of any such deed by any such trustor, mortgagor or purchaser shall constitute a waiver of the benefit of all the provisions of this act. The failure on the part of any trustor, mortgagor or purchaser to file a petition within the times specified in this act, shall be deemed a waiver of the benefit of the provisions of this act.

Sale in violation of act voidable

SEC. 23. Any sale of real property, or of chattels attached to real property, under a deed of trust or mortgage made in violation of this act shall be voidable, except as against a bona fide purchaser or encumbrancer for value, at the instance of the record owner of such real property at the time of such sale; provided, that any action to avoid such sale or any deed executed pursuant thereto must be brought within one year of the date of such sale.

No filing fees

SEC. 24. There shall be no filing fees for the filing of any document with the county clerk under the provisions of this act.

Receivers

SEC. 25. Until February 1, 1937, no receiver shall be appointed at the instance of the mortgagee of any mortgage or the trustee or beneficiary of any deed of trust, with respect to real property or chattels attached to real property subject to mortgage or deed of trust, except in a suit or action for the foreclosure of such mortgage or deed of trust or for the enforcement of the covenants, or any thereof, contained in such mortgage or deed of trust, or in a proceeding ancillary to any such suit or action, or until after recording notice of default.

Constitutionality

SEC. 26. If any section, clause or part of this act, or the application thereof to any person or circumstance, is finally determined by the courts to be unconstitutional, such section, clause or part shall no longer be effective or such application shall no longer control, but all other sections, clauses or parts or the application thereof to other persons and circumstances shall continue in full force and effect; it being the intent of the Legislature to make this act as effective as possible to relieve debtors in the manner herein provided.

Composition or compromise

SEC. 27. Whenever any petition under this act is to be or is being heard by the court, the interested parties may submit to the court, in writing, a composition of the indebt-

edness involved in the proceeding, or a compromise settlement of the proceeding, and the court shall have jurisdiction and may by its order confirm and approve such composition or settlement.

Stats. 1935, p. 1, repealed.

SEC. 28. Chapter 1, Statutes of the Extra Session of 1934, is hereby repealed; provided, however, that the repeal of said act shall not affect any rights which have accrued thereunder, or shorten the time within which any action may be commenced.

Stats. 1935, p. 56 repealed

SEC. 29. Chapter 7, Statutes of 1935, is hereby repealed, provided, however, that the repeal of such act shall not affect any rights which have accrued thereunder, or shorten the time within which any action may be commenced, or affect any proceedings taken thereunder, and in so far as such proceedings have not been completed they may be continued under this act and subject to its provisions, and the court in any such proceeding shall have the same powers as though the petition therein had been filed under the provisions of this act.

Short title

SEC. 30. This act shall be known and may be cited as the "Mortgage and Trust Deed Moratorium of 1935."

Urgency.

SEC. 31. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution, and shall therefore take effect immediately.

The facts constituting the necessity are the dangers to the State and to the people involved in the unusually large number of foreclosures, sales, forfeitures and terminations which will result in the near future under mortgages, deeds of trust, and contracts of purchase of real property, or upon chattels attached to real property, because of defaults in payments by the owners or purchasers of such property. Such defaults are the result of exceptionally depressed conditions in this State, which have deprived a large proportion of the landowners and land purchasers of sufficient income to meet their obligations The dangers in the siutation are such as to threaten the maintenance of law and order, and to lead to the pauperization of many persons who have hitherto constituted an important part of the self-supporting and economically independent people of this State. This act will provide a means for delaying such sales, foreclosures, terminations and forfeitures so as to permit landowners and land purchasers to find means of meeting their obligations, and at the same time will protect the interests of creditors. The dangers mentioned will thus be avoided.

CHAPTER 349.

An act to call a special election to be held on the thirteenth day of August, 1935, for the purpose of submitting to the qualified electors of this State certain amendments to the

Constitution of this State proposed by the Legislature at its fifty-first regular session, and to provide that this act shall take effect immediately.

[Approved by the Governor June 24, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. A special election is hereby called to be held throughout the State of California on Tuesday, the thirteenth day of August, 1935. At said special elections there shall be submitted to the qualified electors of the State the following:

Special election called.

Senate Constitutional Amendment No. 26.—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by adding to Article XVI thereof a new section to be numbered 11, relating to a bond issue for certain major construction and improvements;

Stats. 1935, Res., Ch 129

Senate Constitutional Amendment No. 18—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by adding to Article XIII thereof a new section to be numbered 17, relating to the power of the Legislature to provide for the borrowing of money to meet appropriations made by law, in anticipation of the collection of taxes and revenues.

Stats 1935, Res., Ch. 128

Assembly Constitutional Amendment No. 90.—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by adding to Article XVI thereof a new section to be numbered 12, relating to the Rector Canyon Dam project.

Stats 1935, Res., Ch 138.

Each of the foregoing are amendments to the Constitution of the State of California proposed to the electors of the State of California by the Legislature thereof at its fifty-first regular session in accordance with the provisions of section 1 of Article XVIII of said Constitution.

SEC. 2. The special election provided for in this act shall be proclaimed, held, conducted, and the ballots shall be prepared, marked, voted, counted, canvassed, and the results shall be ascertained and the returns thereof made in all respects in accordance with the provisions of the Constitution applicable thereto and the law governing general elections in so far as provisions thereof are applicable to the election provided for by this act; provided, however, that the governing boards or bodies charged with the conduct of elections in the counties or cities and counties may consolidate the precincts of the counties and cities and counties for the purposes of this election and shall also appoint as officers of this election one inspector, one judge, and one clerk, who shall receive as compensation for their services a sum not to exceed three dollars each, which sum shall be paid out of the treasuries of the counties or cities and counties by which such persons are employed.

Manner of conducting election

SEC. 3. The presiding officer of the house in which the proposed constitutional amendments originate shall immediately appoint the author or one of the authors of such proposed

Constitutional amendment arguments.

amendment to the Constitution of this State and one member of the same house who voted in favor thereof to draft an argument giving the reasons for the adoption thereof, and he shall also appoint a member of the same house who voted against such proposed constitutional amendment to draft an argument against the adoption thereof. If no member of the same house voted against such proposed amendment, he shall appoint a qualified person to draft such argument. Each argument shall consist of not more than five hundred words in length and shall be submitted by the author or authors to the Secretary of State within five days after this act takes effect.

Ballot titles.

SEC. 4. It shall be the duty of the Attorney General to prepare and deliver to the Secretary of State ballot titles prescribed by section 1197 of the Political Code within five days after this act takes effect. Written objections to the titles prepared by the Attorney General shall be filed with the Secretary of State within five days from such delivery and the Secretary of State shall forthwith file a copy of the constitutional amendment, together with the title thereof so prepared by the Attorney General and the said objections thereto, with the Board of Title Commissioners as provided by section 1197 of the Political Code. Said title commissioners shall determine the validity of such objections within three days after the objections are filed. The determination by said board shall be final and conclusive.

Immediate effect.

SEC. 5. Inasmuch as this act provides for the calling of an election, it shall, under the provisions of section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 350.

"State Building Bond Act of 1935."

An act to provide for certain major construction and improvements by the State, including the construction of a State prison, certain other construction and improvements and the issue of bonds therefor and making an appropriation.

[Approved by the Governor June 24, 1935. Validating amendment refused adoption by electors, August 13, 1935.]

The people of the State of California do enact as follows:

Appropriation

SECTION 1. There is hereby appropriated to be expended in accordance with law, the sum of thirteen million nine hundred fifty thousand dollars which shall be expended for the following purposes:

General fund repayment

(1) To repay into the general fund of the State a sum of money equal to that appropriated by the Legislature in the Budget Bill for the eighty-seventh and eighty-eighth fiscal years for major construction, improvements, and equipment at the State institutions.

(2) For the purchase of a prison site in southern California, and construction, improvement, and equipment of a State prison thereon, to be expended under the provisions of an act entitled "An act to establish the Southern California Prison under the management and control of the State Board of Prison Directors; to provide for purchase or acquirement of farm lands by unconditional gift or use of lands owned by the State therefor; and the construction of buildings and other improvements in connection therewith; to provide for the commitment and transfer of prisoners thereto and therefrom; to provide for the equipment, conduct and management thereof; and to make an appropriation therefor.", passed at the fifty-first session of the Legislature, in the amount and in lieu of the appropriation therein contained; provided, that should said act not become effective, then to be expended under the provisions of section 3 of this act.

Southern California Prison.

Stats 1935, Ch 414

(3) For permanent improvements to State institutions and the State Capitol and for the construction and equipment of a wing or wings to the State building in Los Angeles, or for the improvement of said building.

State institutions and buildings

(4) For the expense that may be incurred in preparing, advertising, issuing and selling the bonds, and in administering and directing the expenditure of the moneys hereby appropriated.

Expenses.

(5) In the event that the moneys hereby appropriated or otherwise made available for expenditure under the provisions of this act shall exceed the amount required under paragraphs numbered (1) to (4) of this section, the commission may, if it deems it in the best interests of the State, expend such excess for the construction or improvement of buildings for institutions supported in whole or in part by the State.

Other institutions

SEC. 2. The administration of this act shall be vested with the State Building Commission. For the purposes of this act the word "commission," whenever used herein, refers to the State Building Commission created by this act. The commission is hereby created and shall consist of the Director of Finance, the Director of Institutions, the Director of Public Works and two members appointed by the Governor of this State.

State Building Commission

To carry out the provisions of section 3 of this act, the commission may employ and fix the compensation of such clerical and other assistants and employees, all exempt from the provisions of the State civil service, as it deems necessary to carry out the purposes of this act. The commission may require any such officer or employee to give such bond for the faithful performance of his duties as the commission prescribes and may also require any such officer to take and file with it the constitutional oath of office. Members of the commission shall receive no compensation for their services, but all the members of the commission shall receive their actual and necessary traveling expenses arising out of the performance of their duties pursuant to this act.

Prison site

SEC. 3. Subject to the provisions of section 1, subdivision 2, of this act, the State Building Commission may acquire real property as a site for the construction of a State prison in the southern part of this State. Such site shall be selected and the property acquired at such location and under such circumstances as, in the opinion of the commission, is for the best interests of the State. It may condemn, for such purpose, under the provisions of the Code of Civil Procedure and the Constitution relating to the exercise of the powers of eminent domain by the State, any real property or interest therein which it is authorized to acquire. The commission shall not commence any such proceeding in eminent domain unless it first adopts a resolution declaring that the construction or improvement proposed requires the acquisition, construction or completion by the State acting through the commission of such property, and that the real property or interest therein described in such resolution is necessary for such construction of such prison.

Eminent domain.

The resolution of the commission shall be conclusive evidence: (a) that such real property or interest is necessary for such construction; (b) that such proposed construction or improvement is planned or located in a manner which will be compatible with the greatest public good and the least private injury.

Powers.

The commission may also exercise, and is hereby granted, any and all powers, other than the power to acquire real property, necessary or convenient to it in the administration of this act or the execution of the provisions thereof. The enumeration of specific powers herein contained shall not be construed to limit or derogate from the general power herein granted, and no provision of the Constitution relating to the powers or duties of officers or employees of the State shall limit or restrict the commission in the carrying out of the provisions of this act. In the exercise of such powers the commission shall have full power and authority to make contracts and carry them into effect, and to sue and be sued in its own name as the State Building Commission.

Stats 1933, p 2108

The commission shall carry out construction or improvement, or any part thereof, through the Department of Public Works in accordance with the provisions of the State Contract Act, and other laws governing erection of State buildings.

Before providing for any expenditure from the proceeds of the sale of bonds authorized in this act in an amount which will reduce the unincumbered balance of such proceeds below the amount appropriated by the Legislature in the Budget Bill for the eighty-seventh and eighty-eighth fiscal years for major construction, improvements and equipment at the State institutions, the State Building Commission shall secure from the Governor a certification that the repayment of such money or any part thereof to the general fund is not required in the best interests of the State and may be expended for major

construction, improvements and equipment at State institutions.

Upon order of the Governor the State Building Commission shall repay to the general fund such sum or sums not to exceed in total the sum of money equal to that appropriated by the Legislature in the Budget Bill for the eighty-seventh and eighty-eighth fiscal years for major construction, improvements and equipment at the State institutions.

SEC. 4. For the purposes of this act, the commission, or any member thereof pursuant to authorization by the commission, shall possess and may exercise all the powers conferred upon heads of departments by the provisions of section 353 of the Political Code. Stats 1921, p. 1023.

SEC. 5. For the purpose of creating a fund to provide moneys to be expended pursuant to the appropriation contained in section 1 of this act, the State building finance committee created by section 15 of this act shall be and it hereby is authorized to create a debt or debts, liability or liabilities of the State of California, in the manner and to the extent provided in this act, not otherwise, nor in excess thereof. Building finance committee

SEC. 6. For the purposes of this act, and immediately after adoption and filing in his office of any resolution by the State building finance committee as provided in this act, the State Treasurer shall prepare the requisite number of suitable bonds of the denomination of one thousand dollars in accordance with the specifications contained in such resolution. Bonds

The aggregate par value of all bonds issued under this act shall not exceed the sum of thirteen million nine hundred fifty thousand dollars and the bonds issued under any such resolution shall bear interest from the dates of issuance of said bonds to the dates of maturity thereof, at a rate to be determined by the State building finance committee and specified in such resolution, but in no case exceeding five per cent per annum. Both principal and interest shall be payable in lawful money of the United States, at the office of the State Treasurer, or at the office of any duly authorized agent of the Treasurer, and shall be so payable at the times specified in the resolution. Interest.

SEC. 7. All bonds issued under this act shall bear the facsimile signature of the Governor and the facsimile countersignature of the Controller and shall be endorsed by the State Treasurer either by original signature or by a signature stamp adopted for each particular bond issue under this act. And the said bonds shall be signed, countersigned and endorsed by the officers who are in office on the date of issuance thereof, and each of said bonds shall bear an impress of the great seal of the State of California. When sold, the bonds so signed, countersigned, endorsed and sealed shall be and constitute a valid and binding obligation upon the State of California, even though the sale thereof is made at a date or dates upon which the officers who have signed, countersigned and endorsed the bonds, or any or either of such officers, have ceased to be the Provisions of bonds.

incumbents of the offices held by them at the time of signing, countersigning or endorsing such bonds. Every bond issued under this act shall contain a clause or clauses stating that interest ceases to accrue thereon from and after the date of maturity thereof and referring to this act and to the resolution of the State building finance committee under this act by virtue of which the bond is issued.

Interest coupons

SEC. 8. The requisite number of suitable interest coupons, appropriately numbered, shall be attached to each bond issued under this act Such interest coupons shall bear the facsimile signature of the State Treasurer who is in office on date of issuance of the bonds to which the coupons pertain.

Payment.

SEC. 9. All bonds issued and sold under this act shall be deemed to have been called in at their respective dates of maturity and the State Treasurer shall, on the respective dates of maturity of said bonds, or as soon thereafter as said matured bonds are surrendered to him, pay the same out of the proceeds of the Controller's warrants drawn in his favor as provided in section 10 hereof and perforate the bonds so paid with a suitable device in a manner to indicate such payment and the date thereof. He shall also, on the said respective dates of maturity, cancel all bonds bearing said dates of maturity and remaining unsold, by perforation with a suitable device in a manner to indicate such cancellation and the date thereof. The provisions of this section shall be applicable also to the interest coupons pertaining to the bonds authorized by this act to be issued, and shall be applicable, as far as practicable, to any duly authorized agent of the State Treasurer.

Appropriation

SEC. 10. There is hereby appropriated from the general fund in the State treasury such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this act, as said principal and interest becomes due and payable.

Revenue

There shall be collected annually in the same manner and at the same time as other State revenue is collected such a sum, in addition to the ordinary revenues of the State, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collections of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

Both principal and interest of said bonds shall be paid when due upon warrants duly drawn against said appropriation from the general fund by the Controller of the State in favor of the State Treasurer or in favor of any duly authorized agent of the State Treasurer.

Treasurer: appropriation.

SEC. 11. The sum of thirty-five thousand dollars is hereby appropriated out of any money in the State treasury not otherwise appropriated to pay the expenses that may be incurred by the State Treasurer in having said bonds prepared and in advertising their sale. Said amount shall be refunded

to the general fund in the State treasury out of the State building fund on Controller's warrant duly drawn for that purpose.

Sale of bonds

SEC. 12. When the bonds authorized to be issued under this act are duly executed, they shall be sold by the State Treasurer at public auction to the highest bidder for cash in such parcels and numbers as the Treasurer is directed by the Governor of the State, under seal of the State, after a resolution requesting such sale has been adopted by the State Building Commission, and approved by the Governor, but the Treasurer shall reject any and all bids for the bonds or for any of them, when such bid is below the par value of the bonds so offered plus the interest accrued thereon between the date of sale and the last preceding interest maturity date. With the approval of the Governor, the Treasurer may from time to time, by public announcement at the place and time fixed for the sale, continue the sale as to the whole of the bonds offered, or any part thereof offered, to such time and place as he selects. Before offering any of the bonds for sale, the Treasurer shall detach therefrom all interest coupons which have matured or will mature before the day fixed for the sale.

Notice of sale.

SEC. 13. Due notice of the time and place of sale of all bonds shall be given by the Treasurer by publishing in one newspaper published in the City and County of San Francisco and also by publication in one newspaper published in the city of Oakland and by publication in one newspaper published in the city of Los Angeles once a week during four weeks prior to such sale. In addition to the notice last above provided for, the State Treasurer may give such further notice as he deems advisable, but the expense and cost of such additional notice shall not exceed the sum of five hundred dollars for each sale so advertised. The proceeds of the sale of such bonds, and such amount as has been paid as accrued interest thereof, shall forthwith be paid over by the Treasurer into the State building fund, which fund is hereby created in the State treasury, to be paid out and expended in accordance with law in carrying out the provisions of this act.

Investment of surplus moneys

SEC. 14. The Director of Finance may, with the approval of the State Board of Control, invest any surplus moneys in the State building fund in bonds or direct obligations of the United States, or in bonds, warrants or other direct obligations of the State of California, or in bonds of any of the several counties or municipalities or other political subdivisions of the State of California. He may sell such bonds, warrants or obligations, or any of them, at the governing market rates, upon approval of the State Board of Control. The Director of Finance, with the approval of the State Board of Control, may invest the moneys of any of the funds subject to the control of the State Building Commission or appropriated for expenditure by the commission in interest bearing certificates of deposit of State banks, except that the total amount of money so deposited with any one bank shall not exceed a sum equal

to fifty per cent of the paid up capital of such bank, and in addition thereto such moneys may be deposited in banks in accordance with the provisions of any law of this State authorizing the deposit of moneys belonging or in the custody of this State in banks.

Interest accruing upon the deposits of moneys appropriated to be expended by the commission, or of any funds subject to the control of the commission, shall be paid into the State treasury and credited to the general fund.

State building finance committee

SEC. 15. There is hereby created a State building finance committee composed of the Governor, State Controller, State Treasurer, Director of Finance and the Attorney General, all of whom shall serve thereon without compensation and a majority of whom are hereby empowered to act for the committee. The Attorney General of the State shall be the legal advisor of the State Building Commission and the State building finance committee.

Upon request of the State Building Commission, supported by a statement of the plans and projects of the commission with respect thereto, the State building finance committee shall determine whether or not it is necessary that bonds shall issue and be sold as provided in this act to carry such plans and projects into execution.

Bond issues.

SEC. 16. Whenever the State building finance committee determines that bonds shall issue under this act to carry such plans and projects into execution, it shall adopt a resolution stating the necessity thereof. The resolution shall authorize and direct the State Treasurer to prepare the requisite number of suitable bonds and shall specify:

1. The aggregate number, aggregate par value, and the date of issuance of the bonds to be issued.

2. The date or dates of maturity of bonds to be issued and number and numerical sequences of the bonds maturing at each date of maturity.

3. The annual rate of interest, not exceeding five per cent, which the bonds thus to be issued are to bear.

4. The number, numerical sequence, amount or amounts, and the dates of maturity of the interest coupons to be attached to the said bonds.

5. The technical form and language of the bonds to be issued and of the interest coupons to be attached thereto.

The bonds so issued shall be serial bonds, and, so far as practicable, the dates of maturity shall be so fixed as to require approximately equal payments in discharge of the total of the indebtedness authorized hereunder for each year during the period commencing in the year 1937 and ending with and during the year 1957.

Interest rate.

SEC. 17. The rate of interest to be borne by the bonds shall be uniform for all bonds of the same issue and shall be determined and fixed by the State building finance committee according to the then prevailing market conditions, but shall

in no case exceed five per cent per annum. The determination of the committee as to the rate of interest shall be conclusive as to the then prevailing market conditions. The interest coupons to be attached to the bonds shall be payable at semi-annual intervals from the date of issuance of the bonds, except that the interest coupon first payable may, if the State building finance committee so determines and specifies, be payable one year after the date of issuance of the bonds.

Committee expenses

SEC. 18. All actual and necessary expenses of the State building finance committee and of the members thereof shall be paid out of the State building fund, upon the approval of the State Department of Finance and on Controller's warrant duly drawn for that purpose.

Records

SEC. 19. The State Controller, the State Treasurer and the State building finance committee shall keep full and accurate account and record of all their proceedings under this act. All books and papers pertaining to the matters provided for in this act shall at all times be open to the inspection of any party interested, or the Governor, or the Attorney General, or a committee of either branch of the Legislature, or a joint committee of both branches of the Legislature, or any citizen of the State.

Federal funds

SEC. 20. Whenever the United States Government or any officer or agency thereof shall provide funds for the construction of public works at State institutions supported in whole or in part by the State, cooperation by the State therewith and therein is hereby authorized in such manner and to such extent as the State Building Commission may deem to be for the best interests of the State, and the funds herein appropriated shall become available for such purpose.

Constitutional amendment

SEC. 21. This act shall take effect upon the adoption by the people of the State of California of an amendment to the Constitution of the State of California, approving, adopting, legalizing, ratifying, validating and making fully and completely effective this act.

Short title

SEC. 22. This act may be known and cited as the State Building Bond Act of 1935.

CHAPTER 351.

Stats 1933, p 2599, amended.

An act to add a new section to an act entitled "An act imposing a tax for the privilege of selling tangible personal property and for the privilege of furnishing, preparing or serving tangible personal property, providing for permits to retailers, providing for the levying, assessing, collecting, paying and disposing of such tax, making an appropriation for the administration hereof, prescribing penalties for violations of the provisions hereof, and pro-

viding this act shall take effect immediately," approved July 31, 1933, to be numbered 26½, relating to the priority of the State of California for taxes.

[Approved by the Governor June 25, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section to be numbered 26½ is hereby added to the act cited in the title hereof to read as follows:

Priority of tax liens

Sec. 26½. Whenever any retailer liable for any tax levied hereunder is insolvent, whenever any retailer makes a voluntary assignment of his assets, whenever the estate of a deceased retailer in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased, or whenever the estate and effects of an absconding, concealed, or absent retailer are levied upon by process of law, the tax, together with interest and penalties attaching thereto, shall be first satisfied; provided, however, that this section shall not be construed to give the State a preference over any recorded lien which attached prior to the date when the tax became a lien.

CHAPTER 352.

An act to establish a system of unemployment reserves for this State, and making an appropriation therefor.

[Approved by the Governor June 25, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

Article 1—Basis of Act.

Basis of act.

SECTION 1. Experience has shown that large numbers of the population of California do not enjoy permanent employment by reason of which their purchasing power is unstable. This is detrimental to the interests of the people of California as a whole.

The benefit to all persons resulting from public and private enterprise is realized in the final consumption of goods and services. It is contrary to public policy to permit the supply of consumption goods and services at prices which do not provide against that harm to the population consequent upon periods of unemployment of those who contribute to the production and distribution of such goods and services

Experience has shown that private charity and local relief can not alone prevent the effects of unemployment. Experience has shown that if the State awaits the coming of excessive

unemployment it can neither create immediately the organization necessary to orderly, economical and effective relief nor bear the financial burden of relief without disrupting its whole system of ordinary revenues and without jeopardizing its credit.

To meet in some measure the situation thus shown to be created by excessive unemployment, this act is designed to accumulate a reserve to assist in protecting the public against the social effects of unemployment which may be created in future years.

National plan.

SEC. 2. This act is enacted as a part of a National plan of unemployment reserves and social security, and for the purpose of assisting in the stabilization of unemployment conditions. The imposition of the tax herein imposed upon California industry alone, without a corresponding tax be imposed upon all industry in the United States, would, by the corresponding penalty upon California industry, defeat the very purposes of this act set forth in section 1. Therefore this act shall take effect only if and when there is enacted legislation by the United States Government providing for a tax upon the payment of wages by employers in this State, against which all or any part of the contributions required by this act may be credited.

Act operative only upon enactment of Federal legislation

Effect of change of Federal law

Whenever such legislation enacted by the United States Government is repealed, amended, affected or otherwise changed in such manner that the contributions required by this act or some portion thereof can not be thus credited, then upon the date of such change, the provisions of this act requiring contributions and providing for payment of benefits shall cease to be operative and any assets in the unemployment fund or unemployment administration fund shall in the discretion of the State Treasurer be held in the then existing depositaries or otherwise in the State treasury. In the case of the unemployment administration fund, such moneys may thereafter be dealt with by the State Treasurer pursuant to the conditions of the grant thereof to the State by the United States Government or agency thereof.

Article 2—Definitions.

Definitions

SEC. 5. Except where the context otherwise clearly indicates, the definitions set forth in this article shall govern the construction of the provisions of this act.

Commission

SEC. 6. "Commission" means the unemployment reserves commission created by this act.

Employment

SEC. 7. An "employment," means any employment by an employer who is subject to this act during any week, in which all or the greater part of the work performed within the United States or on a vessel documented within the United States is customarily performed within this State, under any contract of hire, express or implied, oral or written, except

that for the purpose of this act such "employment" does not include:

Exceptions

(a) Agricultural labor;

(b) Domestic service in a private home;

(c) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(d) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(e) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(f) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions, or in the employ of any unit or agency of government, whether of a governmental or a proprietary nature, or service as a public officer;

(g) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(h) Employment, under any unemployment compensation system established by a law of the United States.

Eligible employee

SEC. 8. "Eligible employee" means every person employed by an employer subject to this act in an employment also subject to this act.

Employer.

SEC. 9. "Employer" means:

(a) Every individual, trust or estate, partnership, association, joint stock company or corporation, subject to a pay roll tax levied by the United States government, if the tax levied by this act, or any portion thereof, may be credited against such pay roll tax.

(b) If the provisions of subdivision (a) of this section are held invalid by a final judgment of a court of final instance of this State or the United States:

(1) All the following parties, other than units or agencies of government, who have the record of operation set forth in paragraph (2): Persons, firms, partnerships, associations, trusts or estates, joint stock companies, or corporations.

(2) All the parties specified and not excluded in paragraph 1 of this subdivision having the following record: As to such party, on each of some thirteen days during the calendar year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day, whether or not at the same moment of time, was four or more.

There shall be included in computing the persons thus employed by the employer, all persons thus employed and all of any several places of employment maintained by the

employer, except that where some of such persons are employed within the State and others are employed without the State, the tax levied by this act shall apply only as to such employees employed within the State, or the greater part of the work of which is performed within the State.

Benefits

SEC. 10. "Benefits" means the money allowance payable to an employee as compensation for his wage losses due to unemployment, as provided in this act.

Wages

SEC. 11. "Wages" means the amount of money received as compensation for the service rendered, including commissions and bonuses and the reasonable value of board, rent, housing, lodging or similar advantage received from the employer.

Total unemployment.

SEC. 12. "Total unemployment" means the condition caused by the inability, of an employee who is capable of and available for work, to obtain suitable employment, when such condition causes total loss of wages.

Suitable employment.

SEC. 13. "Suitable employment" means:

(a) Employment in the employee's usual employment and which conforms to the conditions of paragraph (2) of subdivision (b) of this section.

(b) Employment for which the employee is reasonably fitted, regardless of whether or not it is subject to this act, if such employment conforms both to the provisions of paragraph 1 and paragraph 2 of this subdivision.

(1) The employment is one for which the employee is reasonably fitted, regardless of whether or not it is subject to this act, and is in the vicinity of the employee's residence or last employment, and either gives him wages at least equal to his weekly benefit for total unemployment, or provides him work for at least half the number of hours normally worked at full time in the occupation or establishment.

(2) The employment offered is not vacant due directly to a strike, lockout or other labor dispute; the wages, hours or other conditions of the work offered are not substantially less favorable to the individual than those prevailing for similar work in the locality; and as a condition of such employment the individual will not be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(c) In any particular case where the commission finds it impracticable to apply one of the standards prescribed by subdivision (a) or (b), any standard set by the commission which conforms to the provisions of paragraph 2 of subdivision (b) and is reasonably calculated to determine what is suitable employment.

Partial unemployment

SEC. 14. "Partial unemployment" means any temporary reduction in working hours below the normal working hours per week, and which results in loss of wages. The normal working hours per week are computed as the hours per week most commonly worked in the preceding three years in the

portion or division of the particular establishment or business in which the employee is employed, or such hours as were set by collective agreement between the employer and his employees.

Article 3—Funds in the State Treasury.

Unemployment fund created

SEC. 19. There is hereby created the unemployment fund in the State treasury, to be administered by the commission without liability on the part of the State beyond the amounts paid into and earned by the fund. This fund shall consist of all contributions and moneys paid into and received by the fund as provided by this act, of property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon the moneys belonging to the fund.

Use of fund.

SEC. 20. The unemployment fund shall be administered in trust and used solely to pay benefits, upon vouchers drawn on the fund by the commission pursuant to general commission rules and no other disbursement shall be made therefrom. Such rules shall be governed by and consistent with any applicable constitutional requirement, but the procedure prescribed by such rules shall be deemed to satisfy and shall be in lieu of any and all statutory requirements of specific appropriation or other form of release by State officers of State moneys prior to their expenditure which might otherwise be applicable to withdrawals from the fund.

Duties of treasurer

SEC. 21. The State Treasurer shall be the treasurer of the fund and he shall pay all vouchers duly drawn upon the fund, in such manner as the commission prescribes. He shall have custody of all moneys belonging to the fund and not otherwise held or deposited or invested pursuant to this act. The official bond of the State Treasurer shall cover the faithful performance of his duties as treasurer of the fund The Treasurer shall deposit and invest, and otherwise deal with the fund under the supervision and control of the commission, subject to the provisions of this act

Investment of contributions

SEC. 22. All contributions paid under this act shall upon collection be deposited in or invested in the obligations of the "unemployment trust fund" of the United States Government or its authorized agent, so long as such said trust fund exists, notwithstanding any other statutory provision to the contrary. The commission shall requisition from the unemployment trust fund necessary amounts from time to time.

Unemployment administration fund created

SEC. 23. There is hereby created the "unemployment administration fund," to consist of all the moneys received by the State or by the commission for the administration of this act. This administration fund shall be in the State treasury and shall be handled by the State Treasurer as other State moneys are handled; but it shall be expended solely for the purposes herein specified, and its balances shall not lapse

at any time but shall remain continuously available to the commission for expenditures consistent herewith.

All Federal moneys allotted or apportioned to the State by the Federal Social Security Board or other agency for the administration of this act shall be paid into the unemployment administration fund. Federal moneys

A special "employment service account" shall be maintained as part of the unemployment administration fund. Unemployment service account

SEC. 24. The State Treasurer shall be the custodian of all moneys and assets in the unemployment fund and unemployment administration fund, except as otherwise provided in this act. He shall be liable on his official bond for the safe keeping of such moneys, except that he shall not be liable for such safe-keeping while such funds are in the custody or control of the United States Government. Treasurer to be custodian

SEC. 25. All moneys requisitioned from the unemployment trust fund in the United States treasury for the payment of benefits under the provisions of this act shall be so requisitioned by the Unemployment Reserves Commission by and through the State Treasurer as agent thereof. Federal moneys

SEC. 26. If permitted by the United States Government, whether by rule or regulation of any agency thereof or by express provision of law, the commission may, with the approval of the State Department of Finance, withdraw from the fund, without at the same time presenting vouchers and itemized statements, a sum not to exceed in the aggregate the total contributions from all sources to the fund during the preceding month together with the total estimated expenditures from the fund for the current month, to be used as a cash revolving fund. Such revolving fund shall be deposited in such bank and other such conditions as the commission determines, with the approval of the State Department of Finance. Such withdrawals and deposits shall be made in accordance with law. Revolving fund

SEC. 27. Expenditures made from the revolving fund in payment of claims arising out of benefit liabilities are exempted from the operation of section 669 of the Political Code. Reimbursement of the revolving fund for such expenditures shall be made upon presentation to the State Controller of an abstract or statement of such expenditures. Such abstract shall be in such form as the Controller requires. Stats. 1927, p. 453.

SEC. 28. Unless other procedure is prescribed by the United States Government or agency thereof as a condition precedent to the crediting of the tax pursuant to section 2 of this act, each calendar month the commission shall submit to the State Department of Finance an estimate of the amount necessary to meet the current disbursements from the unemployment fund during the succeeding calendar month. When such estimate is approved by the department, the approved amount shall be requisitioned by the State Treasurer, as agent for the commission, from the unemployment trust fund in the United States treasury and held by him in the unemployment fund Estimates of current disbursements

in the State treasury subject to expenditure by the commission in payment of benefits under the provisions of this act, in accordance with law.

Accounting

SEC. 29. At the end of each calendar month, the commission shall account to the Department of Finance and to the Controller for all moneys so received, furnishing proper vouchers therefor.

Reports

SEC. 30. During the months of January and July of each year the State Department of Finance or the commission shall report the market value of all securities and the amount of all moneys held for the fund, to the State Controller.

Records

SEC. 31. The State Controller shall keep a special ledger account showing all of the assets pertaining to the unemployment fund and all of the assets pertaining to the unemployment administration fund. In the Controller's general ledger these funds may each appear as cash accounts, like other accounts of funds in the State treasury, and only the actual assets coming into each such fund shall be entered into the ledger account. Payments into the unemployment trust fund in the United States treasury shall be entered on the books in a manner similar to deposits in banks.

Investment of funds.

SEC. 32. Except as otherwise required by the contributor thereof, all moneys in the unemployment administration fund, in excess of current requirements, and not otherwise invested, may be deposited by the State Treasurer in banks and otherwise held and invested by him in the same manner as provided by law in the case of other funds in the State treasury, and under the same rules and regulations that govern the deposit of other public funds. The interest accruing thereon shall be credited to and deposited in the unemployment administration fund.

Quarterly reports.

SEC. 33. Each quarter the commission shall make a report to the Governor of the transactions of the unemployment fund and unemployment administration fund during the previous quarter and a statement of the resources and liabilities of each fund at the close of that previous quarter. The Department of Finance shall audit such reports and statements and cause an abstract thereof to be published one or more times in at least two newspapers of general circulation in the State.

Article 4—Contributions.

Contribution by employer

SEC. 37. On and after January 1, 1936, contributions to the unemployment fund shall accrue and become payable by every employer subject to this act, and in accordance with its provisions. Thereafter, contributions shall accrue and become payable by any employer on and after the date on which he becomes subject to this act.

Amounts of contributions

SEC 38. Every such employer shall pay into the fund the following amounts:

(a) During the year 1936, with respect to payments of wages made during that year, ninety one-hundredths per cent of all wages paid by him in employments subject to this act.

(b) During the year 1937, with respect to payments of wages made during that year, one and eighty one-hundredths per cent of all wages paid by him in employments subject to this act.

(c) During the year 1938 and thereafter, with respect to payments of wages made during that year and thereafter, two and seventy one-hundredths per cent of all wages paid by him in employments subject to this act.

Classification of employers

SEC. 39. The commission shall, beginning in 1941, classify employers in accordance with the actual experience with regard to the contributions which they have paid in their own behalf and the benefits which the unemployment fund has paid to their employees, or to employees whose benefits are charged against such employers. If it appears in the accounts established and kept as provided below, that an employer shows an excess of contributions paid in his own behalf over benefits paid to his employees or chargeable to him, a reserve equal to eight per cent or more of the average of his total pay rolls for the three preceding years, or the five preceding years whichever is higher, his rate of contribution shall be reduced to two and one-half per cent; if the reserve is ten per cent but less than twelve per cent, the rate shall be reduced to two per cent; if the reserve is twelve per cent but less than fifteen per cent, the rate shall be one and one-half per cent; and if the reserve is fifteen per cent or more, the rate shall be one per cent. The minimum contribution thus payable to the fund by the employer in his own behalf shall in no case amount to less than one per cent.

Records of contributions

SEC. 40. The commission shall keep separate records of the amounts paid into the fund by each employer in his own behalf, or chargeable to him as benefits; but nothing in this chapter shall be construed to grant any employer or his employees prior claims or rights to the amount contributed by him to the fund, either on his own account or on behalf of his employees. The amount of employer contributions together with the employee contributions shall be pooled and available to pay benefits to any employee entitled to benefits under the provisions of this chapter regardless of the source of such contributions.

Allocation of debits

SEC. 41. For the purpose of determining which employer shall be debited with the amount of benefits paid to an employee who, during the period of the effective operation of this act, prior to the receipt of benefits, has worked for more than one employer, the liability of the two or more accounts shall be in inverse order to the succession of the several employments of the employee.

Merit rating

SEC. 42. No employer shall have the advantage of a merit rating unless the reserve computed remains at a level justifying the lower rate of contributions, except that the commission may, for purposes of convenience, fix quarterly, half yearly, or other reasonable periods during which the lower contributions based on merit ratings shall remain unchanged.

Unemployment hazard

SEC. 43. The commission shall investigate and report upon the degree of unemployment hazard in various industries and occupations and their cost to the unemployment fund. It shall recommend to employers in industries or occupations showing an excessive cost to the fund means for stabilizing employment. It shall also, if necessary, recommend to the Legislature a higher rate of contribution for any classification of industries or occupations in which unemployment is excessive or chronic.

Contribution by employees

SEC. 44. Beginning on January 1, 1936, each employee shall contribute to the fund one-half of one per cent of his wages; and beginning on January 1, 1937, and thereafter he shall contribute one per cent; except that the rate of contributions required of employees shall not in any year exceed fifty per cent of the general rate required of employers. Each employer shall withhold such contribution from the wages of his employees, shall show such deduction on his pay roll records, and shall transmit all such contributions to the fund, pursuant to general rules of the commission.

Default of employer

SEC. 45. If any employer defaults in any payment required of him, for himself or on behalf of employees under this act, he shall become additionally liable for interest on such payments at the rate of twelve per cent per annum from the date such payment becomes due, both principal and interest being payable in the same manner as the contributions. Such payment and interest shall be collectible in the name of the fund in any manner practicable, including civil action by the commission against the defaulting employer.

Bankruptcy or liquidation.

SEC. 46. In the event of bankruptcy of any employer, or of liquidation of such employer under any law of this State by reason of insolvency or inability to pay his debts, the amount due for contribution on behalf of the employer or by him on behalf of employees, shall have the same preference against the assets of the employer as unpaid wages for labor, but shall not become a lien on the property of third persons by reason of such preference.

Exemption of employers.

SEC. 47. The commission may exempt from the provisions of this act requiring contributions to the fund, and from such other provisions as the commission finds clearly inapplicable to guaranteed employment plans, any employer (and his employees) who guarantees, under a plan approved by the commission, to all employees in his employ at the time of putting such plan into effect (and to each employee who is thereafter employed and continued in employment after a total of eight weeks of employment), in advance for stated one-year periods, at least that number of weeks of work or wages, for at least that corresponding number of hours in each week set forth in the following table, provided the commission is satisfied that the employer can and will make good such promise under all circumstances.

Guaranteed employment.

Minimum number of weeks per year	Minimum hours in each such week
42	36
43	34
44	32
45	30
46	28
47	26
48	24
49	22
50	20

The employer's guaranty to an employee under such a plan shall specify the one-year period applicable to such employee, the total wage rate guaranteed the employee for all work done by him for the employer during such year period and guaranteed him as a deficiency wage for each hour short of the number of guaranteed hours in a guaranteed week, the manner of extending or removing such guaranty, and such other matters as the commission finds necessary to safeguard and carry out guaranteed employment plans submitted under this act. But an employer shall not be required to make good such guarantee in the case of any individual employee who loses his employment under any of the conditions enumerated in section 56 of this act.

Exemption

SEC. 48. The commission may exempt from paying to an account in the fund, the contributions provided for in sections 38, 39, 40, 41, 42, 43 and 44, any employer and employee or group of employers or employees submitting a plan for unemployment benefits which the commission finds: (1) makes eligible for benefits at least the employees who would be eligible for benefits under the compulsory features of this act; (2) provides that the proportion of the benefits to be financed by the employer or employers will on the whole be equal to or greater than the benefits which would be provided under the compulsory features of this act; and (3) is on the whole as beneficial in all other respects to such employees as the compulsory plan provided in this act If under such a plan any contributions are made by employees, the accounts of the plan shall be so kept as to make clear what proportion of the benefits is financed by the employer or employers, and what proportion by the employees. If under such a plan any contributions are made by employees, the commission shall require that such employees be represented, by representatives of their own choosing, in the direct administration of such plan, and the commission may take any steps necessary and appropriate to assure such representation to contributing employees.

Private unemployment benefit plans.

Deposit of security.

SEC. 49. As a condition of granting exemption, the commission may require the employer or group to furnish such security as the commission may deem sufficient to assure payment of all promised benefits or wages, including the setting up of proper reserves. Such reserves and other security and

also the manner in which an exempted employer carries out his promises of benefits or employment shall be subject to inspection and investigation by the division at any reasonable time. If the commission shall deem it necessary it may require an exempted employer to furnish additional security to assure fulfillment of his promises to his employees.

Revocation of exemption

SEC. 50. If an exempted employer or groups of employers fails to furnish security satisfactory to the commission, or fails to fulfill the promises made to employees, or wilfully fails to furnish any reports that the commission may require under this act, or otherwise to comply with the applicable portions of this act and the rules, regulations and orders of the commission pertaining to the administration thereof, the commission may, upon ten days' notice and the opportunity to be heard, revoke the exemption of such employer or group. In such case or in case any exempted employer or group voluntarily terminates exemption, such employer and each of such group of employers shall at once pay into the fund an amount equal to the balance which would have been standing to his account had he been making the contributions to the fund and paying out the benefits provided in this act; provided that, in any case where such balance can not reasonably and definitely be determined, and specifically in the case of an employer exempted under subsection (a) of this section, the commission may require such employer to meet his liability under the present subsection by paying into the fund a lump sum amount equal to the contributions he would, if not exempted, have paid into the fund under section 38 during the twelve months preceding termination of his exemption. The account of any employer whose exemption has been terminated shall thenceforth be liable to pay to his employees the benefits which may remain or thereafter become due them, as if such employer had not been exempted under this section; and such employer shall thenceforth pay all contributions regularly required under this act from nonexempted employers.

Liability of exempted employer.

SEC. 51. (a) Each employer exempted under this article shall be liable to make all contributions, to pay directly to employees all benefits, to pay all penalties, and otherwise to comply with all the provisions of this act, except as specifically provided in this section and in suitable rules to be formulated by the commission consistent with the purposes and provisions of this act.

(b) Such plan for exemption shall provide that upon the going out of business in this State by any employer, or the legal abandonment of the plan, the funds which shall have been contributed under such plan shall be retained for a sufficient period to meet all liability for benefits which may thereafter accrue, and that at the end of such period the proportion then remaining of employer contributions shall be released to the employer or his assigns, and the proportion then remaining of employee contributions shall be distributed in such equitable manner as the commission may approve.

(c) The rules and regulations for the government of such plan must be submitted to and approved by the commission. A plan, so approved, shall when put into effect, constitute a contract between each employer and every other employer participating in that plan, and between the employer or employers on the one hand, and, on the other hand all employees who came under it; and shall not thereafter be abandoned or modified without the approval of the commission, but it is a condition of such contract that it may be so abandoned or modified with such approval. Approval of plan by commission.

Article 5—Qualification for Benefits.

SEC. 50. An employee shall not be eligible for benefits unless, pursuant to this act, he gives notification of unemployment or such notification is waived by the commission. Notification of unemployment.

SEC. 51. An employee is not eligible for benefits on account of either partial or total unemployment during any calendar week unless he is physically able to work and available for work whenever called on by his employer, or by the public employment office in the district in which the employee was last employed or in which he resides, with due notice, to report for work. Physical ability to work

SEC. 52. An employee is not eligible for benefits for total unemployment for any calendar week in which he has suitable employment. Suitable employment

SEC. 53. An employee is deemed partially unemployed and at once eligible for benefit for such partial employment during any calendar week whenever his wages paid for such week are less than the amount of weekly benefits to which he would be entitled if totally unemployed. When partially unemployed.

SEC. 54. The waiting period under this act shall be four weeks during the period from January 1, 1938, to December 31, 1939, inclusive, and thereafter shall be three weeks. No benefit shall be or become payable for this required waiting period, but not more than the total time of the waiting period per employer shall be required of any employee in any twelve successive calendar months in order to establish his eligibility for total unemployment benefit. Waiting period

An employee is deemed totally unemployed in any calendar week in which he performs no services whatsoever for his current employer. In such cases such unemployed employee is eligible for benefit for total unemployment for each week of total unemployment occurring subsequent to the waiting period. When totally unemployed

SEC. 55. The waiting period prescribed by section 54 shall not apply, but in the cases specified in this section the waiting period shall be eight weeks during the period from January 1, 1938, to December 31, 1939, inclusive, and thereafter shall be six weeks: When Sec 54 not applicable

(a) If the employee has lost his employment through misconduct.

(b) If the employee has left his employment voluntarily without cause attributable to the employer.

When employee not eligible.

SEC. 56. An employee is not eligible for benefits for total unemployment based on past weeks of employment, and no such benefit shall be payable to him under any of the following conditions:

(a) If he left his employment because of a trade dispute and continues out of employment by reason of the fact that the trade dispute is still in active progress in the establishment in which he was employed.

(b) If he attended a school, college or university or similar institution of learning during the last preceding session thereof, and has been employed by his employer only during the customary vacation period of such institution.

(c) If without good cause, he has refused to accept suitable employment when offered to him, or failed to apply for suitable employment when notified by the district public employment office.

(d) If he has not been a resident of this State for one year immediately preceding the beginning of unemployment, or has not been gainfully employed in the State for twenty-six weeks within such one year period, except as provided in subdivision (e) of this section.

(e) In the case of disqualification arising out of the provisions of subdivision (d) of this section, such disqualifications may be avoided in case reciprocal arrangements with the proper authorities of other unemployment compensation systems are in effect. Such arrangements may be made by the commission with the proper authorities of such other unemployment compensation systems, as to persons who have, after acquiring rights to benefits under this act or under such other system, newly come under this act or under such other system. Such arrangements shall provide that substantially equivalent benefits shall be paid, or both paid and financed in whole or in part through or by the fund of the unemployment compensation system newly applicable to such person. Such reciprocal arrangements shall be published by the commission in the same manner as its rules.

Average weekly wage

SEC. 57. (a) For the purpose of determining benefits, average weekly wage is computed by multiplying the hourly rate of earnings by the number of full time weekly hours applicable to the employee.

(b) The applicable hourly rate of earnings shall be determined by averaging the employee's actual earnings by at least one hundred hours of employment by his most recent employers.

(c) The applicable full time weekly hours shall be computed by determining average number of hours per week lawfully worked by the employee in the employment in question during the fifty-two weeks last previous to his becoming unemployed.

Benefits

SEC. 58. The benefits to which eligible employees are entitled are the following:

(a) Generally, for total unemployment, at a rate of fifty per cent of the average weekly wage but not exceeding fifteen dollars a week nor less than seven dollars a week.

(b) For partial unemployment, the difference lost to the employee between the eligible employee's actual wages for the week and the weekly benefits to which he would be entitled if totally unemployed.

(c) Benefits shall be paid for the calendar week during which an eligible employee is totally or partially unemployed, but such employee shall not receive more than the following weeks of benefits for total unemployment nor more than the equivalent total amount of benefits either for partial unemployment or for partial and total unemployment combined:

(1) For each previous four weeks of employment for which contributions were made—one week of benefit.

(2) For fifty-two weeks or more, not exceeding one hundred three weeks, of previous employment for which contributions were made—thirteen weeks of benefit in twelve consecutive months.

(3) For more than one hundred three weeks of employment for which contributions were made—twenty weeks of benefit in twelve consecutive months.

(d) In any case where an employee accepts or secures employment not subject to this act, the period during which he remains in such employment shall be excepted from any computation of benefits due under this act and all his right to benefit hereunder shall be suspended during the period of such excepted employment.

Change of employment

SEC. 59. In any case where, by reason of change of employment, an employee is, during the one hundred four weeks prior to becoming unemployed, employed by employers contributing to different reserve accounts, payment of benefits out of each reserve account shall be that proportion of the total number of weeks of employment during which contribution was made to the particular reserve account which such total number bears to the total number of weeks of employment in that period during which contributions were made.

Part-time workers.

SEC. 60. An employee who for reasons personal to himself is unable or unwilling to work usual full time and who customarily works less than the full time prevailing in his place of employment shall register as a short-time worker in such manner as the commission prescribes. The time which such employee normally works in any calendar week shall be deemed his week of full-time employment and the wages which he earns in such week shall be deemed his full-time weekly wages.

The commission shall fix the proportionate number of days of employment required to qualify for benefit in place of the provisions of section 58 of this act and the proportionate maximum and minimum benefits in lieu of the maximum and minimum amount provided in section 58 of this act.

When benefits payable.

SEC. 61. Benefits shall become payable under this act for unemployment occurring on and after January 1, 1938.

Waiver invalid.

SEC. 62. Any waiver by any person of any benefit or right under this act shall be invalid. Benefits under this act are not subject to assignment, release or commutation, and are exempt from all claims of creditors and from all process of law except collection thereof by the person entitled thereto in his own right.

Reduction or cessation of payments.

SEC. 63. Whenever the commission determines that, in view of existing or probable future conditions, the condition of the fund is such that, within six months it will be unable to pay probable benefit liabilities in full, it may, by rule, reduce or cease payment of such liabilities. Such reduction or cessation shall continue until changed by rule adopted by the commission resuming full payment or otherwise changing such payment.

Article 6—Claims for Benefits.

Notice

SEC. 65. Immediately upon becoming unemployed, an eligible employee shall file a notice of unemployment in such manner and at such place as the commission, by rule, prescribes. The waiting period shall run from the date of filing of such notice.

Claims

SEC. 66. Claims for benefits shall be filed with the manager of the public employment office for the district in which the claimant is last employed, or with a deputy of the commission designated for the purpose. Claims shall be filed within such time and in such manner as the commission prescribes.

Rejection or approval of claims.

SEC. 67. If a claim appears invalid to the officer with whom it is filed, he shall reject the claim. If it appears valid, he shall state the amount of benefits apparently payable to the claimant while eligible. In either case he shall notify the claimant in writing, giving the reason for his decision.

Payment of benefits.

SEC. 68. The commission shall prescribe the mode and manner of payment of benefits under this act. All benefits under this act shall be paid through the public employment offices administered by the commission so far as designated for the purpose by the commission.

Appeals

SEC. 69. Any employee may appeal directly to the commission from any decision as to the validity or invalidity of his claim.

Procedure

SEC. 70. The commission shall prescribe such method and manner of considering appeals as seems to it advisable and practicable and shall notify the claimant of its decision on such appeal. The procedure shall be calculated as far as practicable to procure the earliest decision consonant with proper investigation and consideration of the appeal, and shall provide for notice immediately upon the making of the decision by the commission.

Penalties.

SEC. 71. No costs shall be awarded in hearings on appeal by the commission, but if in the opinion of the commission, the

claimant has acted in bad faith and without reasonable basis for appeal, a penalty not exceeding ten per cent of the amount finally awarded on the appeal may be taxed against and deducted from the award by the commission and shall be placed in the reserve account from which the benefit is paid. The commission and every member thereof in this enforcement of this act shall have the powers of a head of a department set forth in section 353 of the Political Code. For the purpose of any investigation or proceeding under this act, it may delegate its power in relation thereto to any deputy or other person properly authorized in writing by it.

Stats. 1921, p. 1023.

Article 7—Administration.

SEC. 75. This act shall be administered by the Unemployment Reserves Commission of this State, to be appointed by the Governor, by and through the State Department of Employment which is hereby created and of which such commission shall be the governing body.

Unemployment Reserves Commission.

SEC. 76. The chairman of the commission shall be elected by and serve at the pleasure of the commission and shall be a member of the commission. The chairman and members of the commission shall each receive the sum of ten dollars as compensation for each and every day devoted to the actual performance of their duties under the provisions of this act, not exceeding the sum of one thousand two hundred dollars per annum, and shall each receive their actual and necessary traveling expenses incurred in the course of such duties.

Chairman

Compensation

SEC. 77. With the exception of the first terms of office, the term of office of each commissioner shall be four years and until the qualification of his successor. For the purpose of determining the date of expiration of any term, the period during which the predecessor in office holds over shall be computed as a part of the successor's term. Vacancies shall be filled for the unexpired portion of the current term.

Terms of office.

SEC. 78. There shall be five commissioners whose offices shall be designated respectively: Commissioner number 1, Commissioner number 2, Commissioner number 3, Commissioner number 4, and Commissioner number 5.

Commissioners

SEC. 79. Commissioner number 1 shall be appointed as a representative of labor and its interests.

SEC. 80. Commissioner number 2 shall be appointed as a representative of labor and its interests.

SEC. 81. Commissioner number 3 shall be appointed as a representative of the State and its interest and of the public.

SEC. 82. Commissioner number 4 shall be appointed as a representative of the large employers of the State.

SEC. 83. Commissioner number 5 shall be appointed as a representative of independent merchants and small employers of this State.

SEC. 84. The first term of the office of Commissioners number 1 and number 5 shall expire on July 1, 1936.

SEC. 85. The first term of office of Commissioner number 2 shall expire July 1, 1937.

SEC. 86 The first term of office of Commissioner number 3 shall expire July 1, 1938.

SEC. 87. The first term of office of Commissioner number 4 shall expire July 1, 1939.

Secretary

SEC. 88. The commission may appoint and employ an executive officer, who shall act as the secretary of the commission, and shall be Director of the Department of Employment. The commission may employ such assistance as seems to it necessary for the administration of this act, subject to the provisions of the Civil Service laws.

Expense of administration

SEC. 89. The expense of the administration of this act shall be paid out of the unemployment administration fund.

Powers of commission

SEC. 90. The commission, in addition to all other duties imposed and powers granted or implied by the provisions of this act:

(a) Shall adopt and enforce rules and regulations which to it seem necessary and suitable to carry out the provisions of this act.

(b) Shall make such rules and standards on or before December 1, 1935, and thereafter as needed. It shall give thirty days' notice by publication in at least two issues published in two separate weeks, in one or more newspapers of general circulation in this State before any rule or standard or change thereof takes effect.

(c) Shall keep such records of employment of eligible employees, contributions, penalties, claims, benefits, and payments as are necessary for the proper administration of this act, or advisable for proper understanding of its operation.

(d) Shall cause to be printed for distribution to the public its classifications, rules, and such information as it considers desirable.

Powers

SEC. 91. The commission may also take such action as will tend to:

(a) Promote the prevention of unemployment and the regularization of employment.

(b) Encourage and assist in the adoption of practical methods of vocational training, retraining and guidance.

(c) Promote the establishment and operation by governmental units and agencies of reserves for public work to be prosecuted in times of business depression and unemployment.

(d) Promote the reemployment of unemployed workers throughout the State in any way that may seem feasible.

(e) Reduce and prevent unemployment; and to these ends carry on and publish the results of any investigations and research which it deems relevant.

Additional powers

SEC. 92. In addition to all other powers granted and duties imposed by this act, the commission:

(a) May create unemployment districts

(b) Shall establish, maintain and operate a system of public employment bureaus and exchanges.

(c) Promulgate such rules as it finds desirable for the registration of unemployed persons, and for placing them in available employment, and for the administration of this act. To this end it may accept financial contributions from any governmental unit or agency, or private persons.

Division of State Employment Agencies

SEC. 93. On July 1, 1936, the Division of State Employment Agencies of the Department of Industrial Relations shall become and remain the Division of State Employment Agencies in the Department of Employment. All persons employed in such division and the records and property thereof shall, upon such change, become the employees, records and property of the Department of Employment. All persons employed in any capacity in such division shall continue and remain in such capacity in such division after the change, subject to the power of the commission as the governing body of the department to abolish such division, change old divisions or create new divisions, change duties and powers of such division, or impose upon it new and additional powers and duties.

Acceptance of act of Congress of June 6, 1933

The State of California hereby accepts the provisions of the Wagner-Peyser Act, approved June 6, 1933, passed by the Congress of the United States, and entitled "An act to provide for the establishment of a National employment system and for cooperation with the States in the promotion of such system, and for other purposes," in conformity with section 4 thereof, and will observe and comply with the requirements of said act of Congress.

The Division of State Employment Agencies in the Department of Employment shall be the agency of this State for the purposes of said act.

Said division by and through its chief shall have full power to cooperate with all the authorities of the United States having powers and duties under said act of Congress and, with the approval of the commission, to do and perform all things necessary to secure to this State the benefits of that act of Congress in the promotion and maintenance of a system of public employment offices.

All moneys made available by or received by this State under that act of Congress shall be paid into a special "employment service account" in the unemployment administration fund, and all such moneys are hereby appropriated without regard to fiscal year, and shall be expended in accordance with law by the Division of State Employment Agencies as provided by this act and by that act of Congress.

Funds.

SEC. 94. The unexpended balance of every appropriation and fund, available for the purposes or support of the division prior to the transfer shall be available to the commission for such purposes or support after the transfer.

Employment records

SEC. 95. Every employer shall keep a true and accurate employment record of:

(a) All his employees.

(b) The hours worked for him by each employee.

(c) The wages paid by him to each employee.

(d) Such other information as the commission deems necessary to proper administration of this act.

Inspection of records

SEC. 96. Every employer shall furnish to the commission, upon demand, a sworn statement of the matters in such records. Such records shall be open to inspection by the commission or its authorized representative at any time during the business hours of the employer.

Information for exclusive use of commission.

SEC. 97. The information furnished to the commission by employers, pursuant to this act, shall be for the exclusive use and information of the commission in discharge of its duties, and shall not be open to the public, nor admissible in evidence in any action or special proceeding, other than one arising out of the provisions of this act. Such information may be tabulated and published in statistical form for the use and information of State departments and the public, except that the name of the employer or of any employee shall never be divulged in the course of such tabulation or publication.

Reports

The commission shall make such reports, in such form and containing such information, as are required by the United States Government or any agency thereof as a condition of the return of moneys to this State out of the unemployment trust fund in the United States treasury, or the grant of moneys by the United States Government for the administration of this act. The commission shall also make available, upon request, to any agency of the United States Government charged with the administration of public works or assistance through public employment, the following information relating to recipients of unemployment compensation:

(a) The recipient's name.

(b) The recipient's address.

(c) The ordinary occupation and employment status of each such recipient of unemployment benefits.

(d) A statement of such recipient's rights to further compensation under this act.

Article 8—Penalties.

Felony.

SEC. 100. It is a felony for any commissioner, or any officer or employee of the Department of Employment to divulge any information secured by him in the course of such employment in respect to the transactions, property or business, or mechanical, chemical, or other industrial processes of any employer, to any person other than members of the commission or of such department in the course of his duties.

Misdemeanor

SEC. 101. It is a misdemeanor to:

(a) Wilfully make a false statement or representation to obtain any benefit or payment under the provisions of this act, whether for the maker or for any other person, or for the

purpose of lowering any contribution required of the maker or any other person.

(b) Make a greater deduction from the wages of an employee than the contribution required of such employee under this act, for the purpose of paying any contribution under this act.

(c) Wilfully and unlawfully to fail to appear or to testify or to produce books, papers, and records, required at any hearing under this act.

(d) On the part of an employer, wilfully and unlawfully to fail or neglect to open his employment record to the inspection of the commission or its authorized representative at any reasonable time during business hours.

(e) On the part of an employer, wilfully and unlawfully to fail or neglect to make such statement of the employment record of eligible employees as the commissioner requires when necessary for the enforcement of this act.

SEC. 102. All fines collected for violations of the provisions of this act shall be paid into the State treasury to the credit of the unemployment administration fund. Fines.

Article 9—General Provisions.

SEC. 110. All the rights, privileges, or immunities conferred by this act or by acts deemed pursuant thereto shall exist subject to the power of the Legislature to amend or repeal this act at any time. Legislature may amend or repeal

SEC. 111. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act and the application of such provision, to other persons or circumstances shall not be affected thereby. Constitutionality

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CHAPTER 353.

An act to amend the title and sections 4, 4a, 5, and 23 of the Bank and Corporation Franchise Tax Act, relating to bank and corporation taxes, including the extension of the provisions of said act to the companies taxable hereunder and their franchises, other than insurance companies and their franchises, specified in section 14 of Article XIII of the Constitution of this State, and to provide that this act shall take effect immediately. Stats 1929, p. 19, amended

[Approved by the Governor June 25, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows: Stats 1935, Ch 281

An act to carry into effect the provisions of sections 14 and 16 of Article XIII of the Constitution of the State of California, relating to bank and corporation taxes. Title amended

Stats 1935, Ch 275

SEC. 2. Section 4 of said act is hereby amended to read as follows:

Financial corporation to pay tax

Sec. 4. (1) Every financial corporation doing business within the limits of this State, taxable under the provisions of section 16 of Article XIII of the Constitution of this State, shall annually pay to the State for the privilege of exercising its corporate franchises within this State, a tax according to or measured by its net income, to be computed, in the manner hereinafter provided, upon the basis of its net income for the next preceding fiscal or calendar year at the rate provided for in section 4a hereof.

Offsets

(2) Each such financial corporation shall be entitled to an offset against said franchise tax, in the manner hereinafter provided, in the amount of taxes paid upon its personal property to any county, city and county, city, town or other political subdivision of the State; provided, however, that the tax on such financial corporation after the allowance of offset shall not be less than four per centum of its net income for the preceding fiscal or calendar year or less than twenty-five dollars.

Corporations other than financial doing business in this State to pay tax.

(3) With the exception of financial corporations, every corporation doing business within the limits of this State and not expressly exempted from taxation by the provisions of the Constitution of this State or by this act, shall annually pay to the State, for the privilege of exercising its corporate franchises within this State, a tax according to or measured by its net income, to be computed, in the manner hereinafter provided, at the rate of four per centum upon the basis of its net income for the next preceding fiscal or calendar year. In any event, each such corporation shall pay annually to the State, for the said privilege, a minimum tax of twenty-five dollars.

Minimum tax

Holding corporations

(4) Any corporation organized to hold the stock or bonds of any other corporation or corporations, and not trading in such stock or bonds or other securities held, and engaging in no other activities than the receipt and disbursement of dividends from such stock or interest from such bonds, shall not be considered a corporation doing business in this State for the purposes of this act.

Other corporations to pay tax

(5) Every corporation not otherwise taxed in pursuance of this section and not expressly exempted by the provisions of this act or the Constitution of this State shall pay annually to the State a tax of twenty-five dollars.

Certain corporations not taxed.

(6) In any event any corporation organized for religious, charitable, social, cemetery, scientific, educational, recreational, literary, fraternal or civic purposes, if its organization or activities are not designed for, and do not result in financial or pecuniary gain or profit to the stockholders or members thereof, shall not be taxed under this act.

When taxes due.

(7) Taxes under this section and under sections 1 and 2 of this act shall accrue on the first day of the "taxable year," as defined in section 11 hereof.

Taxes under this section shall be in lieu of all ad valorem taxes and assessments of every kind and nature upon the general corporate franchises of the corporations taxable hereunder but shall not be in lieu of any taxes or assessments upon special franchises owned, held or used by said corporations. All such special franchises shall be assessed annually by the State Board of Equalization (at their actual value) in the same manner as is provided for the assessment of other property to be assessed by said board under section 14 of Article XIII of the Constitution of this State, and shall be subject to taxation to the same extent and in the same manner as other property so assessed by said board. Said board is hereby authorized and directed to assess said special franchises as of the first Monday in March of 1935 and annually thereafter.

When 1935 amendments apply.

(8) The provisions of this subdivision, and of all other amendments to this act enacted during the year 1935, shall apply to taxable years beginning after December 31, 1934. Provided, however, that the tax for taxable years beginning prior to January 1, 1935, and ending during the calendar year 1935, shall be adjusted in accordance with the provisions of subdivision (d) of section 12 of this act. Any tax, for a taxable year specified in this subdivision, in addition to that disclosed by the return, made necessary solely by amendments to this act, shall accrue on January 1, 1935, and shall be due and payable within ten days from the date of notice and demand from the commissioner, or on or before the fifteenth day of the ninth month following the close of the income year, as defined in section 11 of this act, whichever is later. If not so paid, interest shall be added thereto pursuant to the provisions of subdivision (c) of section 24 of this act. Such tax shall not be considered a deficiency assessment within the meaning of section 25 of this act.

Refunds

Whenever any tax is paid under this act, and by reason of amendments to this act, such payment exceeds the amount properly payable, such excess shall be refunded or credited to the bank or corporation as provided in section 27 of this act.

Stats. 1935, Ch. 275.

SEC. 3. Section 4a of said act is hereby amended to read as follows:

Rate of tax

Sec. 4a. The rate of tax on national banking associations and other banks and financial corporations mentioned in sections 1, 2 and 4 of this act shall be a percentage equal to the percentage of the total amount of net income, allocable to this State, of every corporation taxable under subdivision (3) of section 4 of this act, for the next preceding calendar year or fiscal years ended during such calendar year, required to be paid to this State as franchise taxes according to or measured by such net income, and required to be paid to this State or its political subdivisions as personal property taxes during the preceding calendar year or fiscal years ended in such calendar year; provided, however, that said rate of tax shall not exceed

Personal property taxes

eight per centum. The percentage of the net income of every corporation taxable under subdivision (3) of section 4 of this act, required to be paid to this State or its political subdivisions in personal property taxes shall be determined by ascertaining the ratio which the total amount of such personal property taxes, less four per cent thereof, bears to the total amount of net income of such corporations, allocable to California, increased by the amount of such personal property taxes; provided, however, that if any such corporation sustains a net loss allocable to California the personal property taxes required to be paid by such corporation to this State or its political subdivisions during the preceding calendar year or fiscal years ended during such calendar year shall be considered for the purpose of determining such ratio only to the extent which such personal property taxes exceed such net loss allocable to California.

Net loss

Determination and notice of tax

The commissioner, after public hearing and opportunity given to examine the data on which his determination is based, shall determine not later than the thirty-first day of December of each year the average percentage of net income above specified, and shall forthwith mail notice of his determination and the amount of tax payable on the basis of such determination to all banks and financial corporations affected thereby, but such determination shall not be considered a deficiency assessment within the meaning of section 25 hereof.

Higher tax rate than authorized

If it be judicially determined that the rate of tax on any bank or corporation is higher than is authorized by law such bank or corporation shall be relieved of liability for any tax imposed by this act only to the extent of the excess beyond that legally authorized.

Stats 1935, Ch. 275

SEC. 4. Section 5 of said act is hereby amended to read as follows:

Definitions "Corporation"

Sec. 5. The term "corporation," as herein used, shall include every corporation, other than a bank or banking association, and other than those expressly exempted from the tax by the provisions of this act or the Constitution of the State of California.

"Bank"

The term "bank," as hereinafter used, shall include national banking associations.

"Doing business"

The term "doing business," as herein used, means actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

Stats 1935, Ch 275.

SEC. 5. Section 23 of said act is hereby amended to read as follows:

Time for payment of taxes.

Sec. 23. On or before the fifteenth day of the third month following the close of the income year, as defined in section 11 hereof, there shall be due and payable, from every national banking association, every other bank, and every financial corporation, of the classes mentioned in sections 1, 2, and 4 of this act, as a first installment of the tax on such banks and financial corporations, a percentage of their net income as disclosed by the return, which is equal to that percentage of

the net income of corporations of the classes referred to in subdivision (3) of section 4 of this act, which is required to be paid to the State as a franchise tax according to or measured by net income; except, that the first installment of the tax on financial corporations shall not be less than the minimum of twenty-five dollars.

On or before the fifteenth day following the mailing of notice of the commissioner's determination of the average percentage of net income of corporations of the classes referred to in subdivision (3) of section 4 of this act, required to be paid to the State or its political subdivisions in franchise and personal property taxes as provided in section 4a of this act, or on or before the fifteenth day of the ninth month following the close of the income year as defined in section 11 hereof, whichever is later, there shall be due and payable from every such banking association, bank, and financial corporation, as a second installment of the tax on such banks and financial corporations, a percentage of their net income as disclosed by the return which is equal to the percentage of the net income of corporations of the classes referred to in subdivision (3) of section 4 of this act required to be paid to the State or its political subdivisions as personal property taxes as determined by the commissioner; provided, however, that the sum of the first and second installments shall not exceed eight per centum of the net income of each such banking association, bank, and financial corporation. The offset herein provided for shall be applied to such second installment.

Limitation on sum

Offset

In the case of corporations of the classes referred to in subdivision (3) of section 4 of this act, one-half the amount of tax disclosed by the return, shall be due and payable as a first installment of the tax on such corporations, on or before the fifteenth day of the third month following the close of the income year, as defined in section 11 hereof. The balance of the tax shall be due and payable as a second installment, on or before the fifteenth day of the ninth month following the close of the income year. A tax imposed by this act or any installment thereof may be paid at the election of the taxpayer, prior to the date prescribed for its payment.

Time for payment of taxes

Where an extension of time for filing returns has been granted by the commissioner under the provisions of section 15 of this act, the first installment shall be paid prior to the expiration of such extension.

Returns.

If the first installment of the tax is not paid on or before its due date, or the due date as extended by the commissioner, it shall be delinquent and a penalty of fifteen per centum added thereto. If the second installment is not paid at the time it is due and payable, it shall be delinquent and a penalty of five per centum added thereto. At the time of the delinquency of the second installment an additional penalty of five per centum shall be added to the first installment unless that installment has theretofore been paid.

Delinquency and penalties

All taxes and interest imposed under this act must be paid to the commissioner at Sacramento in the form of remittances

Place of payment.

payable to the Treasurer of the State of California, and he shall transmit said payments daily to the State Treasurer.

"Bank and corporation franchise tax fund"

All moneys received by the State Treasurer shall be deposited by him in a special fund in the State treasury, to be designated the bank and corporation franchise tax fund, and moneys in said fund shall, upon the order of the State Controller, be transferred into the general fund of the State, or drawn therefrom for the purpose of refunding to taxpayers hereunder.

Constitutionality

SEC. 6. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

Tax levy.

SEC. 7. This act, inasmuch as it provides for tax levies for the usual current expenses of the State, shall, under the provisions of section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 354.

An act for the relief of special assessment districts and for the adjustment, refunding or cancellation of the bonded indebtedness of such districts, and for the purpose of empowering legislative bodies of such districts to adjust, refund or cancel said indebtedness and to make available to such districts the provisions of the Federal bankruptcy laws and any and all laws of the State of California for the relief of special assessment districts, and to declare the urgency of this act to take effect immediately.

[Approved by the Governor June 25, 1935 In effect immediately.]

The people of the State of California do enact as follows:

Bonded indebtedness of special assessment districts

SECTION 1. The legislative body of any city or county, or city and county, of the State of California, acting individually or in conjunction with any other such legislative body or bodies, wholly or partly within the boundary of which any special assessment district has been created, and the outstanding bonds or indebtedness of which district are payable by taxes or assessments levied wholly or partly in accordance with the assessed value of lands or property, shall be and it is hereby fully and completely authorized and empowered, on the consent of the owners or holders of such bonds or indebtedness, to purchase, adjust, liquidate or cancel such bonds or indebtedness, or any part of them or it, and to carry out any plan or plans for the purchase, adjustment, liquidation, or cancellation of such bonds or indebtedness, or any part of them or it, and if necessary or advisable to carry out such plan or plans under the bankruptcy laws of the United States of America, and any amendments thereto now or hereafter adopted, or under any law or laws of the State of California, enacted for

Federal bankruptcy laws

the purpose of the purchase, adjustment, refunding, liquidation or cancellation of bonds or indebtedness of special assessment districts.

In carrying out any such plan or plans the legislative bodies herein mentioned are fully authorized and empowered to adjust, waive or cancel in whole or in part, any tax or taxes, assessment or assessments, penalty or penalties and interest heretofore levied or taxed against any of the property or properties in such special assessment district which have been taxed or levied for the purpose of meeting the bonds or indebtedness of such special assessment districts.

Plans, contracts, etc., authorized

SEC. 2. Such legislative body or bodies shall be and hereby are also fully and completely authorized and empowered to enter into any plan, contract, agreement, escrow or trusteeship having for its purpose the purchase, adjustment, liquidation or cancellation of the outstanding bonds or indebtedness of such districts.

Authority to use funds

SEC. 3. Such legislative body or bodies are hereby also fully and completely authorized and empowered in connection with the furtherance, consummation or conclusion of any such plan or plans, contracts, agreements, escrows or trusteeships to appropriate and use any and all necessary funds, moneys, taxes, assessments and contributions, from whatsoever source derived, for the furtherance, consummation and conclusion of the purchase, adjustment, liquidation or cancellation of any bond or bonds, indebtedness or indebtednesses, in whole or in part of such districts, and to pay from such funds, moneys, taxes, assessments and contributions all expenses necessary to carry on the furtherance, consummation and conclusion of such plan or plans.

Construction of act.

SEC. 4. This act and all of its provisions shall be liberally construed to the end that the purposes hereof may be made effective. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The Legislature hereby declares that it would have passed this act irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof be declared unconstitutional.

Constitutionality

Urgency

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into immediate effect.

The facts constituting the necessity are as follows:

During the fifteen years last past hundreds of districts have been organized throughout the State of California under the provisions of the Road District Improvement Act of 1907 and the Acquisition and Improvement Act of 1925. Many of these districts were created during times of great economic prosperity and high land values. In many of such districts, due to the optimism of the times, or other causes, bonds for public

improvements were issued in amounts in excess of the ability of the lands of such districts to bear the assessments necessary to pay the principal and interest on such bonds. Millions of dollars in assessed land valuation are located within districts created under these acts. Due to the present economic depression land values throughout the State have shrunk to the point where, in many cases, the total assessed valuation of all lands within a given district is less than the face value of the bonds outstanding in such district. Annual assessments upon individual parcels of land within these districts amount in many instances to more than the assessed value of such land.

Under present economic conditions property owners are unable to meet these high assessments and hundreds of such districts throughout the State have reached a point of hopeless delinquency.

Inasmuch as the property owners of these districts can not, under the law, pay their county or municipal taxes without at the same time paying the district assessments many cities and counties are unable to collect large sums of money badly needed for the purposes of government.

Many hundreds of properties in these districts are being deeded to the State for delinquent taxes and assessments and unless the financial aid of the counties is immediately made available to assist these overburdened districts thousands of parcels of lands will be stricken from the tax rolls this year; thousands of property owners will lose their homes, millions of dollars in governmental revenue will be uncollectible and at the same time thousands of bondholders will be unable to realize any return upon their investments.

CHAPTER 355.

Stats 1933, p. 2599, amended.

An act to amend sections 3 and 5 of, and to repeal section 7 of, an act entitled "An act imposing a tax for the privilege of selling tangible personal property and for the privilege of furnishing, preparing or serving tangible personal property, providing for permits to retailers, providing for the levying, assessing, collecting, paying and disposing of such tax, making an appropriation for the administration hereof, prescribing penalties for violations of the provisions hereof, and providing this act shall take effect immediately," approved July 31, 1933, relating to taxation, and to provide that this act shall take effect imediately.

[Approved by the Governor June 25, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Stats 1933, p. 2600.

SECTION 1. Section 3 of the act cited in the title hereof is hereby amended to read as follows:

Sec. 3. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon retailers at the rate of two and one-half per cent of the gross receipts of any such retailer from the sale of all tangible personal property sold at retail in this State on and after August 1, 1933, and to and including June 30, 1935; and at the rate of three per cent of the gross receipts of any such retailer from the sale of all tangible personal property sold at retail in this State on and after July 1, 1935. Such tax shall be paid at the time and in the manner hereinafter provided and shall be in addition to any and all other taxes. Rate of tax.

SEC. 2. Section 5 of said act is hereby amended to read as follows: Stats 1933, p. 2601.

Sec. 5. There are hereby specifically exempted from the provisions of this act and from the computation of the amount of tax levied, assessed or payable under this act the following: Exemptions

(a) The gross receipts from sales of tangible personal property which this State is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this State.

(b) The gross receipts from the sales, furnishing, or service of gas, electricity, and water, when delivered to consumers through mains, lines, or pipes.

(c) The gross receipts from the sale of gold bullion or gold concentrates or gold precipitates by the producer or refiner thereof.

(d) The gross receipts from sales of tangible personal property used for the performance of a contract on public works executed prior to the effective date of this act.

(e) The gross receipts from the sale of food products for human consumption. "Food products" as used herein includes cereals and cereal products, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products other than candy and confectionery, coffee and coffee substitutes, tea, cocoa and cocoa products other than candy and confectionery. "Food products" does not include spirituous, malt or vinous liquors, soft drinks, sodas or beverages such as are ordinarily dispensed at bars and soda fountains or in connection therewith, nor does the term "food products" include the furnishing, preparing or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing or serving such tangible personal property. Food products

SEC. 3. Section 7 of said act is hereby repealed. Stats 1933, p. 2601

SEC. 4. The provisions of this act effecting amendments to the Retail Sales Tax Act of 1933 become operative July 1, 1935. Amendments operative July 1, 1935.

SEC. 5. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of section 1 of Article IV of the Constitution take effect immediately. Tax levy

Constitutionality

SEC. 6. If any of the provisions of section 2 of this act be declared unconstitutional such decision shall invalidate all of the provisions of this act.

CHAPTER 356.

An act relating to and imposing limitations on expenditures by counties, cities and counties, districts and other political subdivisions, under authority of section 20 of Article XI of the Constitution of the State.

[Approved by the Governor June 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Limitation on expenditures of public agencies

SECTION 1. The expenditures, other than expenditures to pay interest and redemption charges on bonds heretofore or hereafter issued, of any county, city and county, municipality, district or other political subdivision of this State, whether or not operating under freeholders' charters, shall not in any year exceed by more than five per centum the expenditures, other than expenditures to pay interest and redemption charges on bonds heretofore or hereafter issued, of such county, city and county, municipality, district or other political subdivision for the preceding year, unless previously authorized by a majority vote of the electors of any such county, city and county, municipality, district or other political subdivision voting at an election held for that purpose or unless previously authorized by the State Board of Equalization; provided, however, that if any county, city and county municipality, district or other political subdivision of this State does not in any fiscal year increase, or has not in each of the fiscal years ended since December 31, 1933, increased, its expenditures by five per centum over the expenditures of the preceding year, it may in the first fiscal year thereafter expend an amount equal to the expenditures of said preceding fiscal year plus ten per centum and in the second fiscal year thereafter expend an amount equal to the expenditures of said preceding fiscal year plus fifteen per centum; provided, further, that any county, city and county, municipality, district, or other political subdivision of this State that has decreased or that decreases the amount of its expenditures in any year or years since the year 1933 or fiscal years ended during such year may increase, in any subsequent year or years, the amount of its expenditures by the amount, or any fraction thereof, so reduced, or by an amount not more than five per centum of the amount expended in the year immediately preceding. The limitation upon expenditures imposed or authorized by this act shall be effective until June 30, 1937.

Exceptions

No amount expended in excess of the amount which may be expended without obtaining special authorization in the man-

ner above described shall become a part of the base for determining the maximum permissible expenditure for any subsequent year unless the State Board of Equalization, in its order authorizing the expenditure of an amount in excess of the limitation herein imposed, shall otherwise specifically provide.

Definition

The term expenditures as used in this act shall be construed and defined to mean the expenditure of moneys raised by taxation on real and personal property; provided that this act shall not prevent any county, city and county, municipality, district or other political subdivision from expending as much as it would be permitted to expend if the term expenditures included expenditures out of State apportionments for the support of the public school system.

Publicly owned utilities

SEC. 2. The limitation upon expenditures imposed or authorized by this act do not apply to expenditures by or on behalf of publicly owned public utilities, including publicly owned facilities operated for the promotion and accommodation of commerce and navigation, irrigation districts, county water districts, water districts, water conservation districts, reclamation districts, municipal utility districts or metropolitan water districts organized or existing under the laws of this State or to expenditures arising out of any gift, bequest or donation or to any additional expenditures by a county, city and county, municipality, district or other political subdivision made necessary by legislative action or by vote of the people.

Applications to State Board of Equalization.

SEC. 3. The tax levying authority or the governing body of any county, city and county, municipality, district or other political subdivision of this State may apply to the State Board of Equalization for permission to exceed in any year the limitations on expenditures imposed by this act. The application shall be in writing and, except in the case of emergencies subsequently arising, must be filed with the board at least thirty days before the date fixed for the determination of the tax rate of such county, city and county, municipality, district or other political subdivision for the year for which permission to exceed the limitations on expenditures is requested The board shall meet to consider such application and shall grant a hearing thereon if requested by such tax levying authority or governing body. In acting upon any such application the board shall give due weight to changes in population, economic conditions, and such other factors or circumstances as may influence or affect the need for increased governmental expenditures. Within twenty days after filing any such application, or within twenty days after this act becomes effective in the case of applications filed prior to the effective date of this act, the board shall approve or disapprove such application either in whole or in part and shall immediately send notice thereof to the tax levying or governing body making such application.

Hearings

Stats 1933 p. 2685, repealed.

SEC. 4 Section 3714 (b) of the Political Code which became effective August 7, 1933, is hereby repealed.

CHAPTER 357.

Stats 1933, p 2599, amended.

An act to amend the title and sections 2, 9, 15, 17, 18, 20, 21, 22, 23, 24, 26, 27, 29, 30 and 33 of an act entitled "An act imposing a tax for the privilege of selling tangible personal property and for the privilege of furnishing, preparing or serving tangible personal property, providing for permits to retailers, providing for the levying, assessing, collecting, paying and disposing of such tax, making an appropriation for the administration hereof, prescribing penalties for violations of the provisions hereof, and providing this act shall take effect immediately," approved July 31, 1933; to repeal section 19 of said act; to add sections 9½ and 19 to said act; all relating to the taxation of the privilege of selling renting or leasing tangible personal property; and to provide that this act shall take effect immediately.

[Approved by the Governor June 25, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Title amended

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows:

An act imposing a tax for the privilege of selling, renting or leasing tangible personal property and for the privilege of furnishing, preparing or serving tangible personal property, providing for permits to retailers, providing for the levying, assessing, collecting, paying and disposing of such tax, making an appropriation for the administration hereof, prescribing penalties for violations of the provisions hereof, and providing this act shall take effect immediately.

Stats 1933, p. 2599

SEC. 2. Section 2 of said act is hereby amended to read as follows:

Definitions.

Sec. 2. The following words, terms and phrases when used in this act have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, this State, any county, city and county, municipality, district or other political subdivision thereof, or any other group or combination acting as a unit, and the plural as well as the singular number.

(b) "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property, for a consideration, and includes the fabrication of tangible personal property for consumers who furnish either directly or indirectly the materials used in the fabrication work and the furnishing, preparing or serving for a consideration of any tangible personal property consumed

on the premises of the person furnishing, preparing or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price shall be deemed a sale. Definitions

(c) A "retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property, except that the expressions "transfer of possession," "lease," and "rental" as used in subdivision (b) of this section shall mean and include only such transactions as the board, upon investigation, finds to be in lieu of sales as defined in subdivision (b) of this section without the words "lease or rental."

(d) "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

(e) "Retailer" includes every person engaged in the business of making sales at retail; provided, however, that when in the opinion of the board it is necessary for the efficient administration of this act to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the board may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this act.

(f) "Gross receipts" means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, including any services that are a part of such sales, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property of any kind or nature, and also any amount for which credit is allowed by the seller to the purchaser, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expense whatsoever; provided, however, that cash discounts allowed and taken on sales shall not be included, and "gross receipts" shall not include the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit, nor shall "gross receipts" include the price received for labor or services used in installing, applying, remodeling or repairing the property sold.

For the purpose of this act the total amount of the sale price above mentioned shall be deemed to be the amount received exclusive of the tax hereby imposed; provided, that the retailers shall establish to the satisfaction of the board that the tax imposed hereunder had been added to the sale price and not absorbed by the retailer.

(g) "Board" means the State Board of Equalization.

(h) "Tangible personal property" means personal property which may be seen, weighed, measured, felt, touched, or is in any other manner perceptible to the senses.

(i) "In this State" or "in the State" means within the exterior limits of the State of California and includes all territory within such limits owned by or ceded to the United States of America.

Stats 1933, p 2602.

SEC. 3. Section 9 of said act is hereby amended to read as follows:

Tax returns

Sec. 9. The tax levied hereunder shall be a direct obligation of the retailer and shall be due and payable quarterly on or before the fifteenth day of the month next succeeding each quarterly period, the first of such quarterly periods being the period commencing with August 1, 1933, and ending on the thirtieth day of September, 1933. The retailer shall on or before the fifteenth day of the month following the close of the first quarterly period as above defined, and on or before the fifteenth day of the month following each subsequent quarterly period of three months, make out a return for the preceding quarterly period in such form as may be prescribed by the board showing the gross receipts of the retailer, the amount of the tax for the period covered by such return and such information as the board may deem necessary for the proper administration of this act. The retailer shall deliver the return together with a remittance of the amount of the tax due to the office of the board. The board, if it deems it necessary in order to insure the payment of the tax imposed by this act, may require returns and payment of the tax to be made for other than quarterly periods. Returns shall be signed by the retailer or his duly authorized agent but need not be verified by oath.

Rentals or leases

Gross receipts from rentals or leases of tangible personal property shall be reported and the tax paid with respect thereto in accordance with such rules and regulations as the board may prescribe.

Revenue stamps

The board, if it deems it necessary to insure the collection of the tax imposed by this act, may provide by rule and regulation for the collection of said tax by the affixing and canceling of revenue stamps and may prescribe the form and method of such affixing and canceling.

The board may by regulation provide that the amount collected by the retailer from the consumer, in reimbursement of taxes imposed by this act, shall be displayed separately from the list, advertised in the premises, marked or other price on the sales check or other proof of sale.

New section.

SEC. 4. A new section numbered 9½ is hereby added to said act to read as follows:

Failure to pay tax.

Sec. 9½. Any person failing to pay any tax, except taxes determined by the board under the provisions of sections 17 and 18 hereof, within the time required by this act shall pay in addition to the tax a penalty of ten per cent of the amount thereof, plus interest at the rate of one-half of one

per cent a month, or fraction thereof, from the date at which the tax became due and payable until the date of payment.

SEC. 5. Section 15 of said act is hereby amended to read as follows: Stats 1933, p. 2604.

Sec. 15. Permits issued under the provisions of this act prior to April 1, 1935, shall expire on July 31, 1935, and must be renewed through filing an application for renewal on forms prescribed by the board. For each such renewal a fee of one dollar must be paid at the time of filing the application therefor. If any retailer shall fail to apply for renewal of his permit or permits as herein required prior to August 1, 1935, a fee of one dollar and fifty cents must be paid for the renewal of each permit. Life of permit

The board shall charge a fee of one dollar for the renewal or issuance of a permit to a retailer whose permit has been previously suspended or revoked. Renewal fee.

SEC. 6. Section 17 of said act is hereby amended to read as follows: Stats 1933, p. 2604

SEC. 17. The burden of proving that a sale of tangible personal property was not a sale at retail shall be upon the person who made it, unless such person shall have taken from the purchaser a certificate signed by and bearing the name and address of the purchaser to the effect that the property was purchased for resale. For the purpose of the proper administration of this act and to prevent evasion of the tax hereby imposed it shall be presumed that all gross receipts are subject to the tax hereby imposed until the contrary is established. If the board is not satisfied with the return and payment of tax made by any retailer, it is hereby authorized and empowered to make an additional assessment of tax due from such retailer based upon the facts contained in the return or upon any information within its possession or that shall come into its possession. All additional assessments shall bear interest at the rate of one-half of one per cent per month, or fraction thereof, from the fifteenth day after the close of the period or periods, as the case may be, for which the additional assessment is imposed until the date of payment. If any part of the deficiency for which the additional assessment is imposed is due to negilgence or intentional discregard of the act or authorized rules and regulations, a penalty of ten per cent of the amount of the additional assessment shall be added, plus interest as above provided. If any part of the deficiency for which the additional assessment is imposed is due to fraud or an intent to evade the tax, a penalty of twenty-five per cent of the amount of the additional assessment shall be added, plus interest as above provided. The board shall give to the retailer written notice of such additional assessment. Such notice may be served upon the retailer personally or by mail; if by mail, service shall be made in the manner prescribed by section 1013 of the Code of Civil Procedure and addressed to the retailer at his address as the same appears in the records of the board.

Burden of proof

Additional assessment

Penalties

Notice of additional assessment

Stats 1933, p. 2605.

SEC. 7. Section 18 of said act is hereby amended to read as follows:

Failure to make return and payment.

Sec. 18. If a retailer neglects or refuses to make a return as required by this act, the board shall make an estimate based upon any information in its possession or that may come into its possession, of the amount of the gross receipts of the delinquent for the period or periods in respect to which he failed to make a return, and upon the basis of said estimated amount compute and assess the tax payable by the delinquent, adding to the sum thus arrived at a penalty equal to ten per cent thereof. All such assessments shall bear interest at the rate of one-half of one per cent per month, or fraction thereof, from the fifteenth day after the close of the period or periods, as the case may be, for which such assessments are imposed until the date of payment. If the neglect or refusal of a retailer to file a return as required by this act was due to fraud or an intent to evade the tax, there shall be added to the tax a penalty equal to twenty-five per cent thereof in addition to the ten per cent penalty as above provided. Promptly thereafter the board shall give to the delinquent written notice of such estimate, tax and penalty, the notice to be served personally or by mail in the same manner as prescribed for service of notice by the provisions of section 17 hereof. But the delinquent shall have the right to petition for reassessment of any such tax found, determined and declared by the board pursuant to and in accordance with the provisions of this section.

Interest.

Additional penalty.

Notice.

Stats 1933, p. 2605.

SEC. 8. Section 19 of said act, as it existed on January 1, 1935, is hereby repealed and a new section numbered 19 is hereby added thereto to read as follows:

Jeopardy assessment

Sec. 19. If the board believes that the collection of any tax or assessment imposed by this act will be jeopardized by delay, it shall immediately levy a jeopardy assessment for the tax, interest and penalty provided herein. The amount so assessed shall be immediately due and payable. Promptly after the levy of the assessment, the board shall give to the retailer written notice of such assessment, the notice to be served personally or by mail in the same manner as prescribed for service of notice by the provisions of section 17 hereof. If the amount of the tax, interest and penalty specified in the jeopardy assessment is not paid within ten days after the service upon the retailer of notice of the assessment the delinquency penalty and interest provided in section 9½ hereof shall attach to the amount of the tax specified therein.

Stats. 1933, p. 2605.

SEC. 9. Section 20 of said act is hereby amended to read as follows:

Petition for reassessment

Sec. 20. Any retailer against whom an assessment is made by the board under the provisions of section 17 or 18 hereof may petition for a reassessment thereof within fifteen days after service upon the retailer of notice thereof. If a petition for reassessment is not filed within said fifteen day period the amount of the assessment becomes final at the expiration thereof.

If a petition for reassessment is filed within said fifteen day period the board shall reconsider the assessment, and if the retailer has so requested in his petition, shall grant said retailer an oral hearing and shall give the retailer ten days' notice of the time and place thereof. The board shall have power to continue the hearing from time to time as may be necessary. Hearing

The order or decision of the board upon a petition for reassessment shall become final sixty days after service upon the retailer of notice thereof unless the retailer brings a proceeding for the review thereof under the provisions of section 33 hereof.

All assessments made by the board under the provisions of section 17 or 18 hereof shall become due and payable at the time of service of notice thereof. If the amount of the tax, interest and penalty, if any, specified in any assessment is not paid prior to the time the assessment becomes final, there shall be added thereto a penalty of ten per cent of the amount of the tax. Time for payment.

Any notice required by this section shall be served personally or by mail in the same manner as prescribed for service of notice by the provisions of section 17 hereof. Notice.

SEC. 10. Section 21 of said act is hereby amended to read as follows: Stats 1933, p. 2606.

Sec. 21. Except in the case of a fraudulent return, or neglect or refusal to make a return, every notice of additional tax proposed to be assessed hereunder shall be mailed to the retailer within three years after the return was filed. Additional assessment notice

SEC. 11. Section 22 of said act is hereby amended to read as follows: Stats. 1933, p. 2606.

Sec. 22. All taxes not paid to the board by the retailer on the date when the same become due and payable shall bear interest in the rate of one-half of one per cent per month, or fraction thereof, from and after such date until paid. Interest

SEC. 12. Section 23 of said act is hereby amended to read as follows: Stats 1933, p 2606.

Sec. 23. If the board determines that any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of what was legally due, from whom it was collected, or by whom paid, and if approved by that board the same shall be credited on any taxes then due from the retailer under this act and the balance shall be refunded to the retailer, or his successors, administrators, executors or assigns, but no such credit or refund shall be allowed after three years from the date of overpayment. Credit of overpayments.

Any refund or any portion thereof which is erroneously made and any credit or any portion thereof which is erroneously allowed, may be recovered in an action brought by the Controller of the State in a court of competent jurisdiction in the county of Sacramento, in the name of the people of the Recovery of erroneous refunds.

State of California and such action shall be tried in the county of Sacramento unless the court with the consent of the Attorney General, orders a change of place of trial. The Attorney General must prosecute such action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for.

Illegal levies.

In the event that a tax has been illegally levied against a retailer the board shall certify such fact to the State Board of Control and said board shall authorize the cancellation of the tax upon the records of the board.

Stats. 1933, p. 2606

SEC. 13. Section 24 of said act is hereby amended to read as follows:

Penalty for fraud or evasion.

Sec. 24. If fraud or evasion on the part of a retailer is discovered by the board, it shall determine the amount by which the State has been defrauded, shall add to the amount so determined a penalty equal to twenty-five per cent thereof, and shall assess the same against the retailer. All such assessments shall bear interest at the rate of one-half of one per cent per month or fraction thereof, from the fifteenth day after the close of the period or periods, as the case may be, for which the amount should have been paid. The amount so assessed shall be immediately due and payable and if not paid within ten days after the service upon the retailer of notice of the assessment the delinquency penalty and interest provided in section 9½ hereof shall attach to the amount of the tax specified therein.

Stats 1933, p 2607.

SEC. 14. Section 26 of said act is hereby amended to read as follows:

Judgments

Sec. 26. In any case in which any tax, interest or penalty imposed under this act is not paid when due the board may file in the office of the county clerk of Sacramento County, or any other county, a certificate specifying the amount of the tax, interest and penalty due, the name and last known address of the retailer liable for the same, that the board has complied with all the provisions of this act in relation to the computation and levy of the tax and a request that judgment be entered against the retailer in the amount of the tax, interest and penalty set forth in the certificate. The county clerk immediately upon the filing of such certificate shall enter a judgment for the people of the State of California against the retailer in the amount of the tax, interest and penalty set forth in the certificate. The judgment may be filed by the county clerk in a loose-leaf book entitled "Special Judgments for State Retail Sales or Use Tax."

Abstract of judgment

An abstract of such judgment or a copy thereof may be recorded with the county recorder of any county and from the time of such recording, the amount of the taxes, interest and penalty therein set forth shall constitute a lien upon all the real property of the retailer in such county, owned by him or which he may afterwards and before the lien expires acquire, which lien shall have the force, effect and priority of a judg-

Lien.

ment lien. Execution shall issue upon such a judgment upon request of the board in the same manner as execution may issue upon other judgments and sales shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section the board shall be authorized to act on behalf of the people of the State of California.

Final return on selling or quitting business

If any retailer liable for any tax, interest or penalty levied hereunder shall sell out his business or stock of goods or shall quit the business, he shall make a final return and payment within fifteen days after the date of selling or quitting business. His successor, successors or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, interest or penalties due and unpaid until such time as the former owner shall produce a receipt from the board showing that they have been paid, or a certificate stating that no taxes, interest or penalties are due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, he shall be personally liable for the payment of the taxes, interest and penalties accrued and unpaid on account of the operation of the business by any former owner, owners or assignors.

Notice of delinquency

In the event that any retailer is delinquent in the payment of the tax herein provided for the board may give notice of the amount of such delinquency by registered mail to all persons having in their possession, or under their control, any credits or other personal property belonging to such retailer, or owing any debts to such retailer at the time of receipt by them of such notice and thereafter any person so notified shall neither transfer nor make any other disposition of such credits, other personal property, or debts until the board shall have consented to a transfer or disposition, or until twenty days shall have elapsed from and after the receipt of such notice. All persons so notified must, within five days after receipt of such notice, advise the board of any and all such credits, other personal property or debts, in their possession, under their control or owing by them, as the case may be.

Procedure for collection of delinquent taxes

At any time within three years after any retailer is delinquent in the payment of the tax herein provided for, the board may proceed forthwith to collect the tax due from the retailer in the following manner: The board shall seize any property, real or personal, of the retailer not exempt from execution under the provisions of section 690 of the Code of Civil Procedure, and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the tax due hereunder, together with any interest or penalties imposed hereby for such delinquency, and any and all costs that may have been incurred on account of such seizure and sale. Notice of such intended sale and the time and place thereof, shall be given to such delinquent retailer in writing at least ten days before the date set for such sale by enclosing such notice in an envelope addressed to such retailer at his last known residence or place of business in this State, if any, and depositing the

Notice of sale.

same in the United States mail, postage prepaid, and by publication for at least ten days before the date set for such sale in a newspaper of general circulation published in the county or city and county in which the property seized is to be sold; provided, that if there be no newspaper of general circulation in such county or city and county, then by the posting of such notice in three public places in such county or city and county ten days prior to the date set for such sale. The said notice shall contain a description of the property to be sold, together with a statement of the amount of the taxes, interest, penalties and costs, the name of the retailer, and the further statement that unless such taxes, interest and penalties and costs are paid on or before the time fixed in said notice for such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

Contents of notice

Sale of property

At any such sale, the property shall be sold by the board in accordance with law and said notice, and the board shall deliver to the purchaser a bill of sale for the personal property, and a deed for any real property so sold, and such bill of sale or deed shall vest the interest or title of the retailer in the purchaser. The unsold portion of any property so seized may be left at the place of sale at the risk of the retailer. If upon any such sale, the moneys so received shall exceed the amount of all taxes, interest, penalties and costs due the State from such retailer, any such excess shall be returned to the retailer, and his receipt therefor obtained; provided, however, that if any person having an interest or lien upon the property has filed with the board prior to any such sale notice of such interest or lien the board shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If, for any reason, the receipt of such retailer shall not be available, the board shall deposit such excess moneys with the State Treasurer, as trustee for such owner, subject to the order of such retailer, his heirs, successors or assigns.

Disposition of excess.

Remedies are cumulative

It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by the board or Attorney General shall be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

Stats 1933, p 2609.

SEC. 15. Section 27 of said act is hereby amended to read as follows:

Investigations

Sec. 27. The board or any person authorized in writing by it is hereby authorized to examine the books, papers, records and equipment and to investigate the character of the business of any person selling tangible personal property in order to verify the accuracy of any return made, or if no return was made by such person, to ascertain and assess the tax imposed by this act. The board is hereby charged with the enforcement of the provisions of this act and is hereby

Enforcement of act.

authorized and empowered to prescribe, adopt and enforce rules and regulations relating to the administration and enforcement of the provisions of this act in the collection of taxes, penalties and interest imposed by this act, and to that end may appoint, exempt from the provisions of the Civil Service Act, such accountants, auditors, investigators and assistants as it may deem necessary to enforce its powers and perform its duties under this act.

Employees exempt from civil service.

SEC. 16. Section 29 of said act is hereby amended to read as follows:

Stats 1933, p 2609

Sec. 29. All fees, taxes, interest and penalties imposed under this act must be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California, and said board shall transmit such payments to the State Treasurer to be deposited in the State treasury to the credit of the "retail sales tax fund." For expenditure by the board in carrying out the provisions of this act in addition to any other appropriations, there is hereby appropriated the amount of permit fees paid hereunder from the effective date of said act to and including June 30, 1936. All moneys in the retail sales tax fund, unless otherwise appropriated shall, upon order of the State Controller, be drawn therefrom for the purpose of refunding to the retailers hereunder or be transferred to the general fund of the State.

"Retail sales tax fund" created

Appropriation for enforcement of act.

SEC. 17. Section 30 of said act is hereby amended to read as follows:

Stats 1933, p. 2610.

Sec. 30. At any time within three years after the delinquency of any tax, the board may bring an action in a court of competent jurisdiction in the name of the people of the State of California to collect the amount delinquent, together with penalties. The Attorney General must prosecute such action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for. In such action a writ of attachment may issue, and no bond or affidavit previous to the issuing of said attachment is required. In such action a certificate by the board showing the delinquency shall be prima facie evidence of the levy of the tax, of the delinquency and of compliance by the board with all provisions of this act in relation to the computation and levy of the tax.

Action to collect delinquent tax.

SEC. 18. Section 33 of said act is hereby amended to read as follows:

Stats 1933. p. 2611

Sec. 33. Every order, decision or other official act of the board shall be subject to review in accordance with the provisions of Chapter I, Title I of Part III of the Code of Civil Procedure if the proceeding is brought within sixty days after service of notice of such order, decision or other official act. Upon such review the court shall be limited to a consideration and determination of the question whether there has been an abuse of discretion on the part of the board in making such

Review of order of board

Costs of transcripts

order, decision or other official act. The person petitioning for a review of any order, decision or other official act of the board shall pay the cost of the preparation of any transcript or transcripts of the records or proceedings of the board that the board may be required to furnish in the proceeding instituted by the retailer under the provisions of this section.

Operative date of amendments.

SEC. 19. The amendments to the Retail Sales Tax Act of 1933 effected by this act becomes operative on July 1, 1935, except that the amendment hereby effected to section 15 of said act becomes operative immediately.

Tax levy.

SEC. 20. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of section 1, of Article IV of the Constitution, take effect immediately.

CHAPTER 358.

"Inheritance Tax Act of 1935."

An act to be known as the "Inheritance Tax Act of 1935," to establish a tax on gifts, legacies, inheritances, bequests, devises, successions, transfers, joint tenancies and insurance; to provide for its collection and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and by any act hereby repealed and for suits to quiet title against claims of liens arising hereunder, or under any act hereby repealed; to provide penalties for failure to comply with the provisions of this act; and to repeal Chapter 821 of the laws of the session of the Legislature of California of 1921, approved June 3, 1921, known as the "Inheritance Tax Act," and all amendments thereto, and to repeal all acts and parts of acts in conflict with this act, and providing this act shall take effect immediately.

Stats 1921, p. 1500, repealed.

[Approved by the Governor June 25, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Short title

SECTION 1. (1) This act shall be known as the "Inheritance Tax Act of 1935."

Definitions

(2) The words "estate" and "property" as used in this act shall be taken to mean the real and personal property or interest therein of the testator, intestate, grantor, bargainor, vendor, donor, joint tenant or insured, passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees, vendees, successors, survivors or beneficiaries, and shall include all intangible personal property of resident decedents within or without the State or subject to the jurisdiction thereof, and all stock of California corporations, and Federal corporations or National banks with their principal places of business in California, and all other intangible personal

property in California belonging to the estate of a deceased nonresident of the United States; provided, that for the purpose of this act upon the death of the husband at least one-half of the community property is taxable under the provisions of this act and all of the community property passing to anyone other than the wife; provided, further, that when the husband by testamentary disposition of the community property forces the surviving wife to elect whether to take under his will or by operation of law, the property not exceeding in value one-half of the community property, which the wife takes under the said will in lieu of the one-half of the community property belonging to her, shall not be taxable under the provisions of this act; the provisions of this proviso shall also extend to those estates now in probate and in which the orders fixing tax have not become final judgments as provided by this act; provided, further, the one-half of the community property which belongs to the surviving spouse, and, in case of the death of the wife, the community interest which goes to her husband under the provisions of section 201 of the Probate Code in the absence of her testamentary disposition thereof to another or others, or which passes to him under her will, shall not be subject to the provisions of this act; provided, further, that for the purposes of this act, intangible personal property, wherever situated, heretofore or hereafter acquired while domiciled elsewhere, which would not have been the separate property of either husband or wife if acquired while domiciled in this State shall be deemed to be community property; provided, further, that in case of a transfer of community property from one spouse to the other within the meaning of any subdivision of section 2 of this act, one-half of the community property so transferred to the wife and all thereof transferred to the husband, shall not be subject to the provisions of this act; and provided, further, that the presumption that property acquired by either husband or wife after marriage is community property, shall not obtain for the purpose of this act as against any claim by the State for the tax hereby imposed; but the burden of proving such property to be community property shall rest upon the person claiming the same to be community property.

Definitions.

(3) The word "transfer" as used in this act shall be taken to include the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, homestead, family allowance or exempt property orders in probate, survivorship, grant, deed, bargain, sale, gift, advancement or insurance in the manner herein described.

(4) The word "decedent" as used in this act shall include the testator, intestate, grantor, bargainor, vendor, donor, joint tenant or insured.

(5) The words "county treasurer" and "inheritance tax appraiser," as used in this act, shall be taken to mean the treasurer or the inheritance tax appraiser of the county of the

superior court having jurisdiction as provided in section 15 of this act.

Tax on transfers.

SEC. 2. A tax shall be and is hereby imposed upon the transfer of any property, real or personal, or of any interest therein or income therefrom, in trust or otherwise, to persons, institutions or corporations, not hereinafter exempted, to be paid to the treasurer of the proper county, as hereinafter directed, for the use of the State, said taxes to be upon the market value of such property at the date of death of the decedent and at the rates hereinafter prescribed and only upon the excess over the exemptions hereinafter granted in the following cases:

By will or succession, etc., residents.

(1) When the transfer is by will or by the intestate or homestead laws of this State, from any person dying seized or possessed of the property while a resident of the State, or by any order of court setting apart property and/or making and granting extra or family allowances pursuant to the provisions of the Probate Code.

Nonresidents.

(2) When the transfer is by will or intestate or homestead laws of property within this State and the decedent was a nonresident of the State at the time of his death, or by any order of court setting apart property and/or making and granting extra or family allowances pursuant to the provisions of the Probate Code.

Property within State

(3) When the transfer is of property made by a resident or by a nonresident, when such nonresident's property is within this State, by deed, grant, bargain, sale, assignment or gift, made without valuable and adequate consideration (i. e., a consideration equal in money or in money's worth to the full value of the property transferred):

(a) In contemplation of the death of the grantor, vendor, assignor or donor, or,

(b) Intended to take effect in possession or enjoyment at or after such death, or in which a life income or interest is reserved by the grantor, either expressly or impliedly, or by the grantee promising to make payments to or care for the grantor.

(c) As an advancement.

(d) By a revocable trust created before or after the taking effect of this act.

When such person, institution or corporation becomes beneficially entitled in possession or expectancy to any property or the income therefrom by any such transfer, whether made before or after the passage of this act.

In all transfers inter vivos the value of the property transferred shall be taken as of the date of death of the transferor and with the rates and exemptions then in effect.

Contemplation of death.

(4) The words "contemplation of death," as used in this act, shall be taken to include that expectancy of death which actuates the mind of a person on the execution of his will, and in nowise shall said words be limited and restricted to that expectancy of death which actuates the mind of a person

making a gift causa mortis; and it is hereby declared to be the intent and purpose of this act to tax any and all transfers which are made in lieu of or to avoid the passing of property transferred by testate or intestate laws.

Property held in joint names

(5) Whenever property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or other institutions or depositaries in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons, the right of the surviving joint tenant or joint tenants, person or persons to the immediate ownership or possession and enjoyment of such property shall be deemed a transfer taxable under the provisions of this act in the same manner as though the whole property to which such transfer relates belonged absolutely to the deceased joint tenant or joint depositor and had been devised or bequeathed to the surviving joint tenant or joint tenants, person or persons, by such deceased joint tenant or joint depositor by will, excepting therefrom such part thereof as may be proved by the surviving joint tenant or joint tenants to have originally belonged to him or them and never to have belonged to the decedent.

Power of appointment

(6) Whenever any person or corporation shall be given a power of appointment by virtue of any disposition of property made before or after the passage of this act, such gift of power of appointment shall, under the provisions of this act, be deemed a taxable transfer made from the donor of said power to the donee thereof at the date of the donor's death; provided that where the donor of a power of appointment dies prior to the taking effect of this amendment and the power is exercised thereafter the exercise of said power of appointment shall be deemed a transfer taxable as provided in subdivision 6 of section 2 of the Inheritance Tax Act of 1921 as amended in 1929.

Stats 1929, p. 1836

Bequests or devises to executors or trustees.

(7) Whenever a decedent appoints or names one or more executors or trustees, and makes a bequest or devise of property to them in lieu of commissions or allowances, which otherwise would be liable to said tax, or appoints them his residuary legatees or devisees, and said bequest, devise or residuary legacies or devises exceeds the executor's commission provided in section 901 of the Probate Code, or a reasonable compensation to be fixed by the court for the trustee, such excess over and above the exemptions herein provided for shall be liable to said tax.

Charge determinable by death

(8) Where any property shall, after the passage of this act, be transferred subject to any charge, estate or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase accruing to any person or corporation upon the extinction or determination of such charge, estate or interest shall be deemed a transfer of property taxable under the provisions of this act in the same manner as though the person or corporation beneficially entitled thereto had then acquired such increase from

the person from whom the title to their respective estates or interests is derived.

Insurance policies

(9) The proceeds of all life or accident insurance policies payable on account of the death of the insured shall be subject to the tax herein imposed, as follows:

(a) The proceeds of all of such policies now in force or hereafter issued payable to the estate, executor or administrator or personal representative of the insured.

(b) The proceeds of all such policies hereafter issued payable to named beneficiaries.

(c) The proceeds of all such policies now in force payable to named beneficiaries in which the insured has the right to change the beneficiary or under which he has cash surrender right.

(d) The aggregate proceeds of all policies designated in paragraphs (b) and (c) of this subdivision (9) of section 2, up to and including a total of fifty thousand dollars, shall not be subject to the provisions of this act. Said fifty thousand dollar exemption shall be prorated among all beneficiaries under such policies in proportion to the amount of such insurance payable to each of them, and shall be in addition to all other exemptions provided for in this act.

Tax on aggregate market value.

(10) When more than one transfer within the meaning of any of the preceding subdivisions of this section has been made, either before or after the passage of this act, by a decedent to one person, the tax shall be imposed upon the aggregate market value of all of the property so transferred to such person in the same manner and to the same extent as if all of the property so transferred were actually transferred by one transfer made at the date of the transferor's death and with the value, rates and exemptions as of that date.

Deductions from appraised value

(11) In determining the market value of the property transferred, the following deductions, if obligations of the decedent or his estate and paid by the estate or transferee, and no others, shall be made from the appraised value thereof:

(a) Debts of decedent owing at the date of death;

(b) Expenses of funeral and last illness;

(c) All State, county, and municipal taxes and assessments which are a lien against said property at the date of death;

(d) The ordinary expenses of administration, including the ordinary fees allowed executors and administrators and the ordinary fees of their attorneys under the provisions of sections 901 and 910 of the Probate Code of California, computed on the value of the estate at the date of decedent's death;

(e) The amount due or paid the government of the United States as a Federal inheritance or estate tax; provided, however, that the amount of such tax allowable herein as a deduction shall be limited to a computation thereof (commencing at the primary rates) made by the acting State inheritance tax appraiser upon his own valuations of that portion of such property only, the transfer of which is taxable

under the provisions of this act, by applying to such valuations the exemptions and rates of the Federal inheritance or estate tax in force at the date of decedent's death.

(f) This subdivision (11) is intended as a limitation on deductions, and it is not its purpose to allow as a deduction anything that does not actually reduce the amount of the inheritance or transfer. Limitation

(12) Where the tax imposed by this act is of a lesser amount than the maximum credit of the Federal estate tax allowed by the Federal estate tax law because of said tax herein imposed, then the tax provided for by this act shall be increased so that the amount of tax due this State shall be the maximum amount of the credit allowed under said Federal estate tax law. Said additional tax shall be paid out of the same funds as any other ordinary charge against the estate. Additional tax.

Where no tax is imposed by this act because of the exemptions herein, or for any other reason, and a tax is due the United States under the Federal estate tax law, then a tax shall be due this State equal to the maximum amount of the credit allowed under said Federal estate tax law.

Should the amount of tax in this act increased by this section be afterwards found to be more than the maximum credit allowed under the Federal estate tax law, then any excess over and above the said maximum credit shall be refunded as is provided in subdivision 4 of section 11 of this act. Said application for refund must be made within six months after said maximum credit has been determined by the Federal Government.

SEC. 3. Such taxes shall be and remain a lien upon the property passed or transferred until paid; provided, however, that where property is sold under and in accordance with the provisions of the Probate Code the lien herein provided for shall be released from the property so sold and shall attach to the proceeds of such sale, and the person to whom the property passes or is transferred, except as herein in this section provided, and all administrators, executors and trustees of every estate so transferred or passed, shall be liable for any and all such taxes until the same shall have been paid as hereinafter directed. The provisions of the Code of Civil Procedure relative to the limitation of time of enforcing a civil remedy shall not apply to any proceeding or action taken to levy, appraise, assess, determine or enforce the collection of any tax or penalty prescribed by this act; provided, that unless sued for within five years after they are due and legally demandable, such taxes or any taxes accruing under any act hereby repealed, shall cease to be a lien as against any bona fide purchaser of said property. Lien.

SEC. 4. When the property or any beneficial interest therein so passed or transferred exceeds in value the exemption hereinafter specified and shall not exceed in value twenty-five thousand dollars, the tax hereby imposed shall be: When property value not in excess of $25,000

Rates of tax.

(1) Where the person or persons entitled to any beneficial interest in such property shall be the husband, wife, lineal ancestor, lineal issue of the decedent or any child adopted as such in conformity with the laws of this State, or any child to whom such decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent (provided, however, such relationship began at or before the child's fifteenth birthday, and was continuous for said ten years thereafter), or any lineal issue of such adopted or mutually acknowledged child, at the rate of two per centum of the clear value of such interest in such property.

(2) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or a descendant of a brother or sister of a decedent, a wife or widow of a son, or the husband of a daughter of the decedent, at the rate of five per centum of the clear value of such interest in such property.

(3) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister of the father or mother or a descendant of a brother or sister of the father or mother of the decedent, at the rate of six per centum of the clear value of such interest in such property.

(4) Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated or shall be a stranger in blood to the decedent, or shall be a body politic or corporate, at the rate of seven per centum of the clear value of such interest in such property.

(5) If a legatee under a will renounces the legacy, or any part thereof, or agrees that the estate, or any part thereof, shall be distributed otherwise than as provided in the will, in consideration of the withdrawal of a contest to the will, or for any other reason, the inheritance tax shall nevertheless be computed in accordance with the terms of the will admitted to probate.

When property in excess of $25,000

SEC. 5. (1) When the market value of such property or interest passed or transferred to any of the persons mentioned in subdivision (1) of section 4 exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

Rates of tax.

(a) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, three per centum of such excess.

(b) Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, four per centum of such excess.

(c) Upon all in excess of one hundred thousand dollars and up to two hundred thousand dollars, seven per centum of such excess.

(d) Upon all in excess of two hundred thousand dollars and up to five hundred thousand dollars, nine per centum of such excess.

(e) Upon all in excess of five hundred thousand dollars, ten per centum of such excess.

(2) When the market value of such property or interest passed or transferred to any of the persons mentioned in subdivision (2) of section 4 exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows: Rates of tax

(a) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, seven per centum of such excess.

(b) Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, ten per centum of such excess.

(c) Upon all in excess of one hundred thousand dollars, and up to three hundred thousand dollars twelve per centum of such excess.

(d) Upon all in excess of three hundred thousand dollars and up to five hundred thousand dollars, fourteen per centum of such excess.

(e) Upon all in excess of five hundred thousand dollars, fifteen per centum of such excess.

(3) When the market value of such property or interest passed or transferred to any of the persons mentioned in subdivision (3) of section 4 exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

(a) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, nine per centum of such excess.

(b) Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, twelve per centum of such excess.

(c) Upon all in excess of one hundred thousand dollars, and up to three hundred thousand dollars twelve per centum of such excess.

(d) Upon all in excess of three hundred thousand dollars, fifteen per centum of such excess.

(4) When the market value of such property or interest passed or transferred to any of the persons mentioned in subdivision (4) of section 4 exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

(a) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, ten per centum of such excess.

(b) Upon all in excess of fifty thousand dollars, and up to three hundred thousand dollars twelve per centum of such excess.

(c) Upon all in excess of three hundred thousand dollars up to five hundred thousand dollars, fifteen per centum of such excess.

(d) Upon all in excess of five hundred thousand dollars, sixteen per centum of such excess.

SEC. 6. The following exemptions from the tax are hereby allowed: Exemptions

(1) (a) All proceeds of any Federal war risk insurance policy of any veteran of the World War which is payable or which may become payable to the estate of such veteran shall be exempt.

Exemptions.

(b) All property transferred to societies, corporations and institutions now or hereafter exempted by law from taxation, or to any public corporation, or to any society, corporation, institution, or association of persons engaged in or devoted to any charitable, benevolent, educational, public, or other like work (pecuniary profit not being its object or purpose); or to any person, society, corporation, institution, or association of persons in trust for or to be devoted to any charitable, benevolent, educational, or public purpose, by reason whereof any such person or corporation shall become beneficially entitled in possession or expectancy, to any such property or to the income thereof, shall be exempt; provided, however, that such society, corporation, institution or association be organized or existing under the laws of this State or that the property transferred be limited for use within this State; provided further, that if such society, corporation, institution or association be organized or existing under the laws of a Territory or State of the United States (other than California) or of a foreign state or country, all property transferred to such society, corporation, institution or association shall be exempt if at the date of decedent's death the said State or Territory or foreign state or country under the laws of which such society, corporation, institution or association was organized or existing did not impose a legacy or succession tax or a death tax of any character in respect of property transferred to such a society, corporation, institution or association organized or existing under the laws of this State, or if at the date of decedent's death the laws of the State or Territory or foreign state or country under which such society, corporation, institution or association was organized or existing contained a reciprocal provision under which transfers to such a society, corporation, institution or association organized or existing under the laws of another State or Territory or foreign state or country were exempted from legacy or succession taxes or death taxes of every character providing said other State or Territory or foreign state or country allowed a similar exemption to such a society, corporation, institution or association organized or existing under the laws of another State or Territory or foreign state or country.

(2) (a) Property of the clear value of twenty-four thousand dollars, transferred to the wife, and of twelve thousand dollars transferred to a minor child of the decedent, and of five thousand dollars transferred to each of the other persons described in the first subdivision of section 4 shall be exempt.

(b) All property transferred by a decedent to any person described in the first subdivision of section 4, providing the same was transferred to such decedent not more than five years prior to his death by another decedent of the class described in the first subdivision of section 4 and a tax paid thereon to the State of California, shall be exempt; provided that the value of said property shall be taken as of the date

of death of the first decedent; and provided further, that this subdivision shall not apply to a tax paid under the provisions of subdivision 12 of section 2 hereof. Exemptions

(3) Property of the clear value of two thousand dollars transferred to each of the persons described in the second subdivision of section 4 shall be exempt.

(4) Property of the clear value of five hundred dollars, transferred to each of the persons described in the third subdivision of section 4 shall be exempt.

(5) Property of the clear value of fifty dollars transferred to each of the persons and corporations described in the fourth subdivision of section 4 shall be exempt.

(6) In computing the tax upon transfers subject to tax under the provisions of this act, the exemptions in this section allowed shall be deducted from the aggregate amount of property transferred, and the transfer of the remainder of the property after making such deduction shall be taxed at the rates at which it would have been taxed had no exemption whatever been allowed.

(7) The tax imposed by this act in respect of intangible personal property shall not be payable if the decedent is a resident of a foreign state or country which at the time of his death imposed a legacy, succession or death tax in respect of intangible personal property within said foreign state or country of residents of said foreign state or country, but did not impose a legacy or succession tax or a death tax of any character in respect of intangible personal property within said foreign state or country of residents of this State, or if the laws of the foreign state or country of residence of the decedent at the time of his death contained a reciprocal provision under which nonresidents were exempted from legacy or succession taxes or death taxes of every character in respect of intangible personal property providing the foreign state or country of residence of such nonresidents allowed a similar exemption to residents of the foreign state or country of residence of such decedent.

SEC. 7. (1) All taxes imposed by this act, unless otherwise herein provided for, shall be due and payable at the date of death of the decedent, and if the same are paid within two years, no interest shall be charged and collected thereon, but if not so paid, interest at the rate of ten per centum per annum shall be charged and collected from the time said tax accrued; provided that if said tax is paid within six months from the accruing thereof and there is no tax under subdivision 12 of section 2 hereof, a discount of five per centum shall be allowed and deducted from said tax; provided, further, that all payments made after the expiration of said two years shall be applied first to the payment of interest on said tax to the date of payment and the balance, if any, on the tax. And in all cases where the executors, administrators or trustees do not pay such tax within two years from the When and how tax payable

death of the decedent, they shall be required to give a bond for the payment of such tax, together with interest.

When penalty may be remitted.

(2) The penalty of ten per cent per annum imposed by subdivision (1) of this section for the nonpayment of said tax, shall not be charged in cases where, in the judgment of the court, by reason of claims made upon the estate, necessary litigation, or other unavoidable cause of delay, the estate of any decedent, or a part thereof, can not be settled at the end of two years from the death of the decedent; but in such cases seven per cent per annum shall be charged upon the said tax from the expiration of said two years until the cause of such delay is removed, after which ten per cent interest per annum shall again be charged until the tax is paid; but litigation to defeat the payment of the tax shall not be considered necessary litigation.

Immediate appraisement and payment.

SEC. 8. (1) When any grant, gift, legacy, devise or succession upon which a tax is imposed by section 2 of this act shall be an estate, income, or interest for a term of years, or for life, or determinable upon any future or contingent event, or shall be a remainder, reversion, or other expectancy, real or personal, the entire property or fund by which such estate, income, or interest is supported, or of which it is a part, shall be appraised immediately after the death of the decedent, and the market value thereof determined, in the manner provided in section 16 or 17 of this act, and the tax prescribed by this act shall be immediately due and payable to the treasurer of the proper county, and together with the interest thereon, shall be and remain a lien on said property until the same is paid.

Incumbrance.

(2) In estimating the value of any estate or interest in property, to the beneficial enjoyment or possession whereof there are persons or corporations presently entitled thereto, no allowance shall be made on account of any contingent incumbrance thereon, nor on account of any contingency upon the happening of which the estate or property or some part thereof or interest therein might be abridged, defeated or diminished; provided, however, that in the event of such incumbrance taking effect as an actual burden upon the interest of the beneficiary, or in the event of the abridgment, defeat or diminution of said estate or property or interest therein as aforesaid, a return shall be made to the person properly entitled thereto of a proportionate amount of such tax on account of the incumbrance when taking effect, or so much as will reduce the same to the amount which would have been assessed on account of the actual duration or extent of the estate or interest enjoyed. Such return of tax shall be made in the manner provided by subdivision 4 of section 11 hereof upon order of the court having jurisdiction. Said application for return of tax must be made within six months of the happening of said contingency.

Remainders

(3) When property is transferred in trust or otherwise, whereby any person becomes entitled to an estate or interest

for life or years therein and any other person to the remainder over, the executor or trustee shall pay the entire tax on all interests therein out of the corpus of the property transferred, and no part thereof shall be charged against the interest of or collected from the beneficiaries thereof.

Contingencies.

(4) When property is transferred in trust or otherwise, and the rights, interest or estates of the transferees are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended, or abridged, a tax shall be imposed upon said transfer at the highest rate which, on the happening of any of the said contingencies or conditions, would be possible under the provisions of this act, and such tax so imposed shall be due and payable forthwith by the executors or trustees out of the corpus of the property transferred and shall not be charged against the interest of or collected from the beneficiaries thereof; provided, however, that on the happening of any contingency whereby the said property, or any part thereof, is transferred to a person or corporation exempt from taxation under the provisions of this act, or to any person taxable at a rate less than the rate imposed and paid, the executors or trustees shall be entitled to a return of that part of the tax imposed and paid represented by the difference between the amount paid and the amount actually payable under the provisions of this act, and the amount returned shall go into and form a part of the corpus of the property transferred; such return of overpayment shall be made in the manner provided by subdivision 4 of section 11 of this act, upon motion made in the court having jurisdiction within six months after the happening of said contingency; provided, that the person or persons or body politic or corporate beneficially interested in the property chargeable with said tax or the trustees thereof may elect not to pay the same until such person or persons, or body politic or corporate beneficially interested in such property shall come into the actual possession or enjoyment thereof, and in that case such person or persons or body politic or corporate or trustees shall execute a bond to the people of the State of California in a penalty of the amount of said tax plus interest thereon for five years at the rate of seven per cent per annum with such sureties as the said superior court may approve, conditioned for the payment of said tax or any lesser tax which may become payable on the happening of said contingency, and interest thereon at the rate of seven per cent per annum commencing at the expiration of two years from the death of the decedent at such time or period as they or their representatives may come into the actual possession or enjoyment of such property, and conditioned further, that if said bond be not renewed and the returns made as herein provided, the amount of said tax and interest thereon shall immediately become due and payable. Said bond shall be filed in the office of the county clerk of the proper county and a certified copy thereof shall be immediately transmitted to the State Controller; provided

Refunds of overpayments.

Bond.

further, that such person or persons or body politic of corporate, or trustees, shall enter into such security within a period of ninety days after the entry of the order or the decree fixing the inheritance tax charged against such transfer, or within such period thereafter as the court may in its discretion permit, and shall make a full and verified return of such property to said court and file the same in the office of the county clerk within one year from the date of such order or decree fixing tax, and at such times thereafter as the court on the application of the State Controller may require, and renew such security every five years after the date of the approval thereof by filing a new bond with such sureties as said superior court may approve, and transmitting a certified copy of said renewal bond to the State Controller. The penalty of each renewal bond shall be increased by five years interest at the rate of seven per cent per annum on the unpaid tax. Upon the approval of said bond as herein provided, said tax shall cease to be a lien upon the property so transferred. If such security shall not be renewed before the expiration of each five year period, said bond shall immediately become due and payable and if the same be not paid forthwith, the Attorney General shall file an action in the name of the people of the State on the relation of the Controller, to recover the same and the penalties thereunder and no demand for payment shall be necessary before the institution of such suit. Whenever it shall be made to appear to the satisfaction of the court that any surety on such bond or undertaking has for any reason become insufficient, the court may on motion of the State Controller, after such notice to such person or persons, body politic or corporate, or trustees as the court may require, order the giving of a new undertaking with sufficient sureties in lieu of such insufficient undertaking. In case such new undertaking so required shall not be given within the time required by such order, or in case the sureties thereon fail to justify thereon when required, all rights obtained by the filing of such original undertaking, or subsequent undertaking, shall cease and the amount of said tax and interest thereon shall immediately become due and payable.

Renewal of bond.

Compromise settlements of taxes

(5) Notwithstanding any provisions hereof whereby final determination of taxability of the transfer of property or interests therein or income therefrom, is or may be deferred until the happening of certain contingencies or conditions, the State Controller may compromise, adjust and settle with the administrator, executor or trustee having charge of the estate or property in question, the taxability of the transfer of such property and of each and every interest therein, including the income therefrom, whether such interests be absolute or qualified, perpetual or limited, present or future, vested or contingent, or otherwise.

Report of settlement.

The inheritance tax appraiser, determining the inheritance tax payable, shall prepare a report in accordance with such settlement and if and when said report is confirmed by an

order of the superior court having jurisdiction said order shall be a final determination of the matters covered thereby and the payment of said tax as fixed by said order shall be a complete discharge to such administrator, executor, or trustee with respect to such taxes.

Estates in expectancy

(6) Estates in expectancy which are contingent or defeasible and in which proceedings for the determination of the tax have not been taken or where the taxation thereof has been held in abeyance, shall be appraised at their full, undiminished value when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution for or on account of any valuation theretofore made of the particular estates for purposes of taxation, upon which said estates in expectancy may have been limited.

Estates which can be divested.

(7) Where an estate or interest can be divested by the act or omission of the legatee or devisee it shall be taxed as if there were no possibility of such divesting.

Future, contingent or limited estates

(8) The value of every future, or contingent or limited estate, income or interest, shall, for the purposes of this act be determined by the rule, methods and standards of mortality and of value that are set forth in the actuaries' combined experience tables of mortality for ascertaining the value of policies of life insurance and annuities and for the determination of the liabilities of life insurance companies, save that the rate of interest to be assessed in computing the present value of all future interests and contingencies shall be five (5) per cent per annum. For the purposes of this act, in determining the present value of such estate, income or interest, other than an annuity in a fixed amount, the yearly income or the annual value of the use or income of such estate or interest shall be five per cent of the appraised value of the property upon which said estate or interest is based. When an annuity or a life estate is terminated by the death of the annuitant or life tenant, and the tax upon such interest has not been fixed and determined, the value of said interest for the purpose of taxation under this act shall be the amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period for which such annuitant or life tenant was entitled to the annuity or was in possession of the life estate.

Collection of tax by administrator, etc

SEC. 9. (1) Any administrator, executor or trustee having in charge or trust any legacy or property for distribution, subject to the said tax, shall deduct the tax therefrom, or if the legacy or property be not money he shall collect the tax thereon, upon the market value thereof, from the legatee or person entitled to such property, and he shall not deliver, or be compelled to deliver, any specific legacy or property subject to tax to any person until he shall have collected the tax thereon; and whenever any such legacy shall be charged upon or payable out of real estate the executor, administrator, or trustee shall collect said tax from the distributee thereof, and the same shall remain a charge on such real estate until paid; if, however, such legacy be given in money to any person for

a limited period, the executor, administrator, or trustee shall retain the tax upon the whole amount; but if it be not in money he shall make application to the superior court to make an apportionment, if the case require it, of the sum to be paid into his hands by such legatees, and for such further order relative thereto as the case may require.

Sale of property to pay tax

(2) All executors, administrators, and trustees shall have full power to sell so much of the property of the decedent as will enable them to pay said tax, in the same manner as they may be enabled by law to do for the payment of debts of the estate, and may be compelled by order of court to make such sale, and the amount of said tax shall be paid as hereinafter directed.

Payment within thirty days.

(3) Every sum of money retained by an executor, administrator or trustee, or paid into his hands for any tax on property, shall be paid by him within thirty days thereafter, to the treasurer of the county in which the probate proceedings are pending.

Treasurer's receipt

SEC. 10. Upon the payment to any county treasurer of any tax due under this act, such treasurer shall issue a receipt therefor, in triplicate, one copy of which he shall deliver to the person paying said tax, and the original and one copy thereof he shall immediately send to the State Controller, whose duty it shall be to charge the treasurer so receiving the tax with the amount thereof, and said Controller shall retain one of said receipts and the other he shall countersign and seal with the seal of his office, and immediately transmit to the clerk of the court fixing such tax. And an executor, administrator, or trustee shall not be entitled to credits in his accounts, nor be discharged from liability for such tax, nor shall said estate be distributed, unless a receipt so sealed and countersigned by the Controller, or a copy thereof, certified by him, shall have been filed with the court. Any person shall, upon payment to the county treasurer of the sum of fifty cents, be entitled to a duplicate, or copy, of any receipt that may have been given by said treasurer for the payment of any tax under this act.

Refund if debts proved after payments to distributee

SEC. 11. (1) If any debts shall be proved against the estate of a decedent after the payment of any legacy or distributive share thereof, from which any such tax has been deducted or upon which it has been paid by the person entitled to such legacy or distributive share, and such person is required by order of the superior court having jurisdiction on notice to the State Controller, to refund the amount of such debts or any part thereof, an equitable proportion of the tax shall be repaid to him by the executor, administrator or trustee, if the tax has not been paid to the county treasurer; or if such tax has been paid to such county treasurer, such officer shall refund out of any inheritance tax moneys in his hands or custody such equitable proportion of the tax and credit himself with the same in the account required to be rendered by him under this act.

(2) Where it shall be proved to the satisfaction of the superior court that deductions for debts were allowed upon the appraisal, since proved to have been erroneously allowed, it shall be lawful for such superior court to enter an order assessing the tax upon the amount wrongfully and erroneously deducted and if debts are established against the estate after the order fixing inheritance tax is made the order may on petition after notice to the State Controller be modified equitably.

Tax on deductions for debts erroneously allowed.

(3) If, after the payment of any tax in pursuance of an order fixing such tax, made by the superior court having jurisdiction, such order be modified or reversed by the superior court having jurisdiction by any of the methods provided in the Code of Civil Procedure and commenced within the time allowed by law, or be modified or reversed on an appeal taken therefrom within the time allowed by law, on due notice to the State Controller, the county treasurer shall refund to the executor, administrator, trustee, person or persons by whom such tax was paid, the amount of any moneys paid or deposited on account of such tax in excess of the amount of tax fixed by the order modified or reversed, out of any inheritance tax moneys in his hands or custody, and credit himself with the same in the account required to be rendered by him to the Controller on his semiannual settlement; but no application for such refund shall be made after one year from such reversal or modification, unless an appeal shall be taken therefrom, in which case no such application shall be made after one year from the final determination on such appeal, and the representatives of the estate, legatees, devisees, or distributees entitled to any refund under this section shall not be entitled to any interest upon such refund, and no judgment for such refund shall bear interest until said judgment shall have become final in the highest court to which the matter is carried and until refund is refused upon demand after such final judgment and then only from the date of such refusal. The State Controller shall deduct from the fees allowed by this act to the county treasurer the amount theretofore allowed him upon such overpayment.

If order is modified or reversed

(4) When any amount of said tax shall have been erroneously paid, the superior court having jurisdiction, on application after notice to the State Controller, and on satisfactory proof to it, shall by order, direct the county auditor to draw his warrant upon the county treasurer in favor of the executor, administrator, trustee, person or persons who have paid any such tax in error in the amount of such tax so erroneously paid; provided, that all applications for such repayment of such tax so erroneously paid shall be made within one year of the date of the entry of the order fixing tax or of the decree of final distribution of the estate. Such refund shall be made by said treasurer out of any inheritance tax moneys in his hands or custody and he shall credit himself with the same in the account required to be rendered by him to the Controller

Order to refund tax erroneously paid.

on semiannual settlement; and the State Controller shall deduct from the fees allowed by this act to the county treasurer the amount theretofore allowed him upon such erroneous payment.

Examination of books, etc

SEC. 12. (1) Whenever the State Controller shall have reasonable cause to believe that a tax is due under the provisions of this act, upon any transfer of any property, and that any person, firm, institution, company, association or corporation has possession, custody, or control of any books, accounts, papers or documents relating to or evidencing such transfer, the State Controller or inheritance tax attorney or any assistant inheritance tax attorney of the inheritance tax department, is hereby authorized and empowered to inspect the books, records, accounts, papers and documents of any such person, firm, institution, company, association or corporation, including the stock transfer book of any corporation and to administer oaths to and examine any such person or any officer or agent of such firm, institution, company, association or corporation, for the purpose of acquiring any information deemed necessary or desirable by said State Controller or such inheritance tax attorney or assistant inheritance tax attorneys, for the proper enforcement of this act, and for the collection of the full amount of tax which may be due the State hereunder. Any and all information and records acquired by said State Controller or said inheritance tax attorney or assistant inheritance tax attorneys shall be deemed and held by said State Controller and said inheritance tax attorney and assistant inheritance tax attorneys and each of them, as confidential, and shall not be divulged, disclosed or made known by them or any of them except in so far as may be necessary for the enforcement of the provisions of this act. Any Controller or ex-controller, or inheritance tax attorney or ex-inheritance tax attorney, or assistant inheritance tax attorney or ex-assistant inheritance tax attorney, who shall divulge, disclose or make known any information acquired by such inspection and examination aforesaid, except in so far as the same may be necessary for the enforcement of the provisions of this act, shall be guilty of a felony, and upon conviction thereof shall be imprisoned in the State prison for not more than five years.

Penalties for refusal to permit examination

(2) An officer or agent of any firm, institution, company, association or corporation having or keeping an office within this State, who has in his custody or under his control any book, record, account, paper or document of such firm, institution, company, association or corporation, and any person having in his custody or under his control such book, record, account, paper or document who refuses to give to the State Controller, or said inheritance tax attorney, or any of said assistant inheritance tax attorneys lawfully demanding, as provided in this section, during office hours to inspect or take a copy of the same or any part thereof, for the purposes hereinabove provided, a reasonable opportunity so to do, shall be

liable to a penalty of not less than one thousand dollars nor more than twenty thousand dollars, and in addition thereto shall be liable for the amount of the taxes, interest and penalties due under this act on such transfer, and the said penalties and liabilities for the violation of this section may be enforced in an action brought by the State Controller in any court of competent jurisdiction.

Consent to transfer stock certificates

SEC. 13. (1) No corporation organized or existing under the laws of this State, shall transfer on its books or issue a new certificate for any share or shares of its capital stock belonging to or standing in the name of a decedent or in trust for a decedent or belonging to or standing in the joint names of a decedent and one or more persons, without the written consent of the State Controller or person by him in writing authorized to issue such consent.

Access to safe deposit boxes.

(2) No safe deposit company, trust company, corporation, bank, or other institution, person or persons engaged in the business of renting safe deposit boxes or other receptacles of similar character shall rent any such box or receptacle without first requiring all persons given access thereto to agree in writing to notify such safe depositary, bailee, or lessor, from whom such box or receptacle is rented of the death of any person having the right of access thereto, before seeking access to such box or receptacle after the death of such person; and all persons having the right of access to any such safe deposit box or receptacle upon the death of any other person having access thereto, before seeking access to such box or receptacle must notify such safe depositary, bailee, or lessor, from whom such box or receptacle is rented, of the death of such person; and it shall be unlawful for any safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control, custody or partial custody any safe deposit box or similar receptacle, to permit access thereto by any one after the death of any person who at the time of his death had the right or privilege of access thereto either as principal, deputy, agent or cotenant without the consent of the State Controller or such person by him in writing authorized to issue such consent.

Bank, etc., to retain amount to pay tax

(3) No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control or custody or under partial control or partial custody securities, deposits, assets or property belonging to or standing in the name of a decedent who was a resident or nonresident, or belonging to, or standing in the joint names of such a decedent and one or more persons, including the shares of the capital stock of, or other interest in, the safe deposit company, trust company, corporation, bank, or other institution making the delivery or transfer herein provided, shall deliver or transfer the same to the executors, administrators or legal representatives, agents, deputies, attorneys, trustees, legatees, heirs, successors in interest of said decedent or to any other person or persons, or to the survivor

or survivors when held in the joint names of a decedent and one or more persons, or upon their order or request, without retaining a sufficient portion or amount thereof to pay any tax and interest which may thereafter be assessed thereon under this act and unless notice of the time and place of such delivery or transfer be served upon the State Controller and county treasurer at least ten days prior to said delivery or transfer; provided, that the State Controller, or person by him in writing authorized so to do, may consent in writing to said delivery or transfer, and such consent shall relieve said safe deposit company, trust company, corporation, bank or other institution, person or persons from the obligation hereunder to give such notice or to retain any portion of said securities, deposits or other assets in their possession or control. And it shall be lawful for the State Controller or county treasurer, personally or by representatives, to examine said securities, deposits or assets at the time of said delivery or otherwise.

Failure to comply.

(4) Failure to comply with the provisions of this section shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons, liable to a penalty of not more than twenty thousand dollars, and in addition thereto said safe deposit company, trust company, corporation, bank or other institution, person or persons shall be liable for the amount of the taxes, interest and penalties due under this act on said securities, deposits or other assets above mentioned, and said penalties and liabilities of said safe deposit company, corporation, bank or other institution, person or persons for the violation of this section may be enforced in an action brought by the State Controller in any court of competent jurisdiction.

Inheritance tax appraisers

SEC. 14. The State Controller shall appoint, and may at his pleasure remove, one or more persons in each county of the State to act as inheritance tax appraisers therein. Every such inheritance tax appraiser (in addition to any fees paid him as appraiser under section 609 of the Probate Code) shall be paid for his services out of the inheritance tax moneys in the hands of the treasurer of the county, in which he may be acting, a reasonable compensation, to be fixed by the superior court of said county, or a judge thereof, and, together with said compensation, said appraiser shall be allowed his actual and necessary traveling and other incidental expenses, and the fees paid such witnesses as he shall subpena before him, said expenses and fees to be allowed by said superior court or a judge thereof; provided, that any claim for any such service or expenditure, must before payment, first receive the approval of the State Controller. Any such appraiser who shall take any fee or reward, other than such as may be allowed him by law, from any executor, administrator, trustee, legatee, next of kin, or heir of any decedent, or from any other person liable to pay said tax or any portion thereof, shall be guilty of a misdemeanor, and upon conviction

Stats. 1933, p. 852

thereof shall be fined not less than two hundred fifty dollars nor more than five hundred dollars, or be imprisoned in the county jail ninety days or both, and in addition thereto the court shall dismiss him from such service.

Jurisdiction of superior court.

SEC. 15. The superior court in the county in which is situate the real property of a decedent, who was not a resident of the State, or if there be no real property, then in the county in which any of the personal property of such nonresident is situate, or in the county of which the decedent was a resident at the time of his death, shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this act; the court first acquiring jurisdiction hereunder shall retain the same to the exclusion of every other; provided, that the superior court having acquired jurisdiction in probate of the estate of a decedent shall hear and determine in said probate proceedings all questions in relation to any tax arising under the provisions of this act: (a) Upon property passing in said probate proceedings. (b) Upon any other property transferred, within the meaning of subdivision 3 of section 2 or any other provisions of this act, to any person, institution or corporation taking any property under and by virtue of said probate proceedings.

Appointment of inheritance tax appraisers in probate proceedings

Stats 1933, p. 715.

SEC. 16. (1) When any superior court having jurisdiction in probate of the estate of any decedent or a judge of such court, shall, in accordance with section 605 of the Probate Code appoint the appraiser or appraisers in said section provided for, said superior court or judge thereof shall also at the same time designate and appoint an inheritance tax appraiser (unless such designation and appointment be previously made) to ascertain and report to said superior court the amount of inheritance tax due upon any property passing in said probate proceeding, or a lien thereon, or upon any other property transferred within the meaning of section 2 of this act, or under any other provision of this act, to any person, institution, or corporation taking property under and by virtue of said probate proceedings, together with such other or additional information as shall assist said court in the determination of said tax. Thereupon said inheritance tax appraiser shall have all the powers of a referee of said superior court, and shall have jurisdiction to require the attendance before him of the executor or administrator of said estate or any person interested therein, or any other person whom he may have reason to believe possesses knowledge of the estate of said decedent, or knowledge of any property transferred by said decedent within the meaning of this act, or knowledge of any facts that will aid said appraiser or the court in the determination of said tax. For the purpose of compelling the attendance of such person or persons before him, and for the purpose of appraising any property or interest subject to, or liable for any inheritance tax hereunder, and for the purpose of determining the amount of tax due thereon, the said

Powers.

inheritance tax appraiser is hereby authorized to issue subpoenas compelling the attendance of witnesses before him. Any person or persons who shall be served with a subpoena, issued by said inheritance tax appraiser, to appear and testify or to produce books and papers, and who shall refuse and neglect to appear and testify or to produce books and papers relevant to such appraisement, as commanded in such subpoena, shall be guilty of a contempt of court. And he may examine and take the evidence of such witnesses, or of such executor or administrator, or other person under oath concerning such property and the value thereof and concerning the property or the estate of such decedent subject to probate, and concerning any transfer made by such decedent within the meaning of this act. Upon the completion of his inheritance tax appraisement in any probate proceeding, the inheritance tax appraiser shall make a report in writing to the superior court of the clear market value of the several interests in the estate of the decedent, and shall report the amount of inheritance, or transfer tax chargeable against, or a lien upon such interests, acquired by virtue of said probate proceedings or by any transfer within the meaning of this act, to any person, institution or corporation acquiring any property by virtue of said probate proceedings together with such other facts as may advise the court in regard thereto, or which the court may require, and may return to said superior court such depositions as he may have had reduced to writing, exhibits, or other testimony or information taken before him, or submitted to him.

Report to superior court.

Notice of filing report.

(2) Upon the filing of said report said appraiser shall mail a copy thereof to the State Controller and the clerk of said superior court shall on said day or the next succeeding judicial day give notice of such filing to all persons interested in such proceedings by causing notice to be posted at the court house in the county where the court is held, and in addition thereto shall mail to the State Controller and to all persons chargeable with any tax in said report who have appeared in such proceeding, a copy of said notice. At any time after the expiration of ten days thereafter, if no objection to said report be filed, the said superior court or a judge thereof, or a court commissioner of a county, or city and county, having a population of nine hundred thousand inhabitants or more, may, without further notice, give and make its order confirming said report and fixing the tax in accordance therewith. At any time prior to the making of said order, any person interested in said proceeding (including the State Controller) may file objections in writing to said report. Thereupon the clerk of the said superior court shall fix a time, not less than ten days thereafter, for the hearing thereof, and shall give notice of said hearing by posting a notice thereof at the court house in the county where the court is held and by forthwith mailing a copy of such objections and of such notice to the State Controller, county treasurer and inheritance tax appraiser. Upon

Order confirming report.

Objections.

the hearing of said objections, said court, may make such order as to it may seem meet and proper in the premises; provided, that for the purpose of said hearing the report of the inheritance tax appraiser shall be presumed to be correct and it shall be the duty of the objector or objectors to proceed in support of said objection or objections.

Order that no tax due.

(3) If, upon examination of the executor or administrator of said estate or other persons familiar with the affairs of such decedent, or from other information before him, it shall appear to the inheritance tax appraiser that there is no inheritance tax due out of said estate or a lien upon any property or interest therein, said appraiser may so certify to the superior court, and at any time thereafter, if no objection to said certificate shall have been filed, said superior court or a judge thereof may, without further notice, make an order or decree that there are no inheritance taxes due out of said estate, or upon any interest therein or may make such different order as may to it seem meet in the premises. Such order, and orders fixing tax, shall be conclusive only as to such property as may have been returned in the inventory or inventory and appraisement in said probate proceedings, or included in transfers disclosed to the inheritance tax appraiser before making his report or issuing said certificate.

Escheating estates.

(4) In estates where the decedent leaves no one to take the estate, under the laws of this State, no report or certificate shall be filed by the inheritance tax appraiser appointed by the court in said estate and no order fixing inheritance tax, or decreeing that there are no inheritance taxes due out of said estate, shall be made by said court. If said estate is distributed to the State of California and thereafter a petition is filed in the superior court of the county of Sacramento showing petitioner's claim or right to the property distributed to the State, or the proceeds thereof, said superior court shall appoint an inheritance tax appraiser in said county of Sacramento to report to said superior court the amount of inheritance tax due in said matter. All proceedings thereafter shall be in compliance with the provisions of this section. No deductions shall be allowed in said proceeding.

Determining taxability of transfer

SEC. 17. (1) If it shall appear to the superior court upon petition of the State Controller that any transfer has been made within the meaning of this act, and the taxability thereof, and the liability for such tax and the amount thereof have not been determined, and that no proceedings are pending in any court in this State wherein the taxability of such transfer and the liability therefor, and the amount thereof may be determined, said court shall issue a citation ordering and directing the persons who may appear liable therefor or be known to own the property transferred or any part thereof or any interest therein, to appear before said court or before an inheritance tax appraiser to be designated by said order at a time and place in said order named, not less than ten days nor more than one year from the date of such order, to be

examined, under oath by said court, or by said appraiser as the case may be, concerning said transfer and all facts connected therewith, and concerning the property transferred and the character and value thereof. If said person or persons shall be directed to appear before said appraiser said appraiser shall, at the time and place in said order named, or at such time and place to which said appraiser may adjourn said hearing, proceed to examine said person or persons and such witnesses as said appraiser may subpoena before him, and for the purpose of said hearing, and for the purpose of ascertaining any facts concerning the taxability of said transfer or any taxes due on account of such transfer, said appraiser shall have the powers of a referee of said court, and is hereby authorized to issue subpoenas compelling the attendance of witnesses before him, and to administer oath, and to take the evidence of such witnesses under oath concerning such property and the value thereof and concerning such transfer. Said appraiser shall report to said court his findings and conclusions in relation to said transfer and said tax, and may return to said court any depositions, exhibits or other testimony or information taken before him or exhibited to him. The procedure subsequent to the filing of said report shall conform to subdivision (2) of section 16 of this act.

Examination by appraiser.

Report

Except as herein otherwise provided, the service of such citation and the time, manner and proof thereof, and the hearing and determination thereon, and the hearing and determination upon the facts returned in such report, and the enforcement of the determination or decree shall conform to the provisions of Chapter XXII, Division III of the Probate Code, and the clerk of the court shall, upon the request of the State Controller, furnish, without fee, one or more transcripts of such decree, and the same shall be docketed and filed by the county clerk of any county in the State, without fee, in the same manner and with the same effect as provided by section 674 of the Code of Civil Procedure for filing a transcript of an original docket.

Proceedings.

Stats. 1933, p. 1884.

The superior court may hear the said cause upon the relation of the parties and the testimony of witnesses, and evidence produced in open court, and, if the court shall find that said property is not subject to any tax, as herein provided, the court shall by order, so determine; but if it shall appear that said property, or any part thereof, is subject to any such tax the same shall be appraised and taxed as in other cases.

Hearing by court.

(2) Verified petitions may be filed by any interested party with the superior court alleging and admitting that a transfer within the meaning of this act has been made and the taxability thereof and the liability for such tax and the amount thereof have not been determined, and that no proceedings are pending in any court in this State wherein the taxability of such transfer and the liability therefor and the amount thereof, may be determined, and that the petitioner desires such determination and desires to pay said tax, if any be due.

Petition to determine taxability.

Upon the filing of such petition the superior court or a judge thereof shall by order designate and appoint an inheritance tax appraiser to ascertain and report to said court the amount of the inheritance tax, if any, due by said petitioner on account of such transfer, and shall fix a time and place, not less than ten days thereafter, for the hearing of said matter before said inheritance tax appraiser, a copy of which petition and order shall be forthwith mailed to the State Controller, and shall refer said petition and said matter to said inheritance tax appraiser who shall have all the powers of a referee of said court, including the powers prescribed in subdivision (1) of section 16 of this act. The procedure subsequent to said reference to said appraiser shall conform to the provisions of subdivisions (1) and (2) of section 16 of this act.

Compensation for appraiser

In the event that final judgment is rendered in said proceeding, ascertaining and determining that no inheritance tax is due on account of said transfer or that the amount of the tax to which said transfer is liable, is less than twenty dollars the court shall, in addition to the amount of the tax, if any, include in such judgment and assess against the petitioner reasonable compensation for said inheritance tax appraiser not exceeding the sum of ten dollars, and the necessary traveling and incidental expenses of said appraiser.

Action to quiet title.

(3) Actions may be brought against the State by an interested person for the purpose of quieting the title to any property against the lien or claim of lien of any tax or taxes under this act, or for the purpose of having it determined that any property is not subject to any lien for taxes nor chargeable with any tax under this act. No such action shall be maintained where any proceedings are pending in any court in this State wherein the taxability of such transfer and the liability therefor and the amount thereof may be determined. All parties interested in said transfer and in the taxability thereof shall be made parties thereto and any interested person who refuses to join as plaintiff therein may be made a defendant. Summons for the State in said action shall be served upon the State Controller.

Hearing by appraiser

At any time after issue is joined in such action the court, on its own motion, or upon the motion of any interested party, may by order appoint and designate an inheritance tax appraiser to hear said matter and report to the court thereon and shall in such order fix a time and place for the hearing of said matter before said inheritance tax appraiser, and direct notice of such time and place to be given in such manner as the court shall deem proper and shall refer said matter to said inheritance tax appraiser who shall have all of the power of a referee of said court, including the powers prescribed in subdivision (1) of section 16 of this act. The procedure subsequent to said reference to said appraiser shall conform to the provisions of subdivision (1) and (2) of section 16 of this act.

Judgment in favor of State

Should the court determine that the property described in the complaint is subject to the lien of said tax and that said property has been transferred within the meaning of this act, the court shall award affirmative relief to the State in said action, and judgment shall be rendered therein in favor of the State, ascertaining and determining the amount of said tax, and the person or persons liable therefor, and the property chargeable therewith or subject to lien therefor, and shall assess against such person or persons reasonable compensation for said inheritance tax appraiser and his necessary traveling and incidental expenses.

Place of commencing action

(4) Actions under this section shall be commenced in the superior court of the county in which is situated any part of any real property against which any lien is sought to be enforced, or to which title is sought to be quieted against any lien, or claim of lien; but if in said action no lien against real property is sought to be enforced, the action shall be brought in the superior court of the county which has or which had jurisdiction of the administration of the estate of the decedent mentioned herein.

No fee to be charged

(5) No fee shall be charged said State Controller by any public officer in this State for the filing or recording of any petition, lis pendens, decree or order, or for the taking of oaths or acknowledgments in any proceeding taken under this act; nor shall any undertaking be required from or costs charged against the State Controller or the State of California in any such proceeding.

Orders to have force of judgments

SEC. 18. The orders, decrees and judgments fixing tax or determining that no tax is due, mentioned in this act, shall have the force and effect of judgments in civil actions. Except as otherwise herein provided, the provisions of the Code of Civil Procedure relative to judgments, new trials, appeals, attachments and execution of judgments, so far as applicable, shall govern all proceedings taken under this act. Nothing in this section shall preclude the State from relief herein provided for, which may be inconsistent with the provisions of the Code of Civil Procedure.

Taxes paid to State Treasurer.

SEC. 19. The treasurer of each county shall collect all taxes and moneys that may be due and payable under this act and pay the same to the State Treasurer (excepting such moneys as he may pay out from time to time pursuant to the provisions of this act) and the State Treasurer shall give him a receipt therefor; of which collection and payment he shall make a report under oath, to the Controller, between the first and fifteenth days of June and January of each year, stating for what estate paid, and in such form and containing such particulars as the Controller may prescribe; and for all such taxes collected by him and not paid to the State Treasurer by the first day of July and February of each year he shall pay interest at the rate of ten per centum per annum.

SEC. 20. The treasurer of each county shall be allowed to retain, on all taxes paid and accounted for by him each year under this act, in addition to his salary or fees now allowed by law, three per centum of the first fifty thousand dollars so paid and accounted for by him, one and one-half per centum on the next fifty thousand dollars so paid and accounted for by him, and one per centum on all additional sums so paid and accounted for by him; provided that no county treasurer of a county of the first class, or a county of the second class or a county of the third class shall be entitled to retain to his own use more than the sum of five hundred dollars out of the inheritance taxes paid on account of any transfer or transfers made by or resulting from the death of any one decedent; provided, that the county treasurer of a county of all other classes shall not be entitled to retain to his own use more than the sum of two hundred dollars out of the inheritance taxes paid on account of any transfer or transfers made by or resulting from the death of any one decedent; provided, that no portion of the moneys paid on account of inheritance taxes in any one case in excess of the sum entitling the treasurer of a county of the first class, of a county of the second class and a county of the third class to retain five hundred dollars and entitling the treasurer of a county of all other classes to retain two hundred dollars for his own use shall be considered in computing his commissions in succeeding cases; and provided, further, that in counties of the first class the treasurer shall be entitled to retain as commissions not exceeding twelve thousand dollars out of the total inheritance taxes accounted for by him in any one year; that in counties of the second class the treasurer shall be entitled to retain as commissions not exceeding twelve thousand dollars out of the total inheritance taxes accounted for by him in any one year; that in counties of the third class the treasurer shall be entitled to retain as commissions not exceeding eight thousand dollars out of the total inheritance taxes accounted for by him in any one year; and that in counties of all other classes the treasurer shall be entitled to retain as commissions not exceeding five thousand dollars out of the total inheritance taxes accounted for by him in any one year.

Percentage retained by county treasurer.

SEC. 21. The State Controller, whenever he shall be cited as a party in any proceeding or action to determine any tax under this act provided, or whenever he shall deem it necessary for the better enforcement of this act to make any special employment to secure evidence of evasion of said tax or to commence or appear in any proceeding or action to determine any tax hereunder may by and with the consent and approval of the Attorney General, make such special employment or designate and employ counsel or attorneys in or out of this State to represent him on behalf of the State, and, by and with such consent of the Attorney General, he is hereby authorized to incur the necessary expense for such employment and any reasonable and necessary expense incident thereto.

Controller may employ counsel.

And the county treasurer is hereby authorized and directed to pay out of any funds which may be in his hands on account of this tax, on presentation of a sworn itemized account and on certificate of the State Controller and Attorney General, all expenses incurred as in this section above provided, but no expense for such special employment or legal services, up to and including the entry of the order of the court fixing the tax and the same becoming final, shall exceed ten per centum of the tax and penalties collected; provided, that all reasonable and necessary expenses incurred, in any legal action or proceeding in any court of this State or on any appeal therefrom, other than attorney's fees, including expenses of serving processes and printing and preparing of necessary legal papers, may be allowed and paid in the manner above provided, even though no tax be recovered in such action or proceeding, and the limitations herein made shall not apply thereto.

Disposition of taxes.

SEC. 22. All taxes levied and collected under this act shall be paid into the State treasury to the credit of the general fund.

Penalty for failure to perform duty.

SEC. 23. Every officer who fails or refuses, to perform within a reasonable time, any and every duty required by the provisions of this act, or who fails or refuses to make and deliver within a reasonable time any statement or record required by this act, shall forfeit to the State of California the sum of one thousand dollars, to be recovered in an action brought by the Attorney General in the name of the people of the State on the relation of the Controller.

Constitutionality

SEC. 24. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Stats. 1921, p 1500, repealed.

SEC. 25. An act entitled "An act to be known as the 'Inheritance Tax Act,' to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and by any act hereby repealed and for suits to quiet title against claims of liens arising hereunder, or under an act hereby repealed; and to repeal Chapter 589 of the laws of the session of the Legislature of California of 1917, approved May 23, 1917, known as the 'Inheritance Tax Act,' and to repeal all acts and parts of acts in conflict with this act," approved June 3, 1921, and all amendments thereto, and all acts and parts of acts in conflict with this act are hereby expressly repealed;

Pending proceeding not affected.

provided, however, that such repeal shall in nowise affect any suit, prosecution or proceeding pending at the time this act shall take effect, or any right which the State of California may have at the time of the taking effect of this act, to claim a tax

upon any property under the provisions of the act or acts hereby repealed, for which no proceeding has been commenced; and where no proceeding has been commenced, to collect any tax arising under any act hereby repealed the procedure to collect such tax shall conform to the provisions hereof; nor shall such repeal affect any appeal, right of appeal in any suit pending, or orders fixing tax, existing in this State at the time of the taking effect of this act.

Tax levy.

SEC. 26. This act inasmuch as it provides for tax levies for the usual current expenses of the State, shall, under the provisions of section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 359.

An act making an appropriation for the support of the Legislative Counsel Bureau and declaring the urgency thereof, the act to take effect immediately.

[Approved by the Governor June 25, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Appropriation Legislative Counsel Bureau

SECTION 1. Out of any money in the State treasury not otherwise appropriated and in addition to any other appropriation or appropriations for the support of the Legislative Counsel Bureau the sum of three thousand dollars is hereby appropriated to be expended in accordance with law for the support of the Legislative Counsel Bureau.

Current expenses

SEC. 2. This act inasmuch as it makes an appropriation for the usual current expenses of the State is hereby declared an urgency measure and shall under the provisions of section 1 of Article IV of the Constitution take effect immediately.

CHAPTER 360.

An act to provide for the administration of highway work for or in cooperation with the United States by the State of California, amending the Streets and Highways Code in accordance therewith, and declaring the urgency thereof.

[Approved by the Governor June 25, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Assent to provisions of Federal Highway Act.

SECTION 1. (820). The State of California assents to the provisions of the Federal Highway Act, as amended and supplemented. All work done under the provisions of said act

or other acts of Congress relative to Federal aid, or other cooperative highway work, or to emergency construction of public highways with funds apportioned by the government of the United States, shall be performed as required under acts of Congress, and the rules and regulations promulgated thereunder. Laws of this State inconsistent with such laws, or rules and regulations of the United States, shall not apply to such work, to the extent of such inconsistency.

Submission of project statements

SEC. 2. (821). The department, on behalf of the State, shall submit to the Secretary of Agriculture, or other properly authorized officer of the United States, such project statements as may be required and may agree with the proper officials of the United States as to the kind, quality, and extent of all such work. The department shall file in its office all approved plans, specifications, and estimates.

Powers of department.

SEC 3 (822). The department is authorized to do any and all acts and things with reference to any public street or highway in, or to be constructed in, this State necessary to the performance of any such agreement, including but not limited to the construction or improvement of streets, highways or roads which are not a part of the State highway system.

Appropriation Construction or improvement projects

SEC. 4. (823). In addition to the purposes for which the moneys in, and to be received in, the State highway fund and the State highway general fund have been appropriated, all of said moneys, or so much thereof as may be necessary, is hereby appropriated to, and may be expended by the department for, the performance of such street or highway construction or improvement projects as are agreed upon with the properly authorized officers of the United States, including projects on public highways in the State of California which are not a part of the State highway system. As to such projects on streets or highways which are not a part of the State highway system, such expenditures shall be limited to those items for which the government of the United States has agreed, and is obligated, to reimburse the State in full, except that the general administrative and engineering expense for which the Federal government will not repay the State is properly chargeable to the general administration of the Division of Highways.

Expenditures considered as advancements

SEC 5. (824). Expenditures made from the State highway fund or the State highway general fund to the extent to which the United States is obligated by a project agreement to reimburse the State, shall be considered as advancements made by this State for performance on behalf of the United States, and shall not be considered as expenditures of State funds. Such advancements are not subject to any provisions of law relative to allocation of State highway fund, or State highway general fund moneys. Such advancements must be excluded in making the computations required by section 695 of the Political Code, as added by Chapter 923 of the Statutes of 1933 and the amount of such advancements made and to

be so excluded during any given period of time shall be deemed to be equal to the amount received from the government of the United States as reimbursement for street or highway projects and deposited in the State treasury during said period of time.

What projects to be presented for approval.

SEC. 6. (825). In the absence of Federal law, ruling, or regulation to the contrary, the department is directed to present for approval by the proper officers of the United States, projects which will result in the expenditure of all Federal funds apportioned to the State of California for highway construction or improvement as near as may be in compliance with the provisions of law governing the allocation of State highway fund money, or State highway general fund money, as between the two county groups.

Deposit of Federal moneys.

SEC. 7. (826). All moneys received from the government of the United States as reimbursement for street or highway construction projects shall be deposited in the State treasury to the credit of the fund from which the advancements were made. The department shall certify to the State Treasurer the fund in which each payment is required to be deposited, or if any one payment represents advancements from both the State highway fund, and the State highway general fund, the amount which should be deposited in each.

State highway general fund Contributions.

SEC. 8. (180). The State highway general fund in the State treasury is continued in existence. Any moneys contributed by any county, city, public corporation, district or person may be placed by the commission in the State highway general fund, and shall be expended for the purpose for which contributed. In case the entire sum contributed is not necessary for such purpose, the balance unused shall be returned to the contributor and may be withdrawn in the manner provided by law upon demands made by the Division of Highways.

Disposition of moneys

SEC. 9. (181). Any money placed in the State highway general fund may be withdrawn for such highway purposes as the Division of Highways directs, except that moneys received from the Federal government as reimbursement for advancements made, when not again expended as advancements, shall be expended with respect to primary and secondary State highways and within the county groups as provided for expenditure of money from the State highway fund; and provided, further, that as to the expenditure of Federal emergency funds allocated primarily for the purpose of relieving unemployment, employees used on any projects so financed shall be obtained from the various counties according to and in proportion to unemployment needs so far as may be practical and only to such extent as will not conflict with any requirement of the government of the United States.

Contract specifications

Violation of labor laws.

SEC. 10. (827). The department may insert in the specifications for any contract for any project as to which a project agreement has been executed by and between the State and the United States a stipulation that the contractor shall forfeit

to the State the sum of ten dollars for each calendar day, or portion thereof, for each person who is employed upon the project in violation of the specifications relating to selection of labor, wages, hours, and conditions of employment, and the contractor shall be bound thereby.

The department may insert in the specifications for any such contract all special provisions required by the rules and regulations of the properly authorized officers of the United States, regardless of whether or not any such provision tends to increase the cost of the work.

Definitions.

SEC. 11. Terms used in this act which are defined in the general provisions of the proposed Streets and Highways Code, Chapter 29 of the Statutes of 1935, have the same meaning as specified in said proposed code.

Amendment to Sts. & H. C., Stats 1935, Ch 29

SEC. 12. On the effective date of the Streets and Highways Code, a new article, to be numbered 4, to be entitled "State and Federal highway work," and to consist of sections 1, 2, 3, 4, 5, 6, 7, and 10 of this act, to be numbered respectively 820, 821, 822, 823, 824, 825, 826, and 827 of said code, shall be added to Chapter 4 of Division 1 of said code.

SEC. 13. On the effective date of the Streets and Highways Code, sections 180 and 181 are amended to read as do sections 8 and 9 of this act, to be numbered as sections 180 and 181, respectively, of said code, and sections 74 and 134 of said code are repealed.

Stats 1931, p. 1350, repealed

SEC. 14. "An act to create a fund to be known as the State highway general fund and providing for expenditures therefrom," approved June 5, 1931, is repealed.

Constitutionality

SEC. 15. If any provision of this act, or the application thereof to any particular set of circumstances, is for any reason held unconstitutional, such decision shall not affect the remaining provisions of this act, or the application of said provision to any other set of circumstances. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases, or its application in any given set of circumstances, be declared unconstitutional.

Urgency.

SEC. 16. This act is declared to be an urgency measure deemed necessary for the immediate preservation of the public peace, health, and safety within the meaning of section 1 of Article IV of the Constitution, and as such it shall take effect immediately.

The following is a statement of the facts constituting such urgency:

The Congress of the United States has enacted the Emergency Relief Appropriation Act of 1935 in which provision is made for the apportionment of the sum of eight hundred million dollars among the several States and Territories of the United States to be expended by the State highway departments thereof for emergency construction of public streets

and highways, including grade crossing separations, for the purpose of furnishing employment to those on relief. Under the provisions of this Federal legislation a large sum of money will be apportioned to the State of California, to be expended for such purposes by the Department of Public Works. Many persons are on relief in the State of California by reason of the existing economic depression which has produced widespread unemployment, disorganization of industry, and lowering of the standards of living of many of the people of California. It is of paramount importance that useful employment be furnished to those many persons on public relief who are ready and willing to work, thus restoring their self-confidence and self-respect and alleviating the discontent and unrest occasioned by want. It is necessary that this act become effective at once in order that the State of California may meet the terms of said Federal legislation, and the rules and regulations of the President and other officers of the government of the United States thereunder, so that the program proposed by the Congress can be put into effect immediately in the State of California.

CHAPTER 361.

An act imposing an excise tax on the storage, use or other consumption in this State of tangible personal property, providing for the registration of retailers, providing for the levying, assessing, collecting, paying and disposing of such tax, making an appropriation for the administration hereof, prescribing penalties for violations of the provisions hereof and providing that this act shall take effect immediately. "Use Tax Act of 1935."

[Approved by the Governor June 25, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. This act is known and may be cited as the "Use Tax Act of 1935." Short title.

SEC. 2. The following words, terms and phrases when used in this act have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions.

(a) "Storage" means and includes any keeping or retention in this State for any purpose except sale in the regular course of business of tangible personal property purchased from a retailer.

(b) "Use" means and includes the exercise of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include the sale of that property in the regular course of business.

Definitions.

(c) "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price shall be deemed a purchase.

(d) "Sales price" means the total amount for which tangible personal property is sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses or any other expenses whatsoever, provided that cash discounts allowed and taken on sales shall not be included, nor shall the sales price include the amount charged for labor or services rendered in installing, applying, remodeling or repairing property sold.

(e) "Person" means and includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, this State, any county, city and county, municipality, district or other political subdivision thereof, or any other group or combination acting as a unit, and the plural as well as the singular number.

(f) "Retailer" means and includes every person engaged in the business of making sales for storage, use or other consumption; provided, however, that when in the opinion of the board it is necessary for the efficient administration of this act to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the board may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this act.

(g) "Board" means the State Board of Equalization.

(h) "Tangible personal property" means personal property which may be seen, weighed, measured, felt, touched, or is in any other manner perceptible to the senses.

(i) "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

(j) "In this State" or "in the State" means within the exterior limits of the State of California, and includes all territory within such limits owned by or ceded to the United States of America.

Levy of tax.

SEC. 3. An excise tax is hereby imposed on the storage, use or other consumption in this State of tangible personal property purchased from a retailer on or after July 1, 1935, for

storage, use or other consumption in this State at the rate of three per cent of the sales price of such property. Rate.

Every person storing, using or otherwise consuming in this State tangible personal property purchased from a retailer shall be liable for the tax imposed by this act, and the liability shall not be extinguished until the tax has been paid to this State; provided, however, that a receipt from a retailer maintaining a place of business in this State, given to the purchaser in accordance with the provisions of section 6 hereof, shall be sufficient to relieve the purchaser from further liability for the tax to which such receipt may refer; provided further, that the board may by rule and regulation provide that a receipt from a retailer who does not maintain a place of business in this State shall also be sufficient to relieve the purchaser from further liability for the tax to which such receipt may refer. Receipt for tax.

SEC. 4. The storage, use or other consumption in this State of the following tangible personal property is hereby specifically exempted from the tax imposed by this act: Exemptions.

(a) Property, the gross receipts from the sale of which are required to be included in the measure of the tax imposed by Chapter 1020, Statutes of 1933 and any amendments made or which may be made thereto.

(b) Property, the storage, use or other consumption of which this State is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this State.

(c) Gas, electricity and water, when furnished or delivered to consumers through mains, lines or pipes.

(d) Gold bullion, gold concentrates or gold precipitates, when sold by the producer or refiner thereof for storage, use or other consumption in this State.

(e) Property used for the performance of a contract on public works executed prior to August 1, 1933.

(f) Motor vehicle fuel, the gross receipts received from sales or distributions of which in this State are subject to the tax imposed thereon under the provisions of the "Motor Vehicle Fuel License Tax Act," and not subject to refund. Stats 1923, p. 571.

(g) Food Products Purchased for Human Consumption. "Food products" as used herein includes cereals and cereal products, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products other than candy and confectionery, coffee and coffee substitutes, tea, cocoa and cocoa products other than candy and confectionery. "Food products" does not include spirituous, malt or vinous liquors, soft drinks, sodas or beverages such as are ordinarily dispensed at bars and soda fountains or in connection therewith.

The exemption of food products set forth herein is made subject to the condition that the gross receipts from retail sales of food products be exempted from the computation of

Stats 1933, p. 2599.

the tax imposed by the Retail Sales Tax Act of 1933, and any amendments thereto; provided, however, that should the gross receipts from retail sales of food products not be exempted from the computation of the tax imposed by said act and any amendments thereto, or should the exemption of the gross receipts from sales of food products from the computation of the tax imposed by said act and any amendments thereto be declared unconstitutional or should the exemption of food products set forth herein be declared unconstitutional then the rate of tax set forth in section 3 hereof shall be two per cent on and after July 1, 1935.

Registration of retailers.

SEC. 5. Every retailer selling tangible personal property for storage, use or other consumption in this State shall within thirty days after the effective date of this act register with the board and give the name and address of all agents operating in this State, the location of any and all distribution or sales houses or offices or other places of business in this State and such other information as the board may require.

Collection of tax by retailers.

SEC. 6. Every retailer maintaining a place of business in this State and making sales of tangible personal property for storage, use or other consumption in this State, not exempted under the provisions of section 4 hereof, shall at the time of making such sales collect the tax imposed by this act from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the board. The tax required to be collected by the retailer from the purchaser shall be displayed separately from the list, advertised in the premises, marked or other price on the sales check or other proof of sale.

Receipts

Unlawful to advertise absorption of tax.

It shall be unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof imposed by this act will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

The tax herein required to be collected by the retailer shall constitute a debt owed by the retailer to this State.

Tax returns.

SEC. 7. The tax imposed by this act shall be due and payable to the board quarterly on or before the fifteenth day of the month next succeeding each quarterly period, the first of such quarterly periods being the period commencing with the first day of July, 1935, and ending on the thirtieth day of September, 1935. Every retailer maintaining a place of business in this State shall on or before the fifteenth day of the month following the close of the first quarterly period as above defined, and on or before the fifteenth day of the month following each subsequent quarterly period of three months, file with the board a return for the preceding quarterly period in such form as may be prescribed by the board showing the total sales price of the tangible personal property sold by the retailer

Returns by retailers.

during such preceding quarterly period, the storage, use or consumption of which is subject to the tax imposed by this act, and such other information as the board may deem necessary for the proper administration of this act. The return shall be accompanied by a remittance of the amount of tax herein required to be collected by the retailer during the period covered by the return. The board, if it deems it necessary in order to insure payment to the State of the amount of tax herein required to be collected by retailers, may require returns and payment of such amount of tax for other than quarterly periods. Returns shall be signed by the retailer or his duly authorized agent but need not be verified by oath.

Remittance of tax.

Every person storing, using or consuming tangible personal property purchased from a retailer who does not maintain a place of business in this State shall on or before the fifteenth day of the month following the close of the first quarterly period as above defined, and on or before the fifteenth day of the month following each subsequent quarterly period of three months, file with the board a return for the preceding quarterly period in such form as may be prescribed by the board showing the total sales price of the tangible personal property purchased by such person during such preceding quarterly period, the storage, use or consumption of which is subject to the tax imposed by this act, and such other information as the board may deem necessary for the proper administration of this act. The return shall be accompanied by a remittance of the amount of tax herein imposed during the period covered by the return. The board, if it deems it necessary in order to insure payment to the State of the amount of such tax may require returns and payment for other than quarterly periods. Returns shall be signed by the person liable for the tax or his duly authorized agent but need not be verified by oath.

Returns by consumers.

Remittance of tax.

The board, if it deems it necessary to insure the collection of the tax imposed by this act, may provide by rule and regulation for the collection of said tax by the affixing and canceling of revenue stamps and may prescribe the form and method of such affixing and canceling.

For the purpose of the proper administration of this act and to prevent evasion of the tax and the duty to collect the same herein imposed, it shall be presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State unless the person selling such property shall have taken from the purchaser a certificate signed by and bearing the name and address of the purchaser to the effect that the property was purchased for resale.

Presumptions.

SEC. 8. Any person failing to pay any tax to the State or any amount of tax herein required to be collected and paid to the State, except amounts determined to be due by the board under the provisions of sections 9 and 10 hereof, within

Delinquency penalty.

the time required by this act shall pay in addition to the tax or the amount of tax herein required to be collected a penalty of ten per cent thereof, plus interest at the rate of one-half of one per cent per month, or fraction thereof, from the date at which the tax or the amount of tax herein required to be collected became due and payable to the State.

Additional determinations.

SEC. 9. If the board is not satisfied with the return and payment of the amount of tax herein required to be paid to the State by any person, it is hereby authorized and empowered to compute and determine the amount required to be paid based upon the facts contained in the return or upon any information within its possession or that shall come into its possession. All amounts determined to be due under the provisions of this section shall bear interest at the rate of one-half of one per cent per month, or fraction thereof, from the fifteenth day after the close of the period or periods, as the case may be, for which such amounts were required to be reported to the board until paid. If any part of the deficiency for which a determination of an additional amount due is made is due to negligence or intentional disregard of the act or authorized rules and regulations, a penalty of ten per cent of such amount shall be added, plus interest as above provided. If any part of the deficiency for which a determination of an additional amount due is made is due to fraud or an intent to evade the act or authorized rules and regulations, a penalty of twenty-five per cent of such amount shall be added, plus interest as above provided. The board shall give to the retailer or person storing, using or consuming tangible personal property written notice of its determination. Such notice may be served personally or by mail; if by mail, service shall be made in the manner prescribed by section 1013 of the Code of Civil Procedure and addressed to the retailer or person storing, using or consuming tangible personal property at his address as the same appears in the records of the board.

Penalties.

Notice.

Failure to make return.

SEC. 10. If any person neglects or refuses to make a return required to be made by this act, the board shall make an estimate for the period or periods in respect to which such person failed to make a return, based upon any information in its possession or that may come into its possession, of the amount of the total sales price of tangible personal property sold or purchased by such person, the storage, use or other consumption of which in this State is subject to the tax imposed by this act, and upon the basis of said estimate compute and determine the amount required to be paid to the State, adding to the sum thus arrived at a penalty equal to ten per cent thereof. All amounts determined to be due under the provisions of this section shall bear interest at the rate of one-half of one per cent per month, or fraction thereof, from the fifteenth day after the close of the period or periods, as the case may be, for which such amounts were required to be reported to the board until paid. If the neglect or refusal of any person to file a return as required by this act was due to fraud or an

Penalties.

intent to evade this act or rules and regulations hereunder, a penalty of twenty-five per cent of the amount required to be paid by such person shall be added, plus interest as above provided. Promptly thereafter the board shall give to such person written notice of such estimate, determination and penalty, the notice to be served personally or by mail in the same manner as prescribed for service of notice by the provisions of section 9 hereof.

Notice.

SEC. 11. If the board believes that the collection of any tax or any amount of tax herein required to be collected and paid to the State will be jeopardized by delay, it shall immediately make a jeopardy determination of the tax or the amount of tax herein required to be collected, together with interest and penalty as provided herein. The amount so determined shall be immediately due and payable. Promptly after the making of the determination, the board shall give to the person against whom the determination is made written notice thereof, the notice to be served personally or by mail in the same manner as prescribed for service of notice by the provisions of section 9 hereof. If the amount specified in the determination is not paid within ten days after the service upon the person against whom the determination is made of notice thereof, the delinquency penalty and the interest provided in section 8 hereof shall attach to the amount of the tax or the amount of the tax required to be collected specified therein.

Jeopardy assessments

SEC. 12. Any person from whom an amount is determined to be due under the provisions of section 9 or 10 hereof may petition for a redetermination thereof within fifteen days after service upon such person of notice thereof. If a petition for redetermination is not filed within said fifteen day period, the amount determined to be due becomes final at the expiration thereof. If a petition for redetermination is filed within said fifteen day period, the board shall reconsider the amount determined to be due, and if such person has so requested in his petition, shall grant such person an oral hearing and shall give such person ten days' notice of the time and place thereof. The board shall have power to continue the hearing from time to time as may be necessary.

Petition for redetermination.

The order or decision of the board upon a petition for redetermination shall become final sixty days after service upon such person of notice thereof unless such person brings a proceeding for the review thereof under the provisions of section 32 hereof.

When order final.

All amounts determined to be due by the board under the provisions of section 9 or 10 hereof shall become due and payable at the time of service of notice thereof. If the amount determined to be due, interest and penalty, if any, specified in any determination is not paid prior to the time the determination becomes final, there shall be added thereto a penalty of ten per cent of the amount determined to be due.

Any notice required by this section shall be served personally or by mail in the same manner as prescribed for service of notice by the provisions of section 9 hereof.

Extension of time

SEC. 13. The board for good cause may extend for not to exceed thirty days the time for making any return required under the provisions of this act.

Deposit of security.

SEC. 14. The board, whenever it deems it necessary to insure compliance with the provisions of this act, may require any person subject thereto to deposit with it such security as the board may determine. The same may be sold by the board at public auction if it becomes necessary so to do in order to recover any tax, or any amount herein required to be collected, interest or penalty due. Notice of such sale may be served upon the person who deposited such security personally or by mail; if by mail, service shall be made in the manner prescribed by section 1013 of the Code of Civil Procedure and addressed to the person at his address as the same appears in the records of the board. Upon any such sale, the surplus, if any, above the amounts due under this act shall be returned to the person who deposited the security.

Additional determination notice.

SEC. 15. Except in the case of a fraudulent return, or neglect or refusal to make a return, every notice of a determination of an additional amount due shall be mailed within three years after the return was filed.

Interest

SEC. 16. All taxes or amounts herein required to be collected not paid to the board on the date when the same became due and payable shall bear interest at the rate of one-half of one per cent per month, or fraction thereof, from and after the date when the same became due and payable until paid.

Credit of overpayments.

SEC. 17. If the board determines that any amount, penalty or interest has been paid more than once, or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of what was legally due, from whom it was collected, or by whom paid to the board, and if approved by the State Board of Control the same shall be credited on any amounts then due from such person under this act and the balance shall be refunded to such person, or his successors, administrators, executors or assigns, but no such credit or refund shall be allowed after three years from the date of overpayment.

Recovery of erroneous refunds.

Any refund or any portion thereof which is erroneously made and any credit or any portion thereof which is erroneously allowed, may be recovered in an action brought by the Controller of the State in a court of competent jurisdiction in the county of Sacramento in the name of the people of the State of California and such action shall be tried in the county of Sacramento unless the court with the consent of the Attorney General, orders a change of place of trial. The Attorney General must prosecute such action, and the provisions of the Code of Civil Procedure relating to service of

summons, pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for.

Cancellation.

In the event that any amount has been illegally determined to be due from any person the board shall certify such fact to the State Board of Control and said board shall authorize the cancellation of the amounts upon the records of the board.

Penalty for fraud or evasion

SEC. 18. If fraud or evasion on the part of any person is discovered by the board, it shall determine the amount by which the State has been defrauded, shall add to the amount so determined a penalty equal to twenty-five per cent thereof, and shall determine the same to be due from such person. All amounts determined to be due from any person under the provisions of this section shall bear interest at the rate of one-half of one per cent per month, or fraction thereof, from the fifteenth day after the close of the period or periods, as the case may be, for which such amounts should have been paid. The amount so determined shall be immediately due and payable and if not paid within ten days after the service upon such person of notice of the amount determined to be due, the delinquency penalty and interest provided in section 8 hereof shall attach thereto.

Reports to Controller.

SEC. 19. The board shall report to the Controller every amount determined to be due under this act, and he shall keep a record thereof.

Judgments.

SEC. 20. In any case in which any amount required to be paid to the State in accordance with the provisions of this act, is not paid when due the board may file in the office of the county clerk of Sacramento County, or any other county, a certificate specifying the amount required to be paid, interest and penalty due, the name and last known address of the retailer or other person liable for the same, that the board has complied with all the provisions of this act in relation to the determination of the amount herein required to be paid and a request that judgment be entered against the retailer or other person in the amount herein required to be paid, together with interest and penalty as set forth in the certificate. The county clerk immediately upon the filing of such certificate shall enter a judgment for the people of the State of California against the retailer or other person in the amount herein required to be paid, together with interest and penalty as set forth in this certificate. The judgment may be filed by the county clerk in a loose-leaf book entitled, "Special Judgments for State Retail Sales or Use Tax."

Abstract of judgment.

An abstract of such judgment or a copy thereof may be recorded with the county recorder of any county and from the time of such recording, the amount herein required to be paid, together with interest and penalty therein set forth shall constitute a lien upon all the real property of the retailer or other person liable for the tax, interest or penalty in such county, owned by him or which he may afterwards and before the lien expires acquire, which lien shall have the force, effect and priority of a judgment lien. Execution shall

Lien.

issue upon such a judgment upon request of the board in the same manner as execution may issue upon other judgments and sales shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section the board shall be authorized to act on behalf of the people of the State of California.

Final return on selling or quitting business.

If any retailer liable for an amount of tax herein required to be collected shall sell out his business or stock of goods or shall quit the business, he shall make a final return and payment within fifteen days after the date of selling or quitting business. His successor, successors or assigns, if any, shall be required to withhold sufficient of the purchase money to cover the amount of such taxes herein required to be collected and interest or penalties due and unpaid until such time as the former owner shall produce a receipt from the board showing that they have been paid, or a certificate stating that no amount is due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, he shall be personally liable for the payment of the amount of taxes herein required to be collected by the former owner, interest and penalties accrued and unpaid by any former owner, owners or assignors.

Notice of delinquency.

In the event that any person is delinquent in the payment of the amount herein required to be paid by him, the board may give notice of the amount of such delinquency by registered mail to all persons having in their possession, or under their control, any credits or other personal property belonging to such person, or owing any debts to such person at the time of the receipt by them of such notice and thereafter any person so notified shall neither transfer nor make any other disposition of such credits, other personal property, or debts until the board shall have consented to a transfer or disposition, or until twenty days shall have elapsed from and after the receipt of such notice. All persons so notified must, within five days after receipt of such notice advise the board of any and all such credits, other personal property or debts, in their possession, under their control or owing by them, as the case may be.

Procedure for collection of delinquent taxes.

At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, the board may proceed forthwith to collect such amount in the following manner: The board shall seize any property, real or personal, of such person and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the amount due hereunder, together with any interest or penalties imposed hereby for such delinquency, and any and all costs that may have been incurred on account of such seizure and sale.

Notice of sale.

Notice of such intended sale and the time and place thereof, shall be given to such delinquent person in writing at least ten days before the date set for such sale by enclosing such notice in an envelope addressed to such person at his last known address or place of business, if any, and

depositing the same in the United States mail, postage prepaid, and by publication for at least ten days before the date set for such sale in a newspaper of general circulation published in the county or city and county in which the property seized is to be sold; provided that if there be no newspaper of general circulation in such county or city and county, then by the posting of such notice in three public places in such county or city and county ten days prior to the date set for such sale. The said notice shall contain a description of the property to be sold, together with a statement of the amount due, including interest, penalties and costs, if any, the name of the person from whom due, and the further statement that unless the amount due, interest and penalties and costs are paid on or before the time fixed in said notice for such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

Contents of notice.

At any such sale, the property shall be sold by the board in accordance with law and said notice, and the board shall deliver to the purchaser a bill of sale for the personal property, and a deed for any real property so sold, and such bill of sale or deed shall vest the interest or title of the retailer or other person liable for the tax in the purchaser. The unsold portion of any property so seized may be left at the place of sale at the risk of the retailer or other person liable for the tax. If upon any such sale, the moneys so received shall exceed the total of all amounts including interest, penalties and costs due the State, any such excess shall be returned to the retailer, or other person liable for the tax, and his receipt therefor obtained; provided, however, that if any person having an interest or lien upon the property, has filed with the board prior to any such sale notice of such interest or lien the board shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If, for any reason, the receipt of such retailer or other person liable for the tax shall not be available, the board shall deposit such excess moneys with the State Treasurer, as trustee for such owner, subject to the order of such retailer or other person liable for the tax, his heirs, successors or assigns.

Sale of property

Disposition of excess

It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by the board or Attorney General shall be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

Cumulative remedies.

SEC. 21. If any person storing, using, or otherwise consuming in this State tangible personal property purchased from a retailer maintaining a place of business in this State neglects or refuses to pay the tax imposed by this act, the board shall make an estimate based upon any information in its possession or that may come into its possession of the sales price of the property and on the basis of said estimated sales

Arbitrary assessments against consumers

price compute and assess the tax payable by such person, adding to the sum thus arrived at a penalty equal to ten per cent thereof. All such assessments shall bear interest at the rate of one-half of one per cent per month, or fraction thereof, from the fifteenth day after the close of the period or periods, as the case may be, for which the amount of tax should have been paid to the State until the date of payment. Promptly thereafter the board shall give written notice to such person of such estimate, tax and penalty, the notice to be served personally or by mail in the manner prescribed by the provisions of section 1013 of the Code of Civil Procedure.

Notice.

The payment to the State of the tax, interest and penalty assessed by the board under the provisions of this section shall relieve the retailer who sold the property with regard to the storage, use or other consumption of which the tax was paid to the State under the provisions of this section, from the payment to the State of the amount of tax which he is herein required to collect from the purchaser and pay to the State.

Petition for reassessment.

SEC. 22. Any person against whom an assessment is made by the board under the provisions of section 21 hereof may petition for a reassessment thereof within fifteen days after service upon such person of notice thereof. If a petition for reassessment is not filed within said fifteen day period, the amount of the assessment becomes final at the expiration thereof. If a petition for reassessment is filed within said fifteen day period, the board shall reconsider the assessment, and if the person has so requested in his petition, shall grant such person an oral hearing and give him ten days' notice of the time and place thereof. The board shall have power to continue the hearing from time to time as may be necessary.

The order or decision of the board upon a petition for reassessment shall become final sixty days after service upon the person of notice thereof unless such person brings a proceeding for the review thereof under the provisions of section 32 hereof.

Time for payment.

All assessments made by the board under the provisions of section 21 hereof shall become due and payable at the time of service of notice thereof. If the amount of the tax, interest and penalty, if any, specified in any assessment is not paid prior to the time the assessment becomes final, there shall be added thereto a penalty of ten per cent of the amount of the tax.

Notice

Any notice required by this section shall be served personally or by mail in the same manner as prescribed for service of notice by the provisions of section 9 hereof.

Refunds.

SEC. 23. If the board determines that any tax has been erroneously or illegally collected by a retailer from a purchaser and paid to the State, or erroneously paid by a purchaser to the State, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount of tax erroneously or illegally collected, the name of the person from whom it was collected, or who

paid the same, and the name of the retailer, if any, by whom it was collected, and if approved by the State Board of Control, the same shall be refunded to the person from whom it was collected, or who paid the same, or his successors, administrators, executors or assigns, but no refund shall be allowed after three years from the date of overpayment.

Recovery of erroneous refunds.

SEC. 24. Any refund or any portion thereof which is erroneously made may be recovered in an action brought by the Controller of the State in a court of competent jurisdiction in the county of Sacramento in the name of the people of the State of California and such action shall be tried in the county of Sacramento unless the court with the consent of the Attorney General, orders a change of place of trial. The Attorney General must prosecute such action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for.

Records

SEC. 25. Every retailer and every person storing, using or otherwise consuming in this State tangible personal property purchased from a retailer shall keep such records, receipts, invoices and other pertinent papers in such form as the board may require.

Investigations.

The board or any person authorized in writing by it is hereby authorized to examine the books, papers, records and equipment of any person selling tangible personal property and any person liable for the tax imposed by this act and to investigate the character of the business of any such person in order to verify the accuracy of any return made, or if no return was made by such person, to ascertain and determine the amount required to be collected by this act.

Enforcement of act.

The board is hereby charged with the enforcement of the provisions of this act and is hereby authorized and empowered to prescribe, adopt and enforce rules and regulations relating to the administration and enforcement of the provisions of this act and to employ such accountants, auditors, investigators, assistants and clerks as may be determined to be necessary for the efficient administration of this act.

Information confidential

SEC. 26. It shall be unlawful for the board, or any person having an administrative duty under this act to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; provided, however, that the Governor may authorize examination of such returns by other State officers, by tax officers of another State, or the Federal Government, if a reciprocal arrangement exists, and any other persons the Governor may so authorize.

Exception.

Penalty.

Any violations of the provisions of this section shall be a misdemeanor and be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both, at the discretion of the court.

Remittances to board

SEC. 27. All fees, taxes, interest and penalties imposed and all amounts of tax herein required to be paid to the State under this act must be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California, and said board shall transmit such payments to the State Treasurer to be deposited in the State treasury to the credit of the retail sales tax fund.

Appropriation for enforcement of act.

There is hereby appropriated, in addition to any other moneys appropriated, the sum of one hundred forty-one thousand five hundred dollars out of the "retail sales tax fund;" of such amount one hundred thousand dollars may be expended by the Board of Equalization, twenty-five thousand dollars may be expended by the Controller, ten thousand dollars may be expended by the State Department of Finance and six thousand five hundred dollars may be expended by the State Treasurer. The balance of the moneys paid under this act and deposited in the retail sales tax fund shall, upon order of the State Controller, be drawn therefrom for the purpose of making refunds hereunder or be transferred to the general fund of the State.

Action to collect delinquent tax.

SEC. 28. At any time within three years after any amount herein required to be collected has become due and payable and any time within three years after the delinquency of any tax, the board may bring an action in the courts of this State, any other State or in any court of the United States in the name of the people of the State of California to collect the amount delinquent, together with penalties and interest. The Attorney General must prosecute such action. In such action a writ of attachment may issue, and no bond or affidavit previous to the issuing of said attachment is required. In such action a certificate by the board showing the delinquency shall be prima facie evidence of the determination of the amount required to be collected, or the assessment of the tax, of the delinquency and of the compliance by the board with all the provisions of this act in relation to the computation and determination of the amount herein required to be collected and of the computation and assessment of the tax.

Service of process.

In any action brought under the provisions of this act process may be served according to the provisions of the Code of Civil Procedure and the Civil Code of this State or may be served upon any agent or clerk in this State employed by any retailer in a place of business maintained by such retailer in this State, in which case a copy of the process shall forthwith be sent by registered mail to the retailer at his principal or home office.

Injunction against tax collection prohibited.

SEC. 29. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this State or against any officer thereof

to prevent or enjoin under this act the collection of any tax or any amount of tax herein required to be collected; but after payment of any such tax or any such amount of tax herein required to be collected under protest, duly verified and setting forth the grounds of objection to the legality thereof, the retailer or person making the payment may bring an action against the State Treasurer in a court of competent jurisdiction in the county of Sacramento for the recovery of the amount paid under protest. No such action may be instituted more than sixty days after the tax or the amount herein required to be collected and paid to the State becomes due and payable, and failure to bring suit within said sixty days shall constitute waiver of any and all demands against the State on account of alleged overpayments hereunder. No grounds of illegality shall be considered by the court other than those set forth in the protest filed at the time of the payment of the tax or the amount herein required to be collected and paid to the State.

Payment under protest.

If in any such action judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any taxes or amounts due from the plaintiff under this act, and the balance of the judgment shall be refunded to the plaintiff. In any such judgment, interest shall be allowed at the rate of six per cent per annum upon the amount found to have been illegally collected from the date of payment of such amount to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than thirty days, such date to be determined by the Controller.

Refund.

In no case shall any judgment be rendered in favor of the plaintiff in any action brought against the State Treasurer to recover any amount paid hereunder, when such action is brought by or in the name of an assignee of the retailer or other person paying said amount, or by any person other than the person who has paid such amount.

Assignee can not recover.

SEC. 30. Any retailer or other person failing or refusing to furnish any return hereby required to be made, or failing or refusing to furnish a supplemental return or other data required by the board, or rendering a false or fraudulent return, shall be guilty of a misdemeanor and subject to a fine of not exceeding five hundred dollars ($500) for each such offense.

Penalties. Failure to furnish return

Any person required to make, render, sign or verify any report as aforesaid, who makes any false or fraudulent return, with intent to defeat or evade the assessment or determination of amount due required by law to be made, shall be guilty of a misdemeanor, and shall for each such offense be fined not less than three hundred dollars ($300) and not more than five thousand dollars ($5,000) or be imprisoned not exceeding one year in the county jail or be subject to both said fine and imprisonment in the discretion of the court.

False or fraudulent return.

Penalty.

SEC. 31. Any violation of the provisions of this act, except as otherwise herein provided, shall be a misdemeanor and punishable as such.

Review of order of board.

SEC. 32. Every order, decision or other official act of the board shall be subject to review in accordance with the provisions of Chapter I, Title I of Part III of the Code of Civil Procedure if the proceeding is brought within sixty days after service of notice of such order, decision or other official act. Upon such review the court shall be limited to a consideration and determination of the question whether there has been an abuse of discretion on the part of the board in making such order, decision or other official act. The person petitioning for a review of any order, decision or other official act of the board shall pay the cost of the preparation of any transcript or transcripts of the records of proceedings of the board that the board may be required to furnish in the proceeding instituted by such person under the provisions of this section.

Constitutionality.

SEC. 33. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

Tax levy.

SEC. 34. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 362.

An act relating to licensing and taxing of vehicles, providing for license fees for the privilege of operating certain vehicles, providing for the exemption of such vehicles from all taxes according to value for State, county or municipal purposes, providing for the administration and enforcement of this act, creating a fund to be known as the motor vehicle license fee fund, and making an appropriation of the moneys therein.

[Approved by the Governor June 25, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Definitions

SECTION 1. "Vehicle" as used herein means every vehicle subject to registration under the Vehicle Code.

"Department" means the Department of Motor Vehicles.

License fee imposed

SEC. 2 A license fee is hereby imposed for the privilege of operating in this State any vehicle. The annual amount of such license fee shall be a sum equal to one and three-quarters

per cent of the actual market value of such vehicle, as determined by the department. The department annually shall compile and publish a list showing the market values as determined by it of each class of vehicle subject to the license fee hereby imposed, such vehicles being classified by make, type and year of manufacture. The license fee imposed by this act shall not apply to any vehicle not subject to registration under the Vehicle Code, nor to any vehicle owned by the State, any political subdivision of the State, or any city, city and county, county, district or public corporation. Exceptions.

SEC. 3. Except as hereinafter provided, the license fee hereby imposed shall be due and payable to the department on the first day of January of each year. Such fee shall be paid to the department at the time of registration of such vehicle. Time for payment

SEC. 4. Upon vehicles registered for the first time in this State after the end of January of any year, the fee imposed by this act for such year shall be reduced one-twelfth for each month which shall have elapsed since the beginning of such year. No additional license fee shall be imposed under this act upon any vehicle upon the transfer of ownership of such vehicle if such license fee on such vehicle has already been paid for the year in which transfer of ownership occurs. Vehicles registered for first time. No transfer fee

SEC. 5. The license fee imposed under this act is in addition to any and all licenses and taxes otherwise imposed, except that no tax according to value shall hereafter be levied or imposed upon any vehicle upon which is paid the license fee required by this act. Such vehicles are hereby exempted from all taxes, State, county or municipal, according to value levied for State or local purposes. Other licenses and taxes. Exemption from ad valorem taxes.

SEC. 6. Whenever any vehicle is operated upon any highway of this State without the license fee having first been paid as required by this act, such fee is delinquent. If such fee is not paid within thirty days after the same becomes delinquent, a penalty equal to such fee shall be added thereto and be collected therewith. When fee delinquent. Penalty

Every license fee and any penalty added thereto, from the date the same becomes due, constitute a lien upon the vehicle for which due. Lien.

The department shall collect such fee and any penalty by seizure of such vehicle from the person or persons in possession thereof, if any, and by the sale of such vehicle. The seizure and sale herein authorized shall be conducted and carried out by the department in the same manner as is provided by law for the seizure and sale of personal property by county assessors for the collection of taxes due on personal property. In the event, however, that the records of the department indicate that the registered owner of a vehicle so seized is not the legal owner thereof, as those terms are defined by the Vehicle Code, the department shall, before selling such vehicle, give notice to the legal owner of such vehicle by registered mail addressed to the last known address of such legal owner Collection of fee. Notice

as shown by the records of the department, at least ten days prior to such proposed sale.

Enforcement of act.

SEC. 7. The duty of collecting the license fee imposed by this act and enforcing the provisions hereof is hereby imposed upon the department. The department shall give to each person paying such license fee a receipt therefor which shall sufficiently designate and identify the vehicle upon which such fee is paid.

Employees

SEC. 8. The director of the department shall appoint and fix the salaries of such employees as may be necessary to administer and enforce the provisions of this act.

Disposition of proceeds.

SEC. 9. All moneys collected by the Department of Motor Vehicles under the terms of this act shall be reported daily to the State Controller and at the same time deposited in the State treasury to the credit of the motor vehicle license fee fund, which fund is hereby created. The moneys in said fund are hereby appropriated as follows:

Appropriation: For enforcement

(a) One per cent, or so much thereof as may be necessary for the use of the Department of Motor Vehicles in the enforcement of the provisions of this act.

Payment to cities.

(b) Of the remainder of the moneys paid into said fund during the eighty-seventh and eighty-eighth fiscal years, twenty-five per cent thereof shall be paid quarterly to the cities and cities and counties of this State in the proportion that the total population of each such city or city and county bears to the total population of all cities and cities and counties in this State, as certified by the department. For the purpose of this subsection, the population of each city or city and county is that determined by the last Federal census. In the case of a city incorporated subsequent to the last census, or in the case of an unincorporated territory being annexed to a city subsequent to the last census, the department shall ascertain the population of the city or the annexed territory by multiplying the number of registered electors therein by three. The moneys so paid shall be expended by the cities and cities and counties for law enforcement and the regulation and control and fire protection of highway traffic.

Payment to counties and cities and counties

(c) Twelve and one-half per cent of said remainder of such moneys shall be paid quarterly during the eighty-seventh and eighty-eighth fiscal years to the counties and cities and counties of the State in the proportion that the population of each such county or city and county bears to the total population of all the counties and cities and counties of the State, as certified by the department. For the purpose of this subsection, the population of each county or city and county is that determined by the last Federal census.

To general fund.

(d) The balance of the moneys in said fund shall on order of the Controller be transferred to the general fund of the State.

Principal and interest on highway bonds.

Out of such moneys so transferred there shall be set apart sufficient moneys in the amount of the principal and interest paid or necessarily to be paid during the eighty-

seventh and eighty-eighth fiscal years on the bonds of the State issued under:

(a) The "State Highways Act," approved by the Governor March 22, 1909, and by a majority of the electors at the general election held November 8, 1910; Stats 1909, p. 647.

(b) The "State Highways Act of 1915," approved by the Governor May 20, 1915, and by a majority of the electors at the general election held November 7, 1916; Stats 1915, p. 650.

(c) Section 2 of Article XVI of the Constitution as approved by a majority of the electors at a special election held July 1, 1919; and Constitution, Art XVI, Sec 2.

(d) Section 3 of Article XVI of the Constitution, as approved by a majority of the electors at the general election held November 2, 1920. Constitution, Art XVI, Sec 3.

SEC. 9. The license fee provided for by this act shall not be imposed on and after December 31, 1937; provided, however, that the terms of this act shall continue in full force and effect with respect to all license fees due thereunder and penalties on account of operations of vehicles subject thereto, to the end that the State may take any and all steps necessary to collect the amount of such license fees and penalties. License fee not to be imposed after Dec. 31, 1937.

SEC. 9. If any section, subsection, clause, sentence or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional. Constitutionality

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CHAPTER 363.

An act relating to the borrowing of money by the State in anticipation of taxes and revenues, and making an appropriation.

[Approved by the Governor June 25, 1935. Validating amendment refused adoption by electors, August 13, 1935.]

The people of the State of California do enact as follows:

SECTION 1. This act shall become effective when the Constitution of the State of California authorizes the borrowing of money in anticipation of taxes and revenue. Effective date.

SEC. 2. There is hereby created a board, consisting of the State Controller, State Treasurer, and the Director of Finance, hereinafter called the board, which board shall carry out the provisions of this act. Board created.

SEC. 3. Whenever in the judgment of the board there is insufficient money in the State treasury to meet appropriations made by law from the general fund, the board, with the approval of the Governor, is hereby authorized to borrow May borrow money to meet appropriations

money to meet such appropriations from the general fund in the State treasury in anticipation of the collection of taxes and revenues, which by law are payable into the general fund to an amount not to exceed fifty per cent of the amount of all taxes and revenues paid into the general fund during the preceding fiscal year. The board shall fix and determine the form of such notes or other evidences of indebtedness of the State, provide for the execution thereof, fix the numbers and denominations, interest or discount rates, not to exceed five per cent, and the dates of issuance and maturity thereof. The board shall call for bids for the purchase of notes or other evidences of indebtedness to be issued to represent such indebtedness, in such manner as the board deems most likely to give notice to prospective bidders. Bids may be received for the whole, or any part, of the notes or other evidences of indebtedness so issued. The board may reject any and all bids, and may provide for the sale of such notes or other evidences of indebtedness in any manner which it considers most likely to result in the greatest net return to the State.

Issuance of notes

SEC. 4. When the amount of money to be borrowed, and the rate of interest or discount has been determined, the Treasurer shall issue in the name of such board, and in the name of the people of the State of California, notes or other evidences of indebtedness in such denomination, and in such form, as the board shall determine. All such notes or other evidences of indebtedness together with interest thereon shall be payable from the general fund not more than one year after the date of issuance thereof, but if not so paid the same shall, nevertheless, continue to be payable from the general fund. All such notes or other evidence of indebtedness shall constitute negotiable instruments.

Validity or payment of notes not to be contested

SEC. 5. The State of California shall never contest the validity or payment of any notes or other evidences of indebtedness issued hereunder after payment of the purchase price therefor has been actually made to the State Treasurer. All recitals in such notes or evidences of indebtedness for which payment has in fact been made to the State Treasurer shall be binding and conclusive upon the State of California and each and every taxpayer thereof.

Interest.

SEC. 6. Notes or other evidences of indebtedness issued under the provisions of this act may contain a provision that they shall be payable on a certain date, and that no interest will be paid for any period subsequent to that date, unless payment in full is refused by the State upon presentation thereof, in which event interest at the rate specified in such notes or other evidences of indebtedness, if any, shall be paid up to and including the date when such notes or other evidences of indebtedness are called for payment; provided, that if such notes or other evidences of indebtedness are issued in discount form and are not paid at maturity, the State shall pay interest thereon from the date of maturity until such

notes or other evidences of indebtedness are called for payment, at the rate of five per cent per annum.

Payment of notes.

SEC. 7. Upon the date when such notes or other evidences of indebtedness are payable or at any time thereafter, they may be presented for payment to the State Treasurer, and if said notes or other evidences of indebtedness are payable the Controller shall order the State Treasurer to pay the amount due with interest thereon, and the State Treasurer is authorized to pay said amount out of any moneys available therefor in the general fund of the State treasury as herein above and in said notes or other evidences of indebtedness provided. Warrants for such payments shall be drawn by the State Controller upon the request of the State Treasurer.

Appropriation.

SEC. 8. Out of any moneys in the State treasury not otherwise appropriated, there is hereby appropriated such sum or sums as may be required to pay the amounts borrowed under the provisions of this act, together with interest thereon.

CHAPTER 364.

An act to provide for the further development of vocational education in California by accepting the provisions and benefits of an act passed by the Senate and House of Representatives of the United States of America in Congress assembled and approved May 21, 1934; entitled "An act to provide for the further development of vocational education in the several States and territories"; and making an appropriation therefor; and declaring the urgency thereof and providing that this act shall take effect immediately.

[Approved by the Governor June 27, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Provisions and benefits of Federal act accepted

SECTION 1. The people of the State of California do hereby accept the provisions of, and each and all of the funds provided by, an act passed by the Senate and House of Representatives of the United States of America in Congress assembled, entitled "An act to provide for the further development of vocational education in the several States and Territories" and approved May 21, 1934. In accepting the benefits of said act the people of the State of California agree to comply with all of its provisions and to observe all of its requirements.

Appropriation: vocational education.

SEC 2 Subject to the provisions of Article X of Chapter I of Part IV of Division III of the School Code and of Chapter V of Part I of Division IV of the said code there is, in addition to any moneys appropriated under said act, hereby appropriated out of any money in the treasury not otherwise appropriated the sum of one hundred three thousand two hundred thirty-five dollars and ninety-nine cents for each of

the eighty-sixth, eighty-seventh and eighty-eighth fiscal years. Of the sum so appropriated for each such fiscal year there may be expended for use during such fiscal year twenty thousand two hundred fifty-nine dollars and thirty-four cents for agriculture, the sum of fifty-four thousand nine hundred twelve dollars and thirty-one cents for trades and industries, and the sum of twenty-eight thousand sixty-four dollars and thirty-four cents for home economics.

Urgency.

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into immediate effect.

The facts constituting the necessity are as follows: There exists in the State of California at the present time an emergency due to the existing economic conditions prevailing throughout the United States, which economic conditions have resulted in a great increase in the unemployment of this State. This act constitutes a means whereby training and vocational education may be extended to the unemployed to fit them for positions in which they may be employed in lieu of the positions which they lost through no fault of their own.

CHAPTER 365.

An act to make an appropriation for emergency reclamation and flood control work on the San Joaquin River, declaring the urgency thereof and providing that this act shall take effect immediately.

[Approved by the Governor June 27, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Appropriation Emergency reclamation and flood control

SECTION 1. The sum of ten thousand dollars, or as much thereof as may be necessary, is hereby appropriated out of any money in the State treasury not otherwise appropriated, to be expended by the Division of Water Resources, Department of Public Works, for emergency reclamation and flood control work on the San Joaquin River.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and will therefore go into effect immediately. The facts constituting such necessity are as follows:

Due to recent high water in the San Joaquin River, levees have broken down with the result that the surrounding country has been flooded, causing great damage to buildings and property. It is necessary that money be made available immediately in order that steps may be taken to control these

flood waters and to rebuild the levees in order to prevent further damage to surrounding buildings and property, and also to permit the use of the land flooded. If this reclamation work is done immediately the land may be used for planting during the present year. Therefore, in order to provide for the use of this land and to eliminate the possibility of further damages, it is necessary that this act take effect immediately.

CHAPTER 366.

An act to add section 3a to an act entitled "An act to provide for the establishment and maintenance of a Bureau of Tuberculosis under the direction of the State Board of Health; defining its powers and duties; providing for the granting of State aid to cities, counties, cities and counties and groups of counties for the support and care of persons affected with tuberculosis; making an appropriation therefor; and repealing certain acts of the Legislature of the State of California," approved June 12, 1915, relating to hospital central committees.

Stats. 1915, p. 1530, amended.

[Approved by the Governor July 5, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 3a is hereby added to the act cited in the title hereof, to read as follows:

New section.

Sec. 3a. Each group of counties maintaining a tubercular hospital under the provisions of this act may by unanimous agreement provide for a different number of delegates to the hospital central committee than the number provided for in section 3 of this act and said group of counties may provide for a method of deciding a tie vote of said hospital central committee.

Delegates to hospital central committee.

The hospital central committee shall designate the county, which must be one of the group maintaining the hospital, where the business of the hospital is to be transacted and where funds of the hospital are to be kept and deposited. All county officers of the county so selected for the business of said hospital shall render all necessary assistance required by the committee in keeping with the duties of their respective offices.

Powers of committee.

CHAPTER 367.

Stats 1933, p 394. *An act to amend section 1250 of the Fish and Game Code, relating to fully protected mammals.*

[Approved by the Governor July 5, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

Stats 1933, p. 499. SECTION 1. Section 1250 of the Fish and Game Code is hereby amended to read as follows:

Fully protected mammals 1250. It is unlawful to take or possess the following mammals, or any part thereof: female deer, spotted fawn, spike buck, antelope, mountain sheep, Sierra hare (Lepus campestris sierrae), tree squirrel, and sea otter.

CHAPTER 368.

Stats 1933, p. 394 *An act to amend sections 421, 806 and 811 of the Fish and Game Code, relating to Pismo clams and cockle clams.*

[Approved by the Governor July 5, 1935. In effect September 15, 1935]

The people of the State of California do enact as follows:

Stats 1933, p 436 SECTION 1. Section 421 of the Fish and Game Code is hereby amended to read as follows:

Sporting fishing license 421. Sporting fishing licenses are required for the taking of the following fish and mollusks only:

Tuna, yellowtail, marlin, broadbill swordfish, jewfish or black sea bass, albacore, barracuda, bonita, rock bass, California whiting (also known as corbina and surf fish), yellowfin, croaker, spotfin croaker, salmon, steelhead and other trout, charr, whitefish, striped bass, black bass, perch, crappie, calico bass, pismo clams, cockle clams, abalones, and all varieties of sun fishes.

Stats 1933, p 465. SEC. 2. Section 806 of the Fish and Game Code is hereby amended to read as follows:

Pismo clams 806. Pismo clams (Tivela stultorum) less than 5 inches in greatest diameter may not be taken or possessed. The bag limit on Pismo clams is 15 per day. Not more than one daily bag limit of Pismo clams may be possessed by any person during one day.

Stats 1933, p. 466. SEC. 3. Section 811 of the Fish and Game Code is hereby amended to read as follows:

Cockles 811. Cockles. Hard-shell cockles (Chione fluctifraga, Chione undatella, or Chione succinta), or thin-shelled cockles (Paphia tenerrima), or rock cockles (Paphia staminea) may be taken at any time. No such cockles measuring less than one and one-half inches in greatest diameter may be taken, possessed, transported or sold. The bag limit on such cockles

is six dozen per day. Not more than one daily bag limit of such cockles may be possessed by any person during one day. Cockles of legal size as herein provided when taken outside of the State, and brought within the State, may be possessed, transported, and sold without restriction.

CHAPTER 369.

An act to add section 662.5 to, the Fish and Game Code, relating to salmon. Stats 1933, p. 394.

[Approved by the Governor July 5, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 662.5 is hereby added to the Fish and Game Code to read as follows: New section

662.5. Chinook salmon and silver salmon under legal size as prescribed in section 661 shall not be imported into this State from without the State. Importation of salmon

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CHAPTER 370.

An act to amend section 1 of "An act regulating the hours of labor of the operators of certain motor vehicles," approved June 10, 1933, relating to operators of vehicles. Stats 1933, p 2127, amended

[Approved by the Governor July 5, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1933, p 2127

Section 1. (a) No person shall drive upon any highway any motor vehicle used for the purpose of transporting persons for hire, compensation or profit for more than ten consecutive hours nor for more than ten hours spread over a total of fifteen consecutive hours. Thereafter, such person shall not drive any such vehicle until eight consecutive hours have elapsed, during which time such person shall not have ridden in or upon such vehicle. See Ch 27, Stats 1935. Restrictions on driving hours of certain motor vehicle operators

(b) No person shall drive upon any highway any motor vehicle used for the purpose of transporting merchandise, freight, materials, or other property for more than twelve consecutive hours nor for more than twelve hours spread over a total of fifteen consecutive hours. Thereafter, such person shall not drive any such vehicle until eight consecutive hours have elapsed, during which time such person shall not have ridden in or upon such vehicle.

Common carriers exempted

(c) The provisions of this section shall have no application to any person driving any motor vehicle used in the transportation of persons or property as a common carrier for compensation.

Computation of hours.

(d) In computing the number of hours hereunder, any time spent by a person in driving or riding on such a vehicle outside this State shall, upon such vehicle entering this State, be included.

Exceptions.

The provisions of this act shall not apply to any case of casualty or unavoidable accident or act of God.

CHAPTER 371.

Stats 1933, p. 394.

An act to amend sections 782 and 786 of the Fish and Game Code, relating to lobsters.

[Approved by the Governor July 5, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 463

SECTION 1. Section 782 of the Fish and Game Code is hereby amended to read as follows:

Spiny lobster season.

782. Spiny lobsters may be taken between October 1 and March 15.

Stats. 1933, p. 463.

SEC. 2. Section 786 of the Fish and Game Code is hereby amended to read as follows:

Spiny lobsters from Mexican waters

786. No spiny lobsters taken in the waters lying south of the international boundary line between the United States and Mexico, extending westerly in the Pacific Ocean, may be brought into this State during the closed season prescribed in this code. Lobsters taken in such waters and brought into this State during the open season may be possessed and sold at any time, subject to the rules and regulations of the commission.

The cost of inspection and marking, under the regulations of the commission, shall be paid by the importer of the lobsters.

Sale in closed season

No spiny lobsters taken in this State may be sold or possessed during the closed season.

CHAPTER 372.

An act relating to the redemption and sale of property sold to a county treasurer, as trustee of a reclamation district or of the bond fund, or to a reclamation district for delinquent assessments and installments thereof.

[Approved by the Governor July 5, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. In all cases where land has, prior to the effective date of this act, been sold to a county treasurer, as trustee of a reclamation district or as trustee of the bond fund of a reclamation district, or to a reclamation district, for any delinquent reclamation assessment or installment thereof, and where such county treasurer as such trustee of a reclamation district or of the bond fund of a reclamation district, or a reclamation district, still holds the certificate of sale, or where such county treasurer or such reclamation district has taken a deed for the land at any time within five years prior to the effective date of this act, and still holds title to said land, such county treasurer or reclamation district shall not sell said land at public or private sale, or otherwise, to any person or corporation other than to any person who could have redeemed said land within the period of redemption, for a period of two years next succeeding the effective date of this act, provided that such person who could have redeemed said land files with the county treasurer of the county in which the lands or the majority of the lands of the district lie, and with the secretary of the district within sixty days after the effective date of this act, a written notice of his intention to exercise the privilege herein granted as to the lands therein described. Said written notice shall describe such lands by reference to tract numbers of the assessment list of said delinquent assessment. All lands, which are not described in or covered by such written notices filed within said sixty-day period, may be sold by such county treasurer or reclamation district in the manner provided by law, free and clear from all restraint or any other provision provided for in this act.

Disposition of lands sold for delinquent reclamation assessments

Sale restricted

Notice

Contents of notice.

SEC. 2. During said period of two years from the effective date of this act, all rentals or moneys received from all such lands, which are leased or operated by the board of trustees of a reclamation district, shall be forthwith paid to the county treasurer, as trustee of a reclamation district, less the actual and reasonable costs incident and necessary to the operating and leasing of said lands, and shall be applied by such county treasurer on account of the payment of all delinquent and unpaid installments of assessments levied and assessed against the particular tract of land from which the income is received, and accrued interest and penalties thereon; and during said period of two years from the effective date of this act, any person who was entitled to redeem said lands, and who has filed

Disposition of rentals, etc.

Redemption of lands.

said notice of intention in the foregoing paragraph provided, may purchase said lands at private sale from the county treasurer or the reclamation district for the amount for which said land was sold to the county treasurer, subject, however, to the following addition, to wit:

The amount of all subsequent assessment calls against the land sought to be redeemed, together with the interest and penalties, if any, accrued thereon; and subject, also, to the following deductions, to wit:

Deductions

(a) All penalties upon that portion of all delinquent calls, made against the assessment against said land, to pay interest accrued on said assessment prior to May 15, 1933;

(b) All penalties upon that portion of said delinquent calls made to pay the principal of said assessments;

(c) All amounts credited upon said delinquent call derived from the rental and/or operation of said land by the district, as hereinabove provided; which said purchase price may be paid in cash or in matured bonds or coupons thereof of said district issued upon said assessment, and upon the payment of such purchase price, the said county treasurer shall execute to such purchaser upon such sale a deed conveying said property free of encumbrances except the unpaid and uncalled balance of said assessment, and any other assessment of said district, and any State, county and municipal taxes and any taxes or assessments of irrigation, conservation or water storage districts and subject to any leases of said property made pursuant to the provisions of section 3466a of the Political Code; provided, however, that the provisions for redemption in this act provided shall not, in any event, apply to assessments levied or calls made based upon assessment valuations as provided for under the provisions of section 3456 of the Political Code of the State of California.

Account or report of rentals.

SEC. 3. Within sixty days after the receipt by the county treasurer of a written request of a party who has filed a notice provided for in section 1 hereof, said treasurer shall render to such party and to the secretary of the district, an account or report of the amount of the rentals applied on account of the payment of the delinquent installments of assessment against the lands covered by his said notice, and the amount of the expenses and costs disbursed by the board of trustees from said rentals, and also the balance then unpaid upon such delinquencies, with interest thereon as herein provided, and said county treasurer shall mail forthwith such account or report to the secretary of the district, and also to such landowner at such address as such landowner may have theretofore filed with the county treasurer.

Scope and duration of act.

SEC. 4. This act shall also be applicable to all irrigation, drainage and levee districts whose boundaries to any extent overlap or encroach upon or within the boundaries of a reclamation district, but only as to the lands lying within the boundaries of such reclamation district, and this act shall remain in effect only until the expiration of two years from

the effective date of this act, and it is not intended to repeal or modify any provisions of the Political Code of the State of California, or any act creating a reclamation district, except as to the matters hereinabove set forth, and for the period of two years hereinabove provided.

SEC. 5. That all privileges hereby granted shall inure to the benefit of the heirs or personal representatives of any deceased person who could have redeemed such lands during the said five-year period prior to the effective date of this act.

Rights of heirs or personal representatives

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into effect immediately.

Urgency.

The facts constituting such necessity are as follows:

Due to the agricultural depression which has existed for the past several years, many landowners in reclamation districts in the State have been unable to meet their installments upon assessments, with the result that their land has been sold to the districts. The heavy penalties necessary to be paid as now provided by law, and which continually increase, made and continue to make it impossible for the landowners to redeem their land, and hence thousands of landowners have lost their land. If the land is not redeemed from district ownership it then becomes nonassessable for district or other tax or assessment purposes, and the burden becomes all the heavier on the other landowners in the district, causing more delinquencies and loss. The Legislature hereby declares that the welfare of the State requires that the landowners in these districts be not dispossessed of their land, and that the land be resold so as to thenceforth bear its just proportion of taxation.

CHAPTER 373.

An act to amend the titles of Articles IV and IVa of Chapter IV of Part I of Division VI of the School Code, to amend sections 6.210 and 6.211 of the School Code and to add a new section to the School Code to be numbered 6.213, relating to the disposition of buildings, structures or fixtures of school districts, when the boundaries of such districts are altered, declaring the urgency thereof and providing that this act shall take effect immediately.

[Approved by the Governor July 5, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The title of Article IV of Chapter IV of Part I of Division VI of the School Code is hereby amended to read as follows:

Sch. C. 1929, p. 277.

Article IV—Sale or Lease of Personal Property by One District to Another.

Sch C 1929, p. 277.

SEC. 2. Section 6.210 of the School Code is hereby amended to read as follows:

Sale of unused personal property

6.210. The governing board of any school district of any type or class is authorized to sell any unused personal property belonging to the district to another district and the governing board of such other district is authorized to purchase the same, for an amount equal to the cost thereof plus the estimated cost of purchasing, storing and handling such property, without advertisement for or receipt of bids or compliance with any other provisions of this code.

Sch C. 1929, p. 277.

SEC. 3. Section 6.211 of the School Code is hereby amended to read as follows:

Sale or lease of used personal property

6.211. The governing board of any school district of any type, or class is authorized to sell or lease used personal property belonging to the district to another district, and the governing board of such other district is authorized to purchase or lease the same, the selling price and the terms of sale, or the lease price and the terms of lease to be fixed by the governing board or boards of the school districts effecting such sale or lease, and approved by the county superintendent of schools, and such sale or lease may be made without advertisement for or receipt of bids, or compliance with any other provisions of this code.

Stats 1931, p. 2207.

SEC 4. The title to Article IVa of Chapter IV of Part I of Division VI of the School Code is hereby amended to read as follows:

Article IVa—Sale or Disposition of Buildings, Structures, and Other Fixtures by One District to Another.

New section

SEC. 5. A new section is hereby added to the School Code to be numbered 6.213 and to read as follows:

Ownership of property when territory withdrawn from district.

6.213. When any territory withdrawn from a school district pursuant to any provision of this code contains a school building, site or real property, the building, site, together with the fixtures thereof, shall, upon the withdrawal of such territory becoming effective, become the property of the district of which such territory becomes a part or the whole.

Board of arbitrators

If a dispute arises between the governing boards of the two districts concerned as to what constitutes fixtures, a board of arbitrators must be appointed whose function and duty it shall be to determine what articles in a school building located within territory withdrawn from any school district are fixtures thereof. Said board shall consist of one person selected by the district from which said territory is withdrawn and one person selected by the district of which it has become a part, and a third person appointed by the county superintendent of schools of the county in which said districts are located; provided, however, that the two districts involved may mutually agree that the person appointed as arbitrator by the

county superintendent of schools may act as sole arbitrator of the matters herein authorized to be submitted to arbitration. The necessary expenses and compensation of any arbitrators appointed pursuant to this section shall be divided equally between the two districts involved, and the payment of such portion of said expenses shall be and constitute a legal charge against the funds of said school districts. The arbitrator or arbitrators appointed pursuant to the provisions of this section shall proceed to view and examine such property, articles, equipment and fixtures as they are requested to pass upon by the respective school districts and make a written finding as to what property, articles, or equipment constitute fixtures, and the written finding and determination of a majority of said board of arbitrators shall be final and binding upon the school districts submitting such question to said board of arbitration.

Expenses and compensation.

Written findings.

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall go into effect immediately from and after its passage and approval.

Urgency.

The following is a statement of the facts constituting such necessity:

There has been a change of boundaries between many school districts in the State of California which will become effective July 1, 1935. That date is also the beginning of the fiscal year for school districts and it is necessary that the property rights between districts whose boundaries have been so changed be ascertained and determined by said July 1, 1935, in order that provision may be made in the budgets of said school districts for the ensuing school year and to facilitate the administration and government of said school districts.

CHAPTER 374.

An act to amend sections 611.6, 613, 738.5, 957, and 1343 of the Fish and Game Code, relating to fish.

Stats. 1933, p. 394.

[Approved by the Governor July 5, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 611.6 of the Fish and Game Code is hereby amended to read as follows:

Stats. 1933, p. 451

611.6. In that portion of the Sacramento River including its tributaries for a distance of five miles upstream from their mouths, in District 1, lying between the Vina Ferry near the town of Vina, in Tehama County, and the junction of Middle Creek and the Sacramento River, in Shasta County, steelhead trout may be taken between May 1 and December 31.

Steelhead trout.

The bag limit is five per day, irrespective of size, between November 1 and December 31.

Stats. 1933, p. 452.

SEC. 2. Section 613 of the Fish and Game Code is hereby amended to read as follows:

Steelhead trout

613. In district 5 and in the Klamath River and Trinity River excluding their tributaries, steelhead trout may be taken from May 1 to February 28. The bag limit is five per day, irrespective of size, between November 1 and February 28. Not more than one daily bag limit may be possessed by one person during one day.

Stats 1933, p. 462.

SEC. 3. Section 738.5 of the Fish and Game Code is hereby amended to read as follows:

Jack smelt

738.5. No jack smelt (Atherionopsis californiensis) less than seven and one-half inches in length, or bay smelt (Atherionops affinis) less than four and one-half inches in length, may be sold.

Stats 1933, p 478.

SEC. 4. Section 957 of the Fish and Game Code is hereby amended to read as follows:

Trawl nets

957. In district 18, trawl nets may not be used in any bay, or in State waters surrounding any island, but may be used elsewhere in the district.

Stats 1933, p 504

SEC. 5. Section 1343 of the Fish and Game Code is hereby amended to read as follows:

Sea lions

1343. California sea lions (Zalophus californianus) may be taken at any time in all districts except 19, 19A, 20, 20A, and on the islands and in the waters adjacent thereto located in district 18.

CHAPTER 375.

Stats 1917 p 1566, amended.

An act to add section 32a to "An act creating a State Land Settlement Board, and defining its powers and duties, and making an appropriation in aid of its operations," approved June 1, 1917, as amended, and to ratify and confirm certain acts of the Director of Finance with respect to the disposition of properties at the Delhi State Land Settlement and Durham State Land Settlement.

[Approved by the Governor July 5, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the act cited in the title hereof, to be numbered 32a, and to read as follows:

Acts of Director of Finance ratified.

Sec. 32a. Those certain acts of the Director of Finance in liquidation of assets at Delhi State Land Settlement and Durham State Land Settlement as set forth in that certain communication dated January 26, 1935, addressed to His Excellency, Frank F. Merriam, Governor of California, and to the members of the Legislature and as set forth in an amendment to the report contained in a supplemental communication dated April 30, 1935, addressed to His Excellency, Frank

F. Merriam, Governor of California, and to the members of the Legislature, true and correct copies of both of which are on file with the Chief Clerk of the Senate, the Chief Clerk of the Assembly, and the Secretary of State, are hereby approved, confirmed and ratified.

CHAPTER 376.

An act to add section 599.5 to the Vehicle Code, relating to unlawful displays on vehicles.

[Approved by the Governor July 5, 1935 In effect September 15, 1935]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 377.

An act making an appropriation to meet a deficiency in the appropriation for subsidies of the Bureau of Tuberculosis of the Department of Public Health, declaring the urgency thereof and providing that this act shall take effect immediately.

[Approved by the Governor July 5, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Out of any moneys in the State treasury not otherwise appropriated the sum of one hundred sixty-four thousand dollars is hereby appropriated to meet the deficiency in the appropriation for subsidies of the Bureau of Tuberculosis, Department of Public Health, for the eighty-fifth and eighty-sixth fiscal years. Appropriation Bureau of Tuberculosis subsidies

SEC. 2. Inasmuch as this act provides an appropriation for the usual current expenses of the State it shall take effect immediately under the provisions of section 1 of Article IV of the Constitution. Current expenses

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CHAPTER 378.

An act to add section 432.5 to the Fish and Game Code, relating to permits and reports. Stats 1933, p 394.

[Approved by the Governor July 5, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 432.5 is hereby added to the Fish and Game Code to read as follows: New section

Permits for vessels transporting fishermen

432.5. The owner of any vessel who, for profit, transports persons to any area for the purpose of taking fish, shall procure a permit from the commission.

The permit herein provided for shall be valid during the calendar year in which issued and shall be issued upon the payment of $1.00. Such permit shall be accounted for by the commission in the same manner as sporting fishing licenses.

Records.

The holder of the permit provided for in this section must keep a true record in the English language of all fish taken by fishermen transported by him and must comply with such regulations as the commission is hereby authorized to prescribe.

Any owner or person in control of such a vessel who operates the same without procuring the permit prescribed herein or who fails to keep the records or to comply with the regulations prescribed is guilty of a misdemeanor punishable by a fine of not less than $25.00 or by imprisonment for not less than ten days, or by both such fine and imprisonment.

Exception.

The provisions of this section shall not apply to vessels operating upon inland waterways including rivers and lakes.

CHAPTER 379.

An act granting to the city of Richmond and its successors certain salt marsh, tide and submerged land of the State of California, including the right to wharf out therefrom and grant franchises and leases thereon and regulating the management, use and control thereof, also including the right of said city to collect the rents, issues and profits in any manner hereafter arising from the lands or wharf-out privileges hereby granted.

[Approved by the Governor July 5, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Grant of tidelands to city of Richmond.

SECTION 1. There is hereby granted to the city of Richmond, a municipal corporation of the State of California, and to its successors, all the right, title and interest of the State of California held by said State by virtue of its sovereignty in and to all the salt marsh, tide and submerged lands, whether filled or unfilled, and situated below the line of mean high tide of the Pacific Ocean or of any harbor, estuary, bay or inlet within the areas described as follows:

Description.

Parcel 1. All of the said salt marsh, tide and submerged lands lying west of the prolongation northerly of the westerly line of section three, township one north, range five west, Mount Diablo base and meridian, to the city limits of said city of Richmond, and northerly of a line drawn from a point on the line of mean high tide westerly to the city limits of said city of Richmond, six hundred sixty feet southerly from, and parallel to, the prolongation westerly of the center line of sec-

tion five of said township and range, to the city limits of said city of Richmond.

Parcel 2. All of the salt marsh, tide and submerged lands lying between the prolongations westerly to the city limits of said city of Richmond of the northerly and southerly lines of section nine, township one north, range five west, Mount Diablo base and meridian;

To be forever held by said city and its successors, in trust for the uses and purposes and upon the conditions and subject to the reservations following, towit: Conditions.

(a) That said lands shall be used by said city, and its successors, only for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities or plants, structures and appliances necessary or convenient for the promotion and accomodation of commerce and navigation; and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purposes whatever; provided, nevertheless, that said city, or its successors, may grant franchises thereon for limited periods (in no event exceeding fifty years) for wharves or other public uses and purposes, and may lease said lands, or any part thereof, for limited periods (in no event exceeding fifty years) for purposes consistent with the trust upon which said lands are held by the State of California and with the requirements of commerce and navigation at said harbor, and may renew any such lease or leases for a further term not exceeding twenty-five years or may terminate the same upon such conditions and provisions as may be stipulated in such lease or leases. This grant shall carry the right to such city of the rents, issues and profits in any manner hereafter arising from the lands, wharves, or privileges hereby granted. Franchises and leases.

(b) That the improvement of said harbor by said city shall be without expense to the State; that said harbor shall always remain a public harbor for all purposes of commerce and navigation, and said city shall never charge or permit to be charged on any of said lands any unreasonable rate or toll, nor make nor suffer to be made any unreasonable charges, burden or discrimination. Public harbor.

(c) The State of California hereby reserves unto itself, at all times, the reasonable use of and access to all wharves, docks, piers, slips and quays hereafter constructed under the provisions of this act, for any vessel or water craft owned, leased or operated by the State. Rights of State.

(d) There is hereby reserved in the people of the State of California the absolute right to fish in the waters of said harbor, with the right of convenient access to said waters over said lands for said purpose. Right to fish

(e) There is excepted and reserved to the State of California all deposits of mineral, including oil and gas, in said lands. Mineral deposits reserved.

Rights of prior grantees protected

(f) This grant is made subject to the rights of any and all persons under any title derived from the State of California in or to any part of said lands.

CHAPTER 380.

An act to authorize the Governor of the State of California to execute and deliver deeds or other conveyances of lands, rights of way or other easements granted to the United States of America in aid of public work, relief or other projects aiding recovery.

[Approved by the Governor July 5, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Conveyance of State lands to United States

SECTION 1. The Governor of the State of California is authorized to execute and deliver to the United States of America all necessary deeds or other conveyances, on behalf of the State of California, in any case where the Legislature shall convey to the United States of America title to land, rights of way, or other easements to land held by the State of California, to permit the United States government to carry out public work projects, relief projects, or other projects which are intended to aid in the economic rehabilitation of the people of the State of California.

CHAPTER 381.

An act to amend section 3051 of the Civil Code, relating to liens.

[Approved by the Governor July 5, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1929, p 1923.

SECTION 1. Section 3051 of the Civil Code is hereby amended to read as follows:

Lien on personal property for services thereon.

3051. Every person who, while lawfully in possession of an article of personal property renders any service to the owner thereof, by labor or skill, employed for the protection, improvement, safekeeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to him from the owner for such service; a person who makes, alters, or repairs any article of personal property, at the request of the owner, or legal possessor of the property, has a lien on the same for his reasonable charges for the balance due for such work done and materials furnished, and may retain possession of the same until the charges are paid;

and livery or boarding or feed stable or feed yard proprietors, and persons pasturing horses or stock, have a lien, dependent on possession, for their compensation in caring for, boarding, feeding, or pasturing such horses or stock; and foundry proprietors and persons conducting a foundry business, have a lien, dependent on possession, upon all patterns in their hands belonging to a customer, for the balance due them from such customers for foundry work; and laundry proprietors and persons conducting a laundry business, have a general lien, dependent on possession, upon all personal property in their hands belonging to a customer, for the balance due them from such customer for laundry work; and veterinary proprietors and veterinary surgeons shall have a lien dependent on possession, for their compensation in caring for, boarding, feeding, and medical treatment of animals; and keepers of garages for automobiles shall have a lien, dependent on possession for their compensation in caring for and safekeeping, and for making repairs and performing any labor upon or furnishing supplies or materials for such automobiles; provided, however, that where the possession of, or lien upon, any automobile held under a claim of lien hereunder is lost by reason of fraud, trick or device, the repossession of said automobile by said garage keeper shall revive the lien so lost; provided, further, that any lien thus revived shall be subordinate to any sale, lien, encumbrance, right, title or interest in such automobile acquired or exercised in good faith and for value by any person between the time of loss of possession and the time of repossession.

CHAPTER 382.

An act to provide certain standards of fair competition for the meat industry, prohibiting the making of misrepresentations in the sale of meat and prescribing penalties for violation of the act.

"Meat Sellers Fair Competition Act."

[Approved by the Governor July 5, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. This act is the Meat Sellers Fair Competition Act.

Short title

SEC. 2. No person shall misrepresent the type, kind or quality of a dressed carcass of any animal or part of such carcass, nor the sex, age or quality of any animal the meat of which is sold.

Misrepresentation of meat.

SEC. 3. Any person who violates any provision of this act is guilty of a misdemeanor.

Penalty.

CHAPTER 383.

Stats. 1915, p. 698, amended

An act to add a new section, to be numbered 14a, to an act entitled "An act to insure the better education of dental surgeons and to regulate the practice of dentistry in the State of California providing penalties for the violation hereof," approved May 21, 1915, as amended, relating to the enforcement of said act.

[Approved by the Governor July 5, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the act cited in the title hereof, to be numbered 14a, and to read as follows:

Injunctions by Board of Dental Examiners

Sec. 14a. In addition to the other proceedings provided for in this act, the superior court of any county, on application of the Board of Dental Examiners of California, shall issue an injunction to restrain any unlicensed person from carrying on or conducting the practice of dentistry as defined herein.

CHAPTER 384.

An act to add a new section, to be numbered 715.5, to the Vehicle Code, relating to weights of vehicles on certain highways.

[Approved by the Governor July 5, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 385.

An act making an appropriation for the support of Napa State Farm, to take effect immediately.

[Approved by the Governor July 5, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Appropriation: Napa State Farm

SECTION 1. The sum of one hundred thirty-one thousand three hundred eighty-seven dollars and fifty cents is hereby appropriated, without regard to fiscal years, to be expended in accordance with law by the Director of Finance for the support and maintenance of the Napa State Farm.

The moneys thus appropriated are appropriated out of and payable out of the following moneys and funds in the following amounts:

(a) Six thousand three hundred eighty-seven dollars and fifty cents out of the fish and game fund in reimbursement for water furnished the State Game Farm at Yountville.

(b) The balance out of the moneys heretofore appropriated to the Napa State Farm revolving fund created by an act entitled "An act creating the Napa State Farm revolving fund and making an appropriation therefor; providing for the expenditure and replenishment thereof, and providing for the disposition of any accrued surplus over and above such appropriation, declaring the urgency thereof and providing that this act shall take effect immediately," approved May 31, 1929. Stats. 1929, p. 1019.

SEC. 2. This act, being an appropriation for the usual current expenses of the State, shall take effect immediately. Current expenses.

CHAPTER 386.

An act for the regulation and control of corporations organized for the purpose of operating nonprofit hospital service plans.

[Approved by the Governor July 5, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. This act shall govern any nonprofit corporation heretofore or hereafter organized under the laws of the State of California which by its original or by any amended articles is authorized to establish, maintain and operate a nonprofit hospital service plan whereby hospital care may be provided by said corporation to such of the public who become subscribers to said plan under a contract which entitles each subscriber to certain hospital care as provided in said contract, or whereby said hospital care may be provided by any hospital or hospitals with which said nonprofit corporation has or shall have a contract to furnish such hospital care to said subscribers; provided that no such corporation operating under the provisions of this act shall enter into any such contract with any hospital wholly or partly supported by taxation, except where such a hospital is the only hospital in the county where it is located, or is a hospital maintained and operated by or in connection with a State college or university of the State of California in conjunction with and as a part of its educational and administrative program; and provided further that no corporation authorized by the provisions of this act to establish, maintain and operate a nonprofit hospital service plan may itself furnish hospital care to its subscribers or do any of the acts herein authorized, unless and until it shall have first procured a certificate from the State Department of Public Health certifying that it is complying with the standards required by said State Depart- Nonprofit hospital service plans

ment of Public Health, nor shall any such corporation enter into any contract with any hospital for the furnishing of hospital care to its subscribers unless the hospital with which it contracts has procured such a certificate from the State Department of Public Health.

"Hospital care" defined.

SEC. 1a. "Hospital care" as used in this act may include any or all of the following services: maintenance and care in hospital, nursing care, drugs, medicines, physiotherapy, transportation, material appliances and their upkeep.

Exception

SEC. 2. This act shall not apply to nor govern any corporation operating a hospital service plan on a profit basis, or which, though operating such a plan on a nonprofit basis, shall be organized for or shall conduct any business whatsoever on a profit basis, nor shall it apply to or govern any corporation formed and existing under the Constitution of 1849 pursuant to the act entitled "An act concerning corporations," passed April 22, 1850.

Stats 1850, p 347

Corporations exempt from insurance laws

SEC. 3. Any nonprofit corporation organized to operate a nonprofit hospital service plan in the manner and in accordance with the provisions of this act shall be exempt from all other provisions of the insurance laws of this State, unless otherwise specifically designated herein, not only in governmental relations with the State but for every other purpose and no law hereafter enacted shall apply to such a corporation unless it be expressly designated therein.

Qualifications of directors

SEC. 4. At least two-thirds of the directors of such a corporation which shall furnish hospital care through contracts with hospitals as provided in section 1 hereof shall be composed equally of duly appointed representatives of such hospitals and duly qualified and licensed practising physicians holding a valid and unrevoked certificate to practice medicine and surgery or a physician and surgeon certificate, issued under the provisions of the State Medical Practice Act in the State of California. Such a corporation which shall itself furnish such hospital care shall choose its board of directors from such persons as it shall see fit.

Stats 1913, p 722

Consent of Commissioner of Insurance

SEC. 5. No corporation shall establish, maintain or operate a nonprofit hospital service plan as authorized by the provisions of this act unless it shall have first procured the written consent of the Commissioner of Insurance of this State to such establishment, maintenance and operation.

Approval of rates

SEC. 6. The rates charged by such corporation to the subscribers for hospital care shall at all times be subject to the approval of the Commissioner of Insurance of the State of California, and all rates of payments to hospitals made by such corporation pursuant to the contracts provided for in section 1 of this act shall be approved prior to payment by said Commissioner of Insurance.

Annual statement.

SEC. 7. Every such corporation shall annually on or before the first day of March file in the office of the Commissioner of Insurance of this State a statement verified by at least two of the principal officers of said corporation showing its con-

dition on the thirty-first day of December then next preceding, which shall be in such form and shall contain such matters as the Commissioner of Insurance shall prescribe.

Examination

SEC. 8. The Commissioner of Insurance, or any deputy or examiner or any other person whom he shall appoint, shall have the power of visitation and examination into the affairs of any such corporation and free access to all the books, papers and documents that relate to the business of the corporation, and may summon and qualify witnesses under oath and may examine the officers, agents or employees of such corporation or any other persons in relation to the affairs, transactions and condition of said corporation.

Acquisition costs.

SEC. 9. All acquisition costs in connection with the solicitation of subscribers to such hospital service plan shall at all times be subject to the approval of the Commissioner of Insurance.

Investment of funds

SEC. 10. The funds of any corporation subject to the provisions of this act shall be invested only in securities permitted by the law of this State for the investment of assets of life insurance companies and such securities shall be valued according to the methods used in valuing similar securities held by life insurance companies.

Dissolution or liquidation

SEC. 11. Any dissolution or liquidation of a corporation subject to the provisions of this act shall be conducted under the supervision of the Commissioner of Insurance who shall have all powers with respect thereto granted to him under the provisions of law with respect to the dissolution and liquidation of insurance companies.

CHAPTER 387.

An act to amend section 499b of the Penal Code, relating to the unauthorized taking for temporary use or operation of aircraft, automobiles, bicycles, motorcycles or other vehicles.

[Approved by the Governor July 5, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

Stats 1905, p 185

SECTION 1. Section 499b of the Penal Code is hereby amended to read as follows:

Taking vehicle temporarily

499b. Any person who shall, without the permission of the owner thereof, take any aircraft, automobile, bicycle, motorcycle, or other vehicle, for the purpose of temporarily using or operating the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding three months, or by both such fine and imprisonment.

CHAPTER 388.

An act making an appropriation for the control of Bang's disease in cattle under the provisions of Article 2, Chapter 3, Division II of the Agricultural Code, and declaring the urgency hereof.

[Approved by the Governor July 5, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Appropriation Bang's disease control.

SECTION 1. There is hereby appropriated out of any moneys in the State treasury not otherwise appropriated the sum of six thousand eight hundred seventy dollars for the purpose of controlling Bang's disease of cattle under the provisions of Article 2, Chapter 3, Division II of the Agricultural Code; provided, that the money hereby appropriated shall become available only when the Federal Government has agreed to contribute a sum not less than one hundred thousand dollars for purposes similar to that set forth herein.

Urgency.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and shall, therefore, go into immediate effect. A statement of the facts constituting such necessity is as follows:

In order that the State can take advantage of an allocation by the Federal Government of one hundred thousand dollars for Bang's disease control in California, it is necessary that certain assistance be given the Government in conducting necessary tests for detection of such disease. Bang's disease is of great economic importance to the dairy and live stock industry, and it is highly desirable that the State take advantage of the Federal Government's offer of financial assistance for controlling the disease. Since the Federal funds are immediately available provided the State will cooperate, it is necessary that this act take immediate effect in order that the work be undertaken without delay.

CHAPTER 389.*

An act to establish a Military and Veterans Code, thereby revising and consolidating the law relating to the armed forces and militia of the State and relating to military and veterans' affairs, aid and welfare, institutions, and

* A cross-reference table showing the origin of each section appears in the appendix to this volume.

buildings and to repeal certain acts and parts of acts therein specified.

[Approved by the Governor July 5, 1935. In effect September 15, 1935.]

NOTE.—This chapter contains all of the amendments made thereto during the fifty-first session of the Legislature, namely, by Chapter 322, approved July 20, 1935, in effect September 15, 1935.

The people of the State of California do enact as follows:

GENERAL PROVISIONS.

Title.

1. This act shall be known as the Military and Veterans Code.

Continuation of existing law.

2. The provisions of this code in so far as they are substantially the same as existing statutes relating to the same subject matter shall be construed as restatements and continuations thereof, and not as new enactments.

Tenure of office.

3. All persons who, at the time this code goes into effect, hold office under any of the acts repealed by this code, which offices are continued by this code, shall continue to hold the same according to the former tenure thereof.

Pending actions.

4. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as possible.

Construction.

5. Unless the context otherwise requires, the general provisions hereinafter set forth shall govern the construction of this code.

Headings

6. Division, part, chapter, and article headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this code.

Deputies.

7. Whenever, by the provisions of this code, a power is granted to a public officer or a duty imposed upon such an officer, the power may be exercised or duty performed by a deputy of the officer or by a person authorized pursuant to law by the officer, unless it is expressly otherwise provided.

Writing.

8. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required by this code, it shall be made in writing in the English language unless it is otherwise expressly provided.

Reference to sections or laws includes amendments

9. Whenever any reference is made to any section of this code or to any law of this State or the United States or to the Articles of War or the rules and regulations of the United States Army or Navy departments, such reference shall apply to all amendments and additions thereto now or hereafter made.

10. "Section" means a section of this code unless some other statute is specifically mentioned.

11. The present tense includes the past and future tenses; and the future, the present.

12. The singular number includes the plural, and the plural the singular.

13. "County" includes city and county.

14. "Shall" is mandatory and "may" is permissive.

15. "Oath" includes affirmation.

Oaths

16. An oath authorized or required by division II of this code or the regulations issued thereunder or the statutes or regulations governing the United States Army or Navy or active militia may be taken before the following persons who are authorized to administer the same within and without the State, namely: officers of the National Guard when such oath is authorized or required in a matter pertaining to the National Guard, and officers of the Naval Militia when such oath is authorized or required in a matter pertaining to the Naval Militia, except officers of both land and naval forces on the reserve and retired list while unassigned to duty, or by any other officer authorized to administer oaths under the laws of this State. No charge shall be made for the same.

In other cases where an oath is required by this code, the same may be administered by persons authorized to do so by law.

Signature or subscription.

17. "Signature" or "subscription" includes mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark may be acknowledged or may serve as a signature or subscription to a sworn statement only when two witnesses so sign the same.

DIVISION I. DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS.

Department.

50. There is in the State government a Department of Military and Veterans' Affairs.

Director.

51. The department shall be conducted by an executive officer known as the Director of Military and Veterans' Affairs. The director shall be appointed from the chiefs of the divisions of the department by and hold office at the pleasure of the Governor. The director shall receive a salary of six thousand dollars per annum. He shall have only such powers and duties, and such jurisdiction and control over the divisions of the department, as may be authorized by law.

Salary.

Bond of director

52. Before entering upon the duties of his office, the director shall execute an official bond to the State of California in the penal sum of twenty-five thousand dollars.

Organization of the department.

53. For the purpose of administration, the department shall be organized by the director in such manner as he deems necessary and proper to conduct the work of the department and shall be divided into four divisions as follows:

Military affairs

(a) The Division of Military Affairs, which shall include the National Guard and Naval Militia, and shall be administered by The Adjutant General, who shall be the chief of the division.

(b) The Division of Veterans' Welfare, which shall be administered by the Veterans' Welfare Board, the chairman of such board being the chief of the division. Veterans' Welfare

(c) The Division of Veterans' Homes, which shall be administered by the board of directors of the Veterans' Home of California and the board of directors of the Woman's Relief Corps Home of California, the chief of the division to be appointed by and hold office at the pleasure of the board of directors of the Veterans' Home of California. Veterans' Homes

(d) The Division of Athletics, which shall be administered by the State Athletic Commission, the chief of the division to be appointed by, receive such salary as shall be fixed by, and hold office at the pleasure of such commission. Athletics

54. Before entering upon the duties of his office, each chief of division shall execute an official bond to the State of California in the penal sum of ten thousand dollars unless by other provisions of law an official bond to the State is required of such person in the capacity of a State officer performing functions similar to those performed by him as such chief. The premiums upon all such bonds shall be paid by the State out of moneys made available by law for the use of the department. Bond of division chiefs.

55. Each division shall furnish to other divisions of the department, upon request therefor approved by the director, such assistance as it may render without detriment to the administration of such division, including the deputizing of agents, representatives, and inspectors and the temporary reassignment of employees, when the same may tend to eliminate overlapping, duplication, or expense. Cooperation by divisions

56. Upon the call of the director and at least once a month, there shall be a meeting of the department attended by the director and the chief of each division. At each meeting there shall be presented for consideration all problems involving possible duplication of service, overlapping of functions, or conflicting jurisdiction upon the part of any of the divisions, and all suggestions as to correlation of the activities of the several divisions. Meetings

57. The department shall promulgate rules and regulations which tend to eliminate overlapping and duplication of the activities of the several divisions. Rules and regulations

58. In so far as the same is consistent with the provisions of this division, the provisions of Article II, Chapter III, Title I, Part III of the Political Code shall govern and apply to the conduct of the department the same as if such article were herein set forth at length. Wherever in such article the term "head of the department" or similar designation occurs, it shall for the purpose of this code mean the Director of Military and Veterans' Affairs. Powers of director

59. Nothing contained in this division shall be construed as infringing upon or interfering with the powers, duties, responsibilities, or jurisdiction of the Veterans' Welfare Board, The Adjutant General, the board of directors of the Veterans' Home of California, the board of directors of the Construction

Woman's Relief Corps Home of California, or the State Athletic Commission, as defined by other provisions of law or this code.

DIVISION II. THE MILITARY FORCES OF THE STATE.

PART I. THE STATE MILITIA.

CHAPTER I. LAWS AND REGULATIONS OF THE UNITED STATES.

Intent of code.

100. The intent of this code is to conform to all acts and regulations of the United States affecting the same subjects, and all provisions of this code shall be construed to effect this purpose.

Federal laws adopted.

101. All acts of the Congress of the United States relating to the control, administration, and government of the Army of the United States and relating to the control, administration, and government of the United States Navy, together with the rules and regulations for the government of the National Guard and Naval Reserve or Naval Militia, so far as the same are not inconsistent with rights reserved to this State and guaranteed under the Constitution of this State, constitute the rules and regulations for the government of the militia.

Articles of War.

102. The Articles of War governing the Army of the United States are hereby adopted as a part of this code so far as they are applicable and not modified by this division.

103. Whenever reference is made in the Articles of War to the military service or to the Army of the United States, such reference shall be deemed to include the military service of this State.

Navy regulations.

104. The articles for the government of the Navy of the United States are hereby adopted as part of this code so far as they are applicable and not modified by this division.

CHAPTER II. GENERAL ORGANIZATION.

Article 1. Composition.

Organization of militia.

120. The militia of the State is divided into three parts: the National Guard and the Naval Militia—which constitute the active militia—and the unorganized militia.

Unorganized militia.

121. The unorganized militia consists of all persons liable to service in the militia, but not members of the National Guard or the Naval Militia.

Persons liable for service.

122. The militia of the State consists of all able-bodied male citizens and all other able-bodied males who have declared their intention to become citizens of the United States, who are between the ages of eighteen and forty-five, and who are residents of the State, and of such other persons as may upon their own application be enlisted or commissioned therein pursuant to the provisions of this division, subject, however, to such exemptions as now exist or may be hereafter created by the laws of the United States or of this State.

Enrollment

123. Whenever the Governor deems it necessary, he may order an enrollment to be made by officers designated by him, of all persons liable to service in the militia. Such enrollment shall include such information as the Governor may require. Three copies thereof shall be made: one copy shall be filed in the office of the clerk of the county in which the enrollment is made, and two copies in the office of The Adjutant General.

Notice.

124. Enrollment shall be made upon such notice and in such manner as the Governor may direct. Every person required by such notice to enroll who fails or refuses so to do is guilty of a misdemeanor.

Persons exempt from service.

125. The following persons shall be exempt from military service:

(a) Persons exempt from military service by the laws of the United States.

(b) Regular or duly ordained ministers of religion.

(c) Students preparing for the ministry in recognized theological or divinity schools.

(d) County and municipal officials.

(e) Pilots and mariners actually employed in sea service by a citizen of the United States.

The above persons shall not be exempt from enrollment but shall file verified claims for exemption from military service in such form and manner as the Governor may direct.

Enrolling boards.

126. The Governor shall appoint boards in number and personnel as will best accomplish the enrollment and such boards shall be vested with the authority and power of passing upon and determining the claims of exemption filed under section 125. An appeal to the Governor may be taken from the decision of the boards by the State or any person interested in the matter and within the time prescribed in regulations promulgated by the Governor.

Joint service of National Guard and Naval Militia

127. When the National Guard and Naval Militia are on duty as a combined force at any time, the commanding officer of the whole force shall be designated by the Governor.

Calling out of unorganized militia

128. Whenever it is necessary to call out any portion of the unorganized militia for active duty in case of insurrection, invasion, tumult, riot, breach of the peace, public calamity or catastrophe, or other emergency, or imminent danger thereof, or when called forth for service under the Constitution and laws of the United States, the Governor may call for and accept as many volunteers as are required for such service, under regulations provided by this division.

Failure to respond to call

129. Every member of the militia who is ordered out, or who volunteers or is drafted under the provisions of this division and who does not appear at the time and place designated by the Governor, or under his authority, within twenty-four hours from such time, and who does not produce a sworn certificate of physical disability from a physician in good standing, is a deserter and shall be dealt with as prescribed in the Articles of War of the United States, or by this division.

Article 2. Commander in Chief.

Governor is Commander in Chief

140. The Governor of the State, by virtue of his office, is the Commander in Chief of the Militia of the State.

Governor's staff.

141. The staff of the Governor consists of The Adjutant General and such aides as the Governor designates from the personnel of the National Guard and Naval Militia to serve during his incumbency. Such staff may also include the following personal aides-de-camp: five aides-de-camp who may be appointed by the Governor and who shall have the rank of lieutenant colonel, and one naval aide with the rank of commander. Such appointments by the Governor shall operate as a commission of such aides-de-camp.

Authority of Governor over active militia

142. The Governor may order the active militia or any portion thereof to perform military duty of every description and to participate in small arms gunnery competitions in this State or in any other State or Territory or the District of Columbia, or in any fort, camp, or reservation of the United States. He may also authorize the performance of military duty or participation in small arms or gunnery competitions by any part of the active militia anywhere without the State or without the United States. Cruise duty ordered for the Naval Militia may be required to be performed on United States vessels.

Proclamation of state of insurrection

143. Whenever the Governor is satisfied that the execution of civil or criminal process has been forcibly resisted by bodies of men, or that any conspiracy or combination exists to resist by force the execution of such process, or that the officers of any county or city are unable or have failed for any reason to enforce the laws, he may, by proclamation, declare the county or city or any portion thereof to be in a state of insurrection, and he may thereupon order into the service of the State such number and description of the active militia, or unorganized militia, as he deems necessary, to serve for such term and under the command of such officer as he directs.

Revocation of proclamation

144. The Governor may at any time revoke a proclamation of insurrection or declare that it shall terminate at a time or in the manner directed by him.

Violation of martial law.

145. A person who, after publication of the proclamation authorized by section 143, resists or aids in resisting the execution of process in any county or city declared to be in a state of insurrection, or who aids or attempts the rescue or escape of another from lawful custody or confinement, or who resists or aids in resisting any force ordered out by the Governor to quell or suppress an insurrection, is punishable by imprisonment in the State prison not less than two years.

When Governor may call out militia.

146. The Governor may call into active service such portion of the active militia as may be necessary, and if the number available be insufficient, he may call into active service such portion of the unorganized militia as may be necessary, in any of the following events:

(a) In case of war, insurrection, rebellion, invasion, tumult, riot, public calamity or catastrophe, or other emergency, or imminent danger thereof, or resistence to the laws of this State or the United States.

(b) Upon call or requisition of the President of the United States.

(c) Upon call of any officer of the United States Army commanding a corps area, division, department or district in California, or any United States Marshal in California.

(d) Upon call of the chief executive officer of any city or city and county, or of any Justice of the Supreme Court, or of any judge of the superior court, or of any sheriff, setting forth that there is an unlawful or riotous assembly with intent to commit a felony, or to offer violence to person or property, or to resist the laws of the State or the United States or that there has occurred a public calamity or catastrophe for which aid to the civil authorities is required.

(e) Upon call of the sheriff setting forth that the civil power of the county is not sufficient to enable him to execute process delivered to him.

Suspension of laws requiring bids for supplies

147. In case of insurrection, invasion, tumult, riot, breach of the peace, public calamity or catastrophe, or imminent danger thereof, or in the event any emergency in which all or any part of the active militia is actively engaged in service upon order of the Governor, the Governor may suspend any and all provisions of this division or other laws of the State which require advertisement for bids for purchases of supplies or employment of services.

Rules and regulations

148. The Governor may make rules and regulations in conformity with this code which shall conform as nearly as practicable to those governing the United States Army and Navy. Such rules and regulations shall have the same force and effect as the provisions of this code.

Article 3. The Adjutant General.

Chief of staff

160. The Adjutant General is chief of staff of the Governor and subordinate only to him.

Personnel of Adjutant General's office

161. The Adjutant General's office consists of one officer of the rank of Brigadier General who is The Adjutant General, and who shall be either commissioned in The Adjutant General's department or detailed from officers of other arms of the service, and such other officers as are prescribed by the laws or regulations of the United States.

Adjutant General

162. The Adjutant General shall be appointed by and hold office at the pleasure of the Governor, or until his successor is appointed and has qualified. No person is eligible for appointment as Adjutant General unless he has attained the grade of field officer and has had four years previous experience as a commissioned officer in command, or in service with troops of the line of this State, or of another State or territory, the District of Columbia, or the United States Army or Marine Corps, or in any or all of such services combined.

Duties.

163. The Adjutant General shall perform such duties as are prescribed in this code and such additional duties consistent with the regulations and customs of the United States Army and the United States Navy as may be prescribed by the Governor. He shall issue all orders in the name of the Governor.

Salary.

164. The salary of The Adjutant General is five thousand dollars per annum and shall be paid in the same manner and at the same time as salaries of other State officers. Subject to the approval of the Department of Finance, he shall appoint and fix the salaries of all clerical, expert, and technical assistants necessary for the proper conduct of his office.

Bond

165. The bond of The Adjutant General is in the sum of ten thousand dollars, shall be approved by the Attorney General, and shall be in such form and terms as required by law for civil officers of the State.

Disability of Adjutant General.

166. In the event of the absence of The Adjutant General or of his inability to perform his duties, the officer designated by The Adjutant General or the senior officer in The Adjutant General's office shall perform the duties of The Adjutant General. In the event of the absence or inability of such officers the Governor may detail a National Guard officer to perform such duties.

Officers in Adjutant General's office.

167. All officers in The Adjutant General's office shall be appointed by the Governor, with consideration of the recommendation of The Adjutant General, and, with the exception of The Adjutant General, shall hold their positions until they reach the age of sixty-four years, unless retired prior to that time by reason of resignation, disability, or other legal cause.

Duties

168. The duties of the officers of The Adjutant General's officer shall be such as are prescribed by law and regulations and shall conform as closely as practicable to the duties prescribed by orders and regulations of the War Department for like officers in the United States Army.

Commissions

169. The Adjutant General shall attest commissions issued to military officers.

Seal

170. The seal now used in the office of The Adjutant General is the seal of his office, and shall be delivered by him to his successor. All orders issued from his office shall be authenticated with his seal.

Register.

171. The Adjutant General shall keep a register of all the officers of the militia of the State and shall keep in his office all records and papers required to be kept and filed therein.

Report to Governor.

172. The Adjutant General shall make a biennial report to the Governor including a detailed statement of the moneys received and disbursed by him for military purposes during that period and the number and condition of the active militia.

Publications

173. The Adjutant General shall, at the expense of the State, when necessary, cause the military law, general regulations of the State, and Articles of War of the United States, and such other military publications necessary for the military service to be printed, indexed, and bound in compact form

and distributed to the commissioned officers and the several organizations of the active militia.

Stationery

174. The Adjutant General shall cause to be prepared and issued all necessary blank books, blanks, and notices required to carry into full effect the provisions of this division. All such books and blanks are the property of the State.

Field or camp service plans

175. In order that the active militia of the State may receive the funds provided by Congress, The Adjutant General shall prepare and submit a plan of proposed field or camp service of instruction for the ensuing year, with an estimate of the funds required for pay, subsistence, and transportation of the portion of the active militia participating therein and such other information as may be required by the War and Navy departments of the United States. The estimate shall furnish the details and shall be made out in the form required by instructions from the Secretary of War or the Secretary of the Navy.

Exhibitions

176. The Adjutant General may exhibit, at such times and places as he may see fit, the equipment, animals, and property of the National Guard or Naval Militia and may give demonstrations thereof with the aid of personnel selected therefor. All expense in relation thereto shall be paid from State funds.

Care of property

177. The Adjutant General shall attend to the care, preservation, transportation, safekeeping, and repair of all military property belonging to the State or issued to the State by the United States for the purpose of arming and equipping the militia.

Property unfit for use.

178. All military property of the State which after a proper inspection is found unsuitable for the use of the State shall, under the direction of the Governor, be disposed of by The Adjutant General at public auction after suitable advertisement for sale daily for ten days in at least one newspaper published in the city or county where the sale is to take place; or the same may be sold at private sale or may be condemned and destroyed when so ordered by the Governor. The Adjutant General shall bid in the property or suspend the sale whenever in his opinion better prices may or should be obtained.

Report of sales.

179. The Adjutant General shall, from time to time, render to the Governor a true account of the sales made by him, and shall expend the proceeds thereof in the purchase of other military property, as the Governor may direct. All such military property belonging to the State may be disposed of by The Adjutant General without reference to the Department of Finance.

Returns of property

180. The Adjutant General is responsible for all military property which may be issued to the State by the United States. He shall prepare returns of such property of the United States at the time and in the manner required by the Secretary of War and the Secretary of the Navy.

Returns and reports

181. The Adjutant General shall superintend the preparation of all returns and reports required by the United States from the State on military matters.

Accounts.

182. The Adjutant General shall keep a correct account of all expenses necessarily incurred, including pay of officers and enlisted men, subsistence of militia, transportation of the militia, and all military property of the State. Such expenses shall be audited and paid in the same manner as other military accounts are audited and paid.

Issuance of property.

183. The Adjutant General shall issue such military property as the Governor directs, and under his direction shall make purchases for that purpose. No military property shall be issued to persons or organizations other than those belonging to the active militia except such portions of the unorganized militia as may be called out by the Governor.

Purchases.

184. Purchases of property not exceeding five hundred dollars in value shall be made in the manner The Adjutant General directs. If such purchases require an expenditure of a sum exceeding five hundred dollars, he shall publicly advertise for not less than ten days for sealed proposals for furnishing such property. Such proposals shall be publicly opened by him at the place, day, and hour designated in the advertisement. He shall, if the Governor approves, contract with the lowest responsible bidder to furnish such property. All proposals and contracts made under the authority hereby conferred shall be filed in the office of The Adjutant General.

Bond of contractors.

185. The Adjutant General shall, whenever in his opinion it is to the interest of the State, require the party who agrees or contracts to furnish such property to give bond to the people of the State in such sum and with such surety as he directs, such bond to be conditioned upon the faithful performance of such agreement or contract. In case of default such bond shall be prosecuted by the Attorney General and all moneys received therefrom shall be expended by The Adjutant General for the benefit of the active militia.

Inspection of property purchased

186. All property purchased under authority herein granted shall be inspected by an inspector or officer detailed for the purpose by the Governor, and no payment shall be made therefor until it appears by the certificate of such officer that such property is of the kind and quality specified in such agreement or contract.

Purchases from United States

187. The Adjutant General may at any time purchase from the United States under the regulations of the War and Navy Departments governing such purchases military property, equipment, and supplies required by the military forces of this State.

Medical service.

188. The Adjutant General may, in the event of an emergency, secure medical, surgical, and hospital services and supplies and necessary transportation for the care and treatment of officers and men, and the same shall be paid for out of military funds under his control.

Revolving fund

189. The sum of three thousand dollars appropriated by Chapter 467, Statutes of 1913, for a cash revolving fund to facilitate the work of The Adjutant General's office, shall be hereafter held, continued, and used by The Adjutant General

for such purpose. All or any part of such money may be drawn from the State treasury without the submission of receipts, vouchers, or itemized statements and may be used by The Adjutant General in advancing cash payments for ordnance, equipment, material, labor, supplies, and incidental expenses requiring cash payments in advance, where such payments are necessary for the proper operation of the militia. Such amounts shall be repaid out of the appropriation against which they are a proper charge, upon itemized claims accompanied by proper vouchers and receipts, and the money returned to the cash revolving fund.

The Adjutant General shall be liable on his bond for the money so advanced to him and may, to protect himself, require sufficient bond of the several employees under him in case it should be necessary to delegate any of them to disburse money from the revolving fund. The Adjutant General shall account for the money herein appropriated at any time upon demand of the Department of Finance or the Controller. Accounts.

190. The Adjutant General shall audit and allow all proper claims incurred by officers and troops in the service of this State against appropriations for military purposes. Audits

191. The Controller shall draw his warrant for any amount approved and allowed as provided in this division, and the Treasurer shall pay the same out of the appropriation for military purposes, if not otherwise provided. Warrants

192. Claims audited and allowed as provided in this article are exempt from the provisions of law relating to the audit and allowance of claims by the Controller or the Department of Finance. Claims exempt from other audits

CHAPTER III. THE NATIONAL GUARD.

Article 1. Membership.

210. The National Guard consists of: National Guard Composition

(a) General officers of the line.

(b) The several staff corps and departments prescribed in tables of organization of the United States Army or tables of organization for the National Guard.

(c) The officers and enlisted men on the retired and the reserve lists and in the Inactive National Guard.

(d) The organizations forming the National Guard and persons enlisted or commissioned therein.

211. The Governor may alter, divide, annex, consolidate, disband, or reorganize any organization, department, or corps and create new organizations, departments, or corps when required by the provisions of this division or whenever in his judgment the efficiency of the State forces will be thereby increased. Organization.

The Governor may also change the organization of any organization, department, or corps so as to conform to any system of drill, or instruction prescribed by the laws of the United States for the National Guard and for that purpose the number of the officers and noncommissioned officers of any

grade may be increased or diminished and the grades of such officers and noncommissioned officers may be altered to the extent necessary to secure such conformity.

Inactive National Guard.

212. The Inactive National Guard shall consist of such organizations, officers, and enlisted men as are authorized and prescribed by the laws of the United States and regulations issued thereunder.

Honorary members of National Guard.

213. Each company, troop, squadron, or equivalent unit of the National Guard may have not to exceed twenty honorary members, each of whom shall pay fifty dollars per annum into the organization fund of the unit to which he belongs. Honorary members shall not be required to drill or perform any military duty by reason of such membership.

Designations of absent units.

214. During the absence of organizations of the National Guard in the service of the United States, their State or Federal designations shall not be given to new organizations.

Service with United States forces.

215. For all purposes under this code, officers and enlisted men of the National Guard who entered the active service of the United States in time of war or under a call or draft by the President or who hereafter enter such service under like conditions shall be entitled to credit for time so served as if such service had been rendered in the State forces.

Continuous service.

216. Former members of the National Guard who have been honorably discharged for "expiration of term of service" or on account of "removal" and have returned to the limits of their commands, and officers who have resigned or have been honorably discharged, or whose terms have expired, who reenlist or reenter the National Guard within ninety days from the date of their discharge or the expiration of their term of office, shall be given credit for continuous service, and the enlistment considered consecutive.

Article 2. Officers.

Commissions.

220. All officers shall be commissioned by the Governor. All appointments of officers shall be made and all vacancies shall be filled in the manner provided by the laws and regulations of the United States Army.

Oath.

221. All officers duly commissioned shall take the oath of office prescribed by the laws of the United States relating to the appointment and recognition of federally recognized officers of the National Guard and in addition thereto any other oath prescribed by law, and file or be covered by the bond provided for in this division.

Qualifications.

222. Persons to be commissioned in the National Guard shall be selected from the classes of persons enumerated in the National Defense Act of 1916. The qualifications of a person for commission in the National Guard shall be in all respects equal and similar to the qualifications required by laws and regulations of the United States for Federal recognition of commissioned officers of the National Guard.

Bonds.

223. All officers of the militia shall give such bonds and security as may be required and within the time prescribed

by The Adjutant General to secure the State against loss on account of misuse or misapplication of State or company property or funds or the property or funds of the United States in use by the State.

Such bonds shall be conditioned upon the faithful performance of all duties and the accounting for all property and moneys, including organization funds, for which the obligee is responsible or accountable.

The Adjutant General may in lieu of the foregoing enter into an agreement conditioned in like terms and for the same purpose with a qualified surety company to bond all officers of the militia without specifically naming them. The agreement shall also provide that the report and final action of military or naval authorities having jurisdiction for fixing responsibility for loss or damage shall be conclusive proof of the responsibility or liability of any officer or officers in a suit brought to enforce the obligation of such bond.

The premiums on bonds shall be charged to such funds appropriated for the support of the militia as the Governor directs. **Premiums**

224. All officers of the National Guard shall take rank according to the date assigned them by their commissions, which date shall be that of their appointment. When two officers of the same grade are commissioned as of the same date, their rank shall be determined, first, by the length of previous service as an officer in the National Guard; second, by the length of previous military service in the National Guard; third, by lot. **Rank**

225. Warrant officers of the National Guard shall be appointed by the Governor. The classes of persons from which warrant officers may be appointed shall be the same as enumerated in the National Defense Act of 1916, and the regulations of the United States promulgated thereunder. Warrant officers shall have the same privileges respecting retirement as commissioned officers, and shall have all other powers, privileges, and duties authorized by laws and regulations of the United States and customs of the service. **Warrant officers**

226. Every commissioned officer shall provide himself with the arms, uniforms, and equipment prescribed and approved by the Governor. **Arms and equipment.**

227. When an officer of the National Guard is sixty-four years of age, he shall be retired from active service and placed on the retired list. **Retirements for age**

228. Any officer who has served as a commissioned officer for fifteen years in the military or naval service of the State, or for fifteen years partly in one and partly in the other, may upon his own application, in the discretion of the Governor, be retired and placed upon the retired list with an increase in rank of one grade above that held by him on the date of his application. Service as a commissioned officer in the military or naval or military and naval service of the United States in time of war, not exceeding five years in all, **After fifteen years service.**

shall be considered as State service in computing length of State service for the purposes of this section.

Disability.

229. When a board of officers finds that an officer is incapacitated for active service, and that his incapacity is the result of an incident of the service, and its decision is approved by the Governor, such officer shall be retired from active service and placed on the retired list of officers. When a board of officers finds the incapacity of an officer is not the result of any incident of the service, and its decision is approved by the Governor, such officer shall be retired from active service, or discharged, as the Governor may determine. Any disability after fifteen years' commissioned service shall be deemed to have occurred as the result of an incident of the service.

Active duty of retired officers

230. The Governor may detail, with their own consent, officers of the retired list to active duty and return them to the retired list in his discretion. Officers retired for age shall not be detailed to command troops but only to perform duties of staff corps or departments, or to sit on boards, except in time of war or other emergency, or imminent danger thereof, when retired officers may be detailed by the Governor, without their consent, to perform any military duty designated by him.

231. The provisions of sections 232 to 237, inclusive, shall apply with equal force to commissioned officers of the National Guard and the unorganized militia when called into active service.

Separation from service

232. The commission of an officer shall be vacated by death, by acceptance by proper authority of resignation, by discharge on account of inefficiency, for physical disqualifications, when dropped from the rolls for an absence without leave for three months, or by dismissal pursuant to sentence of a general court-martial.

Resignation

233. An officer who desires to resign shall submit his resignation to the Governor, whose action thereon shall be final. The Governor may refuse to accept a resignation when the officer is under investigation, under charges, awaiting result of trial, absent without leave, absent in the hands of civil authorities, in default with respect to State or Federal funds or property, in time of war or when war is imminent, in time of civil stress or emergency, or on account of the exigencies of the service.

Discharge for inefficiency

234. At any time the moral character, capacity, and general fitness for service of an officer may be determined by an efficiency board. The board shall be appointed by order of the Governor, and shall consist of three commissioned officers, senior in rank to the officer under investigation. The findings and recommendations of the board shall be transmitted to the Governor, who shall approve or disapprove the findings. If the approved findings are unfavorable to the officer, he shall be ordered discharged.

235. At any time the physical fitness for service of an officer may be determined by a board of three medical officers, which shall be appointed by the Governor for that purpose. The findings and recommendations of the board shall be transmitted to the Governor. If the officer is found to be physically unfit for service and the finding is approved by the Governor, he shall be ordered discharged or retired from active service. Disability.

236. An officer absent without leave for a period of three months shall, with the approval of the Governor, be discharged. For absence without leave.

237. An officer may be dismissed from the service only by sentence of a general court-martial, which sentence is approved by the Governor. Dismissal

238. No officer who has been dismissed from the military or naval service of the State shall be permitted again to enter the military or naval service of the State; nor shall he be eligible for appointment or election to, or to hold any public office of trust or emolument in this State, unless pardoned by the Governor. No officer who has resigned for the good of the service, or who has been discharged on account of inefficiency, or on account of absence without leave, shall be permitted again to enter the military or naval service of the State. Dismissal bar to reentry of service and public office.

Article 3. Enlisted Men.

250. The qualifications for enlistment and reenlistment in the National Guard and the term and the form of oath shall at all times conform to the requirements of the laws of the United States and of this State and the regulations from time to time promulgated by the War Department of the United States for the government and guidance of the National Guard. Enlistment

251. Every person who enlists or reenlists shall sign the enlistment papers and take the oath required by the laws and regulations of this State and of the United States. Such oath shall be taken before any military or naval officer authorized to administer oaths by the regulations or laws of the United States or of this State. Any wilfully false statement so sworn to is perjury. Oath

252. Appointments of noncommissioned and petty officers shall conform to the tables of organization. All such noncommissioned and petty officers shall be appointed by the commanding officer of the division, brigade, regiment, separate battalion, squadron, marine division, or similar organization, upon the recommendation of the commanding officer of the unit in which they are to serve. Noncommissioned and petty officers of separate companies, troops, batteries, detachments, and similar units, not forming part of an existing higher tactical organization, shall be appointed by The Adjutant General. When an examination is required by Federal laws or regulations or by State regulations, no enlisted man shall be appointed until he has successfully passed such examination. Noncommissioned and petty officers

Privates first class and specialists.

253. A company, troop, battery, or detachment commander shall appoint privates first class and specialists in his organization, within authorized allotments.

Transfers.

254. Enlisted men may be transferred to or from organizations, departments, or corps. In transferring an enlisted man the procedure laid down in Army Regulations for the National Guard and in National Guard Regulations shall be followed.

Uniform

255. Every enlisted man who enters the National Guard may be provided by the State with a service or dress uniform, or both, corresponding in make and general appearance to the service or dress uniform of the United States Army.

Retirement after fifteen years.

256. Any enlisted man who has served fifteen years in the military or naval service of the State, or for fifteen years partly in one and partly in the other, may upon his own application, in the discretion of the Governor, be retired and placed on the retired list in the grade and rank held by him on the date of application. Service in the military or naval or military and naval service of the United States in time of war, not exceeding five years, shall be considered as State service in computing length of State service for the purposes of this section.

Retirement for age.

257. When an enlisted man of the National Guard is sixty-four years of age, he shall be retired from active service or discharged.

Active duty of retired enlisted men.

258. In time of war or other emergency or imminent danger thereof, the Governor may detail retired enlisted men on active duty and on conclusion of the emergency return them to the retired list.

Separation from service.

259. The separation from the service of an enlisted man of the National Guard or the unorganized militia called into active service is effected by death or by discharge by proper authority.

Causes for discharge.

260. The following shall be causes for discharge of enlisted men:

(a) Expiration of term of service.

(b) Attainment of the age of sixty-four years.

(c) Acceptance of appointment as a commissioned officer in the State or Federal service.

(d) To enlist in the United States Army, Navy, Marine Corps, or Coast Guard.

(e) To accept appointment in the United States Military Academy, Naval Academy, or Coast Guard Academy.

(f) To accept appointment as a flying cadet.

(g) To reenlist.

(h) Discontinuance of the organization in which he is serving.

(i) Change of residence.

(j) Certificate of disability.

(k) Inaptness or misconduct.

(l) Fraudulent enlistment.

(m) Action of civil or military court.

(n) Draft into the service of the United States.

(o) Business or educational interference.

(p) Any other reason which the Governor deems adequate and satisfactory and for the best interests of the service.

261. The discharge of enlisted men under the provisions of section 260 shall be effected by order of the Governor, under such regulations as may be prescribed, or as may be authorized or prescribed by the laws and regulations of the United States. Authority for discharge.

262. An enlisted man discharged from the National Guard or the unorganized militia shall receive a discharge in writing in such form and with such qualifications as may be prescribed under the laws and regulations of the United States. Discharge certificates.

263. When an enlisted man of the National Guard or the unorganized militia called into active service absents himself without leave and there is reason to believe that he does not intend to return; or quits his organization or place of duty with the intent to avoid hazardous duty or to shirk important service, he is a deserter. Desertion

264. With the express authority of the Governor, a deserter may be dropped from the rolls of his organization. Any soldier discovered to be a deserter from the military or naval service of the United States shall, if not under charges, be dropped from the rolls. Removal from rolls

265. Lists of deserters shall be published by The Adjutant General in orders, from time to time as the Governor directs. Lists of deserters.

266. An enlisted man who has been dropped as a deserter shall not be restored to duty without prior disposition of the charge of desertion standing against him. Such charge shall be disposed of by trial by court-martial; by restoration to duty, desertion admitted, upon a written application of the soldier admitting the desertion; or by the setting aside of the charge of desertion in case it had been erroneously made. Restoration to duty.

267. A deserter shall not be restored to duty without trial except by the Governor or by an officer authorized to appoint a general court-martial. Restoration to duty without trial shall not remove the charge of desertion or relieve the enlisted man from any of the forfeitures attached to that offense. Setting aside a charge of desertion as having been erroneously made shall remove the charge of desertion and all stoppages and forfeitures arising therefrom. Effect of restoration

268. All time lost while absent without leave or in desertion, in excess of twenty-four hours, shall be made good unless the enlisted man is sooner discharged by proper authority. Lost time.

269. No enlisted man who has been separated from the military or naval service of this State under conditions other than honorable shall be permitted to enter again the military or naval service of the State. No enlisted man who has been dishonorably discharged from the military or naval service of the State shall be eligible for appointment or election to, or to hold any office of trust or emolument in this State, unless the offense be pardoned by the Governor. Dishonorable separation bar to reentry and public office.

CHAPTER IV. THE NAVAL MILITIA.

Provisions relating to National Guard applicable to Naval Militia.

280. Except where the provisions of this chapter are inconsistent therewith, the provisions of Chapter III of Part I of Division II of this code are hereby incorporated by reference in this chapter and such provisions shall apply to the Naval Militia and the officers and enlisted men thereof with the same force and effect as if such provisions were set out in detail in this chapter.

In applying the provisions of Chapter III to this chapter, the term "Naval Militia" shall be substituted for the term "National Guard" and the term "Navy Department" for the term "War Department."

Definitions.

281. As used in this division in connection with the Naval Militia:

(a) "Division" and "company" shall have the same meaning and effect as "company" when used in connection with the infantry of the National Guard;

(b) "Battalion" shall have the same meaning and effect as "battalion" when used in connection with the infantry of the National Guard.

Location.

282. The Naval Militia shall be located throughout the State at the discretion of the Governor.

Organization

283. The organization of the Naval Militia shall conform generally to the provisions of the laws of the United States.

Brigades.

284. The Naval Militia shall be organized into one or more naval brigades which shall consist of such administrative battalions prescribed by the Navy Department for a like number of divisions in the United States Navy.

Deck and engineer divisions.

285. The Naval Militia shall consist of such number of deck and engineer divisions, companies of marines, aeronautic and other organizations as the Governor prescribes in conformity with the requirements of the Navy Department.

Battalions.

286. The several divisions, companies of marines, and other organizations of the Naval Militia may be organized into battalions at the discretion of the Governor.

Strength.

287. The numerical strength, rank, titles, and insignia of rank of the divisions and companies of marines of the Naval Militia shall conform to the laws, rules, and regulations of the United States Navy, and the rules and regulations prescribed by the Secretary of the Navy for the Naval Militia.

Commanding officer.

288. In order to select a commanding officer for the Naval Militia, The Adjutant General shall nominate not to exceed three officers, not below the grade of lieutenant commander, and shall cause such candidates to be examined. The candidate receiving the highest rating in such examination shall be recommended by The Adjutant General to the Governor for commission.

Personnel

289. The officers, chief warrant officers, warrant officers, and enlisted men of the Naval Militia shall be of such number

for similar organizations of the United States Navy or as authorized or prescribed by the laws and regulations of the Navy Department for the Naval Militia.

Chief warrant officers

290. Chief warrant officers may be appointed by the Governor upon the recommendation of the commanding officer of the Naval Militia and shall receive from the Governor a commission in the same form as commissioned officers of the Naval Militia.

Warrant officers

291. Warrant officers may be appointed by The Adjutant General upon the recommendation of the commanding officer of the Naval Militia. Warrants for warrant officers shall be issued by The Adjutant General upon the recommendation of the commanding officer of the Naval Militia.

Chief petty officers

292. Chief petty officers and petty officers may be appointed by the commanding officer of the Naval Militia, who shall issue to such chief petty officers and petty officers a warrant in proper form.

Candidates for commissions

293. When vacancies occur in the commissioned personnel, the commanding officer of the Naval Militia shall recommend not to exceed three candidates to The Adjutant General who shall cause such candidates to be examined. The candidate receiving the highest rating in such examination shall be recommended by The Adjutant General to the Governor for commission.

Discipline and exercise

294. The system of discipline and exercise shall conform to that of the Navy of the United States, to the system of discipline and exercise prescribed by the provisions of this code relating to the National Guard, and to that prescribed by the Secretary of the Navy for the guidance of the Naval Militia.

Units.

295. The Governor may alter, divide, annex, consolidate, and disband the Naval Militia or any portion thereof whenever in his judgment the efficiency of the State forces will thereby be increased. He may also make rules and regulations for the use, government, and instruction of the Naval Militia. Such rules and regulations shall conform to those governing the United States Navy and those prescribed by the Secretary of the Navy for the conduct of the Naval Militia.

Uniform

296. Every enlisted man who enters the Naval Militia may be provided by the State with a service or dress uniform, or both, corresponding in make and appearance to the service or dress uniform of the United States Navy.

Special deck divisions

297. In a locality where there are insufficient men available to form an engineer division and there already exists an organized deck division, men of the artificer branch may be additionally enrolled in such deck division with such ratings as they may be qualified to fill, until such time as there is a sufficient number of them to form a separate engineer division. Any men in such artificer branch may be rated in the various petty officers' ratings in the artificer branch of the naval service which they are qualified to fill. In a locality where there are insufficient men available to form a marine company

and there is already existing in that locality a deck division of the Naval Militia, a marine section may be organized with one officer and not less than twenty enlisted marines.

Naval officers

298. The Governor may apply to the President of the United States for the detail of commissioned officers and petty officers of the Navy to act as inspectors and instructors in the art of naval warfare.

Vessels of United States

299. Vessels lent by the United States to this State for the use of the Naval Militia shall be commanded by the ranking officer for line duty resident at the port to which the vessel is assigned, and in the absence of such ranking officer for line duty, by the next ranking officer for line duty.

Courts-martial.

300. Summary courts-martial and deck courts for the Naval Militia may be ordered by the commanding officer of the Naval Militia and general courts-martial for the Naval Militia may be ordered by the Governor and shall be organized and conducted within the laws, regulations, and usages of the United States Navy and the provisions of this division relating to military courts. The proceedings shall be reviewed and sentence executed as provided in this division.

CHAPTER V. COMPENSATION, ALLOWANCE, AND INSURANCE.

Article 1. Pay and Allowances.

Pay and allowances Officers.

320. Officers on active duty in the service of the State shall receive the same pay and allowance as officers of similar grade in the United States Army and United States Navy.

Enlisted men

321. Enlisted men while on active duty in the service of the State shall receive two dollars per day.

Pay at camps, etc.

322. No pay shall be allowed officers or enlisted men for duty at camps of instruction, drills, or parades.

Allowance for equipment.

323. To assist in uniforming and equipping themselves, commissioned and warrant officers on the active list who have been in service as such during a fiscal year of twelve months, beginning with the first day of July, shall receive annually twenty-five dollars. Officers on the active list who have been in service as such during a period less than a fiscal year shall receive such proportion of the allowance for the year as the period of service bears to a year.

Special duty pay for members of State forces

324. Whenever an officer of the National Guard or Naval Militia is detailed for special duty in any matter relating to the National Guard or Naval Militia, by order of the Governor, he shall be allowed the base pay provided for his grade by the pay tables of the United States Army or Navy and actual traveling expenses. An enlisted man similarly detailed shall be allowed two dollars per day and actual traveling expenses.

Special duty allowance for members of Federal forces

325. Whenever an officer or enlisted man of the United States Army or Navy, detailed by the War or Navy Department for service with the National Guard or Naval Militia, is detailed by the Governor for special duty or requested to perform such duty involving travel not specially directed by

the War or Navy Department, such officer or enlisted man shall be allowed his actual traveling expenses, but no per diem.

Article 2. Organization Allowances.

Allowances to organizations.

330. There shall be audited and allowed by The Adjutant General and paid out of the appropriation for military purposes upon the warrant of the Controller to the commanding officer of:

(a) Each rifle, machine gun, regimental headquarters, regimental service, and howitzer companies of infantry, the sum of one hundred fifty dollars per month.

(b) Each firing battery, combat train, regimental headquarters battery, and regimental service battery of coast artillery, the sum of one hundred fifty dollars per month.

(c) Each firing battery, combat train, service battery, and regimental headquarters battery of field artillery, the sum of one hundred fifty dollars per month.

(d) Each signal, military police, ordnance, service, motor transport, and wagon company, the sum of one hundred fifty dollars per month.

(e) Each tank company and divisional aviation unit, the sum of two hundred dollars per month.

(f) Each brigade headquarters, brigade headquarters company, divisional headquarters company, and battalion headquarters company of infantry, the sum of one hundred twenty-five dollars per month.

(g) Each regimental headquarters of infantry, coast artillery and field artillery and each division headquarters, the sum of two hundred dollars per month, except if a regimental headquarters is organized before the regiment has been fully completed then such portion of the two hundred dollars as The Adjutant General deems necessary.

(h) Each medical detachment attached to an infantry, coast artillery or field artillery regiment, the sum of one hundred twenty-five dollars per month.

Use of funds.

331. The sums paid under section 330 to the various commanding officers shall be used for armory rental, janitor service, clerical service, recruiting, care of arms and equipment, and proper incidental expenses of company, troop, battery, headquarters, or detachment.

Monthly allowances

332. In the case of a unit of the National Guard or Naval Militia organized under and by virtue of authority granted the Governor in this division and an allowance is not otherwise provided therefor in section 330, The Adjutant General may determine and fix a monthly allowance for such unit to be used for armory rent, clerical service, recruiting, care of arms and equipment, janitor service, and proper incidental expenses.

Claims

333. No claim shall be allowed under this article except upon demand made quarterly in duplicate, signed and sworn to by the officer claiming the same, before any officer of the National Guard or Naval Militia, or notary public, and for-

warded through the headquarters of the regiment, coast artillery corps, separate battalion, or next higher unit, or separate squadron, with the approval of each commanding officer through whose headquarters they are required to pass, direct to The Adjutant General.

Article 3. Casualty Insurance.

Casualty insurance

340. In all cases in which any officer or enlisted man of the National Guard or Naval Militia not in active service of the United States is wounded, injured, disabled, or killed in active service and in line of duty, such officer or enlisted man or the dependents of such officer or enlisted man shall be entitled to receive compensation from the State, in accordance with the provisions of the Workmen's Compensation Insurance and Safety Act of 1917. In all such cases, such officer or enlisted man shall be held and deemed to be an employee of the State.

The compensation to be awarded to any such officer or enlisted man shall be ascertained, determined, and fixed upon the basis of his average income from all sources during the year immediately preceding the date of such injury or death or the commencement of such disability; but such compensation shall in no case exceed the maximum prescribed in the Workmen's Compensation Insurance and Safety Act of 1917.

Amount of compensation.

341. In the determination of the benefits to be awarded any member of the militia or his dependents under the provisions of section 340, it shall be conclusively presumed that the average yearly earning of such injured or deceased member is not less than one thousand two hundred dollars. Any injury, death, or disability shall be deemed to have been suffered in line of duty unless the same resulted from misconduct or disobedience of lawful orders by the injured or deceased member.

CHAPTER VI. DISCIPLINE AND EXERCISE.

Discipline and exercise

360. The system of discipline and exercise of the National Guard and the Naval Militia shall conform generally to that of the Army and Navy of the United States, and to the provisions of the laws of the United States, except as otherwise provided in this code.

Organization and government.

361. All matters relating to the organization, discipline, and government of the National Guard and Naval Militia not otherwise provided for in this code or in the general regulations, shall be decided by the custom and usage of the United States Army and Navy.

Responsibility of commanding officers.

362. All commanding officers shall be responsible to their immediate commanders for the equipment, drill, instruction, movements, and efficiency of their respective commands.

Responsibilities of junior officers and men

363. Every officer and enlisted man shall be responsible to the officer under whose immediate command he serves for prompt and unhesitating obedience to lawful orders, faithful performance of duty, and the preservation and proper use

of the property of the United States, State, or organization in his possession. Each officer and enlisted man shall at all times, without equivocation, obey the lawful orders of his superior officers.

Disobedience of orders.

364. Any officer or enlisted man of the National Guard or Naval Militia who wilfully fails to attend any parade or encampment, or who neglects or refuses to obey the lawful command of his superior officer on any day of parade or encampment, or who fails to perform such military duty as may be lawfully required of him, or who uses disrespectful language toward his superior officer or commits any act of insubordination, is guilty of a misdemeanor.

Armed forces in emergencies

365. When an armed force is called out for the purpose of suppressing an unlawful or riotous assembly, or arresting the offenders, and is placed under the temporary direction of any civil officer, it shall obey the orders of such civil officer which extend only to the direction of the general or specific object to be accomplished. The tactical direction of the troops, the kind and extent of force to be used, and the particular means to be employed to accomplish the object specified by the civil officer are left solely to the commanding officer of the active militia on duty.

Conduct of troops.

Discretion of commanding officer.

366. Whenever any portion of the National Guard or Naval Militia is called into active service to suppress an insurrection or rebellion, to disperse a mob, or to enforce the execution of the laws of the State or of the United States, the commanding officer shall use his own discretion with respect to the propriety of attacking or firing upon any mob or unlawful assembly. His honest and reasonable judgment in the exercise of his duty shall be full protection, civilly and criminally, for any act or acts done while on duty.

Firing blank cartridges

367. No officer who is called out to sustain the civil authorities shall, under any pretense, or in compliance with any order, fire blank cartridges upon any mob or unlawful assemblage, under penalty of being dismissed.

Drill

368. Each company, troop, squadron, battery, detachment, and unit shall assemble for drill and instruction, including indoor target practice, not less than forty-eight times each year unless excused by the Governor or other competent authority, and shall in addition thereto participate in encampments, maneuvers, or other exercises, including outdoor target practice, for at least fifteen consecutive days in each year unless excused by competent authority.

In addition to such drills and periods of duty above specified the commanding officer of any unit may require the officers and enlisted men of his command to meet for parade, drill, and instruction at such times and places as he may appoint.

Drill on election day.

369. No parade or drill of the active militia shall be ordered in time of peace for any day during which any general election is held, except in cases of riot, invasion, insurrection, or imminent danger thereof, or in cases of public calamity or catastrophe.

Order for duty.

370. Orders for duty may be oral, written, or by publication.

Warning for duty.

371. Warning for duty may be given by any officer or noncommissioned officer or any other person authorized so to do.

Manner of warning fo duty.

372. Officers and enlisted men may be warned for duty by stating the substance of the order, by reading the order to the person warned, by delivering a copy of such order to such person, by leaving a copy of such order at the last known place of abode or business of such person with some person of the age of discretion, or by sending a copy of such order or its substance to such person by registered mail directed to him at his last known place of abode or business or to the post office nearest thereto.

In addition to or in lieu of the foregoing, notice may be given by posting a copy of such order at the entrance to the nearest post office to the military or naval headquarters issuing the same, at the entrances of the city hall or county courthouse of the city or county wherein said headquarters are located, and by causing a copy of said warning order to be published in a newspaper of general circulation in such county.

Return of warning.

373. The person giving the warning for duty shall make a return thereof containing the names of the persons warned and the time, place, and the manner of the warning. The return shall be verified by his oath. Such verified return shall be as good evidence of the facts therein stated on the trial of any person returned as a delinquent as if the person making such return were present and testified.

Report of delinquents

374. Every commanding officer shall report to The Adjutant General the name of every delinquent together with a full report of any extenuating circumstances.

Service outside of State.

375. Officers and enlisted men of the active militia not in the service of the United States shall be subject to and governed by the provisions of this code while outside this State under the order or authorization of the Governor under the provisions of section 142 in like manner and to the same extent as when on duty within this State under orders of the Governor. Military courts may be convened and held outside the State with the same jurisdiction and power of punishment as if held within the State. Offenses and delinquencies committed outside the State may be tried and punished either within or without the State after the termination of the duty.

CHAPTER VII. PRIVILEGES AND PENALTIES.

Exemption from civil process.

390. No person belonging to or on duty with the active militia of the State, or engaged in the performance of military duty on call of the Governor shall be arrested on any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty.

Exemption from tax and jury duty.

391. Every member of the active militia shall be exempt from road tax and head tax of every description, from jury duty (including service on coroners' juries), and from service on any posse comitatus, if he furnishes the certificate of his

immediate commanding officer that he has performed the duties required of him for the year immediately preceding a summons to act as a juryman or during the period of his service if less than one year.

Exemption from civil or criminal liability

392. Members of the militia in the active service of the State shall not be liable civilly or criminally for any act or acts done by them in the performance of their duty.

Proceedings against member for acts in line of duty.

393. When an action or proceeding of any nature is commenced in any court against an active member of the militia for an act done by such member in his official capacity in the discharge of duty, or an alleged omission by him to do an act which it was his duty to perform, or against any person acting under the authority or order of an officer, or by virtue of a warrant issued by him pursuant to law, the defendant may require the person instituting or prosecuting the action or proceeding to file security in an amount of not less than one hundred dollars, to be fixed by the court, for the payment of costs that may be awarded to the defendant therein. The defendant in all cases may make a general denial and give special matter in evidence. A defendant in whose favor a final judgment is rendered in any such action or proceeding shall recover treble costs. The Attorney General shall defend such active member or person where the action or proceeding is civil. The Attorney General, the senior judge advocate on the State staff, or one of the judge advocates shall defend such active member or person where the action or proceeding is criminal, and The Adjutant General shall designate the senior judge advocate on the State staff, or one of the judge advocates, to defend such active member or person.

Discrimination.

394. No person shall discriminate against any officer or enlisted man of the military or naval forces of the State or of the United States because of his membership therein.

No person shall prohibit or refuse entrance to any officer or enlisted man of the Army or Navy of the United States or of the military or naval forces of this State into any public entertainment or place of amusement because such officer or enlisted man is wearing the uniform of the organization to which he belongs.

No employer or officer or agent of any corporation, company, or firm, or other person shall discharge any person from employment because of being an officer or enlisted man of the military or naval forces of this State, or hinder or prevent him from performing any military service he may be called upon to perform by proper authority, or dissuade any person from enlistment in the National Guard or Naval Militia by threat of injury to him in respect to his employment, trade, or business in case of his enlistment.

Any person violating any of the provisions of this section is guilty of a misdemeanor.

Absence of public officers and employees on duty.

395. Every officer and employee of the State, or of any county, municipal corporation, school district, irrigation district, water district, or other district, who is a member of the

National Guard or Naval Militia, or a member of the reserve corps or force in the Federal military, naval, or marine service, shall be entitled to absent himself from his duties or service while engaged in the performance of ordered military or naval duty and while going to and returning from such duty.

No such officer or employee shall be subjected by any person directly or indirectly by reason of such absence to any loss or diminution of vacation or holiday privilege or be prejudiced by reason of such absence with reference to promotion or continuance in office, employment, reappointment to office, or reemployment.

During the absence of any such officer or employee, while engaged in the performance of ordered military or naval duty as a member of the National Guard, Naval Militia, or reserve corps or force in the Federal military, naval, or marine service, he shall receive his salary or compensation as such officer or employee, if the period of such absence in any calendar year does not exceed thirty days.

Civil service rights.

395.5. Any officer or employee of the State having civil service status who is ordered on active duty in time of war shall retain all civil service rights to his position and shall be reinstated to such position upon application at any time within ninety days after the termination of such duty.

(Added by Ch. 822, Stats. 1935.)

Right of way.

396. The commanding officer of any portion of the militia parading or performing any military duty in any street or highway may require persons in such street or highway to yield the right of way to such militia, except that the carriage of the United States mail, the legitimate functions of the police, and the progress and operations of hospital ambulances, fire engines, and fire departments and apparatus shall not be interfered with thereby.

Any person who hinders, delays, or obstructs any portion of the militia parading or performing any military duty, or who attempts so to do, is guilty of a misdemeanor.

Exemption from tolls.

397. When an emergency has been declared to exist by the Governor and during the continuance thereof, any person belonging to the military or naval forces of the State or of the United States shall, together with his conveyance, personal baggage, and the military property of the State or of the United States in his charge, be allowed to pass free through all tollgates and over all toll bridges and all ferries, if he presents an order for duty in the military or naval service of the State or of the United States.

Arrest of trespassers and disturbers.

398. The commanding officer may place under arrest any person who trespasses upon any camp ground, parade ground, armory, or other place devoted to military duty, or who in any way or manner interrupts or molests the orderly discharge of military duty, or who disturbs or prevents the passage of troops going to or returning from any duty.

CHAPTER VIII. EQUIPMENT AND ACCOMMODATIONS.

Article 1. Funds, Arms, and Equipment.

Supplies and equipment.

410. The National Guard, Naval Militia, and unorganized militia when called into active service shall be provided by the State with the supplies and equipment, not supplied by the United States, necessary for the proper performance of functions authorized or prescribed by the laws and regulations of the State and the United States.

County assistance.

411. The board of supervisors of any county may appropriate money from the general fund of the county for the use, benefit, or assistance of the National Guard or Naval Militia or for National Guard or Naval Militia purposes within the county.

Responsibility for property or funds.

412. Any officer who is accountable for any Federal, State, or company funds or property who fails or neglects to deliver over such funds or property to the person designated by proper authority to relieve such officer, shall be charged with all shortages thereof not covered by the receipt obtained by such officer from the person to whom he has delivered the same.

Quartermasters and supply officers are accountable and responsible for all property issued to the headquarters to which they are attached or with which they are on duty.

Deposit of money

413. All moneys including company funds, of which the commanding officer or other officer or employee is the custodian, shall be deposited in a national bank or a bank incorporated under the laws of this State.

Loss or destruction of property

414. Every officer and enlisted man to whom public property has been issued shall be personally responsible to the State for such property. No one shall be relieved from such responsibility, except it be shown to the satisfaction of the Governor that the loss or destruction of such property was unavoidable and in no way the fault of the person responsible for the same. In all other cases the value of the property lost or destroyed in the amount determined by a surveying officer or a board as herein provided shall be charged against the person at fault or, with the concurrence of its commanding officer, to the command to or for which it had been issued, and if not relieved from such charge by the Governor, it shall be an indebtedness from such person or command to the State.

Survey of lost or destroyed property.

415. If the commanding officer of the organization charged does not concur in the finding of the surveying officer, then the value of lost or destroyed property and the person or command to be charged therewith shall be determined by a board to consist either of an inspector on the staff of the Governor or of a disinterested officer who shall be appointed by the Governor and the commanding officer of the organization in which such property is lost. In case of disagreement, a third officer, not below the grade of major, shall be appointed by the Governor. A decision of a majority of the board so constituted shall be final.

Deductions for lost or destroyed property.

416. Where the amount determined by such board as the value of lost or destroyed property is charged to a person, it shall be deducted from any pay or allowance due or to become due to him from the State. Where the amount is charged to a command, it shall be deducted one-half in successive calendar years from any allowance or money due or to become due to it from the State, except that on the disbandment of a command any such indebtedness then existing and such as may be charged to it upon a final settlement of property accounts shall, as soon as determined, be paid out of its military funds or unexpended appropriations.

An action may be maintained in the name of the people of the State in any court of competent jurisdiction by the Attorney General or Judge Advocate of the National Guard, upon request of The Adjutant General, to recover from a person or his sureties any such indebtedness to the State remaining unpaid upon final determination of such indebtedness.

Transportation.

417. The transportation of arms, equipment, and military stores issued to troops or received by the State and all other military transportation shall be contracted for by The Adjutant General under the direction of the Governor. Vouchers for such transportation, when approved by The Adjutant General, shall be paid from the appropriation for military purposes on the warrant of the Controller.

Property returns.

418. All property purchased out of the moneys allowed by the State for the use and convenience of the militia is the property of the State and shall be enumerated on the property returns next following its purchase.

Use of equipment

419. No member of the militia shall wear or use, except when on military duty, or by special permission of his commanding officer, any uniform or other article of military property belonging to the State or to the organization of which he is a member.

When transfer of property permissible

420. No officer in charge of public property for military use shall transfer any portion thereof, either as a loan or permanently, without the authority of the Governor.

Conversion of property.

421. Any person who secretes, sells, disposes of, offers for sale, purchases, retains after demand made by a commissioned officer of the National Guard or Naval Militia, or in any manner pawns or pledges any arms, uniforms, equipments, or military or naval property of the State or the United States, or of any organization of the active militia is guilty of a misdemeanor.

Wearing of uniform.

422. Any person, other than an officer or enlisted man of the National Guard or Naval Militia of this State or of another State or of the United States Army, Navy, Marine Corps, Coast Guard Service, or Forest Service, an inmate of any veterans' or soldiers' home, or other person authorized by the laws of the United States, who at any time wears the uniform of the United States Army or Navy or National Guard or Naval Militia, or any part of such uniform, or a uniform or part of a uniform similar thereto, is guilty of a misde-

meanor, and is punishable by a fine of not less than one hundred nor more than two hundred fifty dollars, or by imprisonment in the county jail not exceeding sixty days, or by both.

Drilling of organizations other than troops in emergencies

423. Whenever the National Guard or Naval Militia, or any part thereof, is in active service or is called into active service, no civic organization or member thereof shall parade or appear in uniform in the locality where the National Guard or Naval Militia is in service.

Article 2. Armories.

Definition

430. As used in this article, "armory" means and includes any building or portion thereof, rifle range, camp site, airport, arsenal, vessel, quarters or accommodations devoted to the use of the militia.

Control of armories.

431. The Adjutant General shall have control of all armories that are built or acquired by the State, that come into possession or control of the State, or that are erected, purchased, leased, or provided or contributed to in whole or in part by any city or county, for armory purposes.

Armory boards

432. For the control and management of the armories, The Adjutant General may cause to be established from the personnel of the organized militia armory boards, the personnel of which shall serve without pay. Such boards, subject to the direction of The Adjutant General, shall control, manage, and supervise all activities in armories and may rent such armories to persons and organizations not connected with the National Guard and Naval Militia. Such boards shall apply the revenues therefrom to the necessary maintenance and repairs thereof, and pay over to The Adjutant General any surplus for the general fund of the State. Such armory boards shall keep accounts and The Adjutant General shall audit such accounts.

Lease of armories

433. The Adjutant General may lease on behalf of the State armories necessary for the use of the militia.

Regulations for use of armories

434. The Adjutant General, under the direction of the Governor, shall make and enforce regulations for the government and control of such armories, and where appropriations have been made therefor, advertise for and receive bids for the construction of armories, enter into contracts for the construction and completion thereof, contract for and purchase the furnishings and equipment therefor, and purchase or lease real estate for armory purposes. The Department of Public Works, upon request of The Adjutant General, shall furnish the plans, estimates, and specifications for all armories and supervise the erection and construction thereof.

Rentals

435. In all armories leased by The Adjutant General, he may, in his discretion, pay the rental of any armory leased by him or such portion of the rental thereof as he may see fit from funds under his control, charging the organizations using such armory or armories such rental as may, in his judgment, be equitable, and may deduct from the quarterly allowance to such organizations the rent so charged.

Donation or dedication.

436. The Adjutant General may receive by donation or dedication any property which may be used for armory purposes.

Condemnation.

437. Under the provisions of the Code of Civil Procedure relating to eminent domain, The Adjutant General, in the name of the people of the State of California, with the approval of the Department of Finance, may condemn any property necessary for armory purposes. Armories are hereby declared to be public uses.

Declaration of public interest and necessity.

438. Prior to the commencement of condemnation proceedings, The Adjutant General shall declare in writing that the public interest and necessity require the purchase or acquisition of the property by the State. Upon filing with the Department of Finance, such declaration shall be prima facie evidence (a) of the public necessity for the acquisition of such property; (b) that such property is necessary therefor; and (c) that such property is planned or located in the manner which will be most compatible with the greatest good and the least private injury.

Acquisition by county of property for military use.

439. Any county may acquire, provide, and maintain buildings, halls, meeting places, and supply stations for the use of the United States War Department or the Navy Department, and for such purpose the board of supervisors of any county may:

(a) Purchase, receive by donation, condemn, lease, or acquire real or personal property, with or without improvements, and erect such buildings, halls, meeting places, and supply stations thereon.

(b) Purchase, construct, lease, furnish, or repair such buildings, and property and provide for the proper maintenance and management thereof.

(c) Enter into agreements on behalf of the county with the Secretary of the War Department and the Secretary of the Navy Department of the United States for the use and occupancy of such buildings.

(d) Establish a fund for the purposes hereof, levy a special tax for such purposes, and incur in the manner provided by law a bonded indebtedness on behalf of the county for any of the purposes of this section.

CHAPTER IX. MILITARY COURTS.

Types of military courts.

450. The military courts of this State are: (a) general courts-martial; (b) special courts-martial; (c) summary courts-martial; and (d) courts of inquiry.

Constitution and jurisdiction.

451. The constitution and jurisdiction of general courts-martial, special courts-martial, summary courts-martial, and courts of inquiry, the form and manner in which the proceedings are conducted and recorded, the forms of oaths and affirmations taken in the administration of military law by such courts, the limits of punishment and the proceedings in the revision thereof, shall be governed by the terms of the Articles of War, the National Defense Act, the laws and regu-

lations governing the Army of the United States, and the law and procedure of similar courts of the United States Army, except as otherwise provided in this chapter.

General courts.

452. General courts-martial may be convened by the President of the United States or the Governor.

Special courts

453. Special courts-martial may be appointed by the commanding officer of a garrison, fort, post, camp, or other place, brigade, regiment, detached battalion, or other detached command. Such courts-martial may also be appointed by superior authority when by the latter deemed desirable.

Summary courts

454. Summary courts-martial may be appointed by the commanding officer of a garrison, fort, post, or other place, regiment, or corps, detached battalion, company, or other detachment.

Courts of inquiry

455. Courts of inquiry shall consist of at least three officers and may be ordered by the Governor to examine into the nature of any transaction of or accusation or imputation against any officer or enlisted man. Such courts may be ordered upon the request of any officer concerned or of The Adjutant General

The officers of the court, as far as possible, shall be of rank at least equal to that of the officer, or senior officer, if there be more than one, with regard to whom the inquiry is to be made.

The court shall, without delay, report to the officer ordering it, the evidence adduced, a statement of the facts, and, when required, an opinion thereon.

Jurisdiction of general courts.

456. General courts-martial have power:

(a) To try:

(1) Commissioned officers, warrant officers, and enlisted men of the active National Guard.

(2) Commissioned officers, warrant officers, and enlisted men of the inactive National Guard whenever they are called out for service or are actually engaged in training with the active National Guard.

(b) To adjudge:

(1) Dismissal, in the case of a commissioned or warrant officer.

(2) Dishonorable discharge, in the case of an enlisted man.

(3) Reduction to the ranks, in the case of a noncommissioned officer.

(4) Forfeiture of pay and allowances.

(5) Fine not exceeding two hundred dollars.

(6) Confinement not exceeding two hundred days.

(7) Fine and confinement, the total of the number of dollars of fine and number of days of confinement not to exceed two hundred.

(8) Reprimand.

Jurisdiction of special courts.

457. Special courts-martial have power:

(a) To try:

(1) Warrant officers and enlisted men of the active National Guard.

(2) Warrant officers and enlisted men of the inactive National Guard whenever they are called out for service or are actually engaged in training with the active National Guard.

(b) To adjudge:

(1) Dismissal, in case of a warrant officer.

(2) Dishonorable discharge, in the case of an enlisted man.

(3) Reduction to the ranks, in the case of a noncommissioned officer.

(4) Forfeiture of pay and allowances.

(5) Fine not exceeding one hundred dollars.

(6) Confinement not exceeding one hundred days.

(7) Fine and confinement, the total of the number of dollars of fine and number of days of confinement not to exceed one hundred.

(8) Reprimand.

Jurisdiction of summary courts.

458. Summary courts-martial have power:

(a) To try:

(1) Enlisted men of the active National Guard.

(2) Enlisted men of the inactive National Guard whenever they are called out for service or are actually engaged in training with the active National Guard.

(b) To adjudge:

(1) Reduction to the ranks in the case of a noncommissioned officer.

(2) Forfeiture of pay and allowances.

(3) Fine not exceeding twenty-five dollars.

(4) Confinement not exceeding twenty-five days.

(5) Fine and confinement, the total of the number of dollars of fine and number of days of confinement not to exceed twenty-five.

Prosecution in name of State.

459. The trial Judge Advocate of a general or special court-martial in the National Guard shall prosecute in the name of the State.

Powers of military courts.

460. Each military court shall have the power of a superior court of this State to compel by subpena, subpena duces tecum, and attachment, the attendance of witnesses, both civilian and military, and the production of books, papers, and documents, and to punish for contempt a witness duly subpenaed for non-attendance or for refusal to be sworn or testify or to produce books, papers, and documents. Military courts may also take by commission the testimony of witnesses who can not reasonably be produced at the trial in the same manner as a superior court.

461. Commissions and subpenas may be issued by the president or the Judge Advocate of the court, both before and after being sworn, for witnesses whose attendance or testimony before such court may be necessary in behalf of the prosecution, and upon application in behalf of any person to be tried by such court, either the president or the Judge Advocate may direct the commanding officer of any organization to cause such subpena to be served on any member of his command. Commissions and

462. A witness not appearing in obedience to a subpena when served personally with a copy thereof, and not having sufficient excuse, or a witness refusing to obey any lawful order of the court, shall forfeit to the State the sum of twenty-five dollars. The president of each court, or summary court officer, shall, from time to time, report to the senior Judge Advocate on the State staff the names of all such delinquent witnesses, together with the names and places of residence of the persons serving such subpenas. A Judge Advocate may sue for and recover such penalties in the name of the people of the State. Disobedience of subpena.

463. Military courts may issue all process and mandates, including writs and warrants, necessary and proper to carry into full effect the powers vested in such courts. Such process or mandates may be directed to the sheriff of any county, and the constables and marshals of any town or city, or to any officer or enlisted man appointed by the court to serve or execute the same. All officers to whom process or mandates are directed shall execute such process or mandates and make return of their acts thereunder according to the requirements thereof. Process and mandates.

464. The keepers or warden of any jail shall receive the bodies of persons committed by the process or mandate of a military court and confine them in the manner prescribed by law. Except as otherwise specially provided in this division, no fees or charges of any nature shall be demanded or required to be paid by the State, or any military court or member thereof, or by the person executing its mandate or process, or by any public officer for receiving, executing, or returning any such process or mandate, or for any service in connection therewith, or for receiving or confining the person in jail or custody thereunder. Custody of persons committed

465. When an officer or enlisted man is placed under arrest for the purposes of trial, a copy of the charges and specifications upon which he is to be tried shall be delivered to him or left at his last known place of abode or business, within the time prescribed by the laws and regulations governing procedure in the United States Army in similar circumstances. A court shall be ordered for his trial within the time similarly prescribed by the rules and regulations of the United States Army. If a copy of the charges and specifications is not served, or a court is not ordered within the time herein limited, the arrest shall cease, but such charges and Service of copy of charges

specifications may be served, a court ordered, and the officer or enlisted man be brought to trial after such release from arrest within the time prescribed by the rules and regulations of the United States Army in similar circumstances. The appearance of the accused, without objection and pleading to the charges, shall be a waiver of any defect or irregularity of such service of any of the papers mentioned in this section.

Review of proceedings.

466. No sentence of a court-martial shall be carried into execution until the proceedings have been reviewed and the sentence approved by the officer appointing the court or by the officer commanding for the time being.

Collection of fines and penalties.

467. For the purpose of collecting fines or penalties imposed by a court-martial, the president of any general or special court-martial and the summary court officer of any summary court shall make a list of all fines and penalties and of the persons against whom they have been imposed, and may thereafter issue a warrant under his hand directed to any sheriff or constable of the county, commanding him to levy and collect such fines and penalties, together with the costs, upon and out of the property of the person against whom the fine or penalty is imposed. Such warrant shall be executed and renewed in the same manner as executions from the justices' courts. All fines collected shall be paid by the officer collecting them to the commanding officer of the organization of which the person fined is or was a member and accounted for by the commanding officer in the same manner as other State funds.

Contempt of military court.

468. Any person who is guilty of disorderly, contemptuous, or insolent behavior in a military court, or who uses insulting, contemptuous, or indecorous language or expression to or before a military court, or any member of such court in open court, tending to interrupt its proceedings or to impair the respect due to its authority, or who commits any breach of the peace or makes any noise or other disturbance directly tending to interrupt its proceedings, may be committed by warrant under the hand of the president of the court, or summary court officer, to the jail of the city or county in which such court sits, there to be confined for a period not to exceed three days.

Trial after separation from service.

469. A person who has been separated from the military service shall be subject to the jurisdiction of a lawfully appointed court-martial for trial and punishment for offenses committed during his military service.

If such person is found guilty, he shall be punished according to the Articles of War and the rules and regulations of the United States Army within the limits prescribed by this division and the Federal law for courts-martial of the National Guard.

When military offense is also civil offense

470. When the military offense charged is also an offense by the civil law of this State, the officer whose duty it is to order trial may order the person charged to be turned over to the civil authorities for trial.

471. Whenever any person in the military service of the State is charged with the commission while on duty of an offense which is a felony under the laws of this State, he shall be delivered by his superior officer or officers to the proper civil authorities of the county or city in which the offense occurred for trial. Trial and punishment by civil authorities shall not preclude trial and additional punishment by court-martial for any military offense resulting from commission of the felony. Custody of offender.

472. No officer by whom a military court is ordered or member of any such military court, or officer or person acting under its authority or reviewing the proceedings thereof or enforcing the process or sentence thereof shall be liable civilly or criminally for any act done in such capacity. Liability of member of court.

473. Courts for the Naval Militia are provided for by section 300. Courts for naval militia

PART II. CADET AND VOLUNTARY ORGANIZATIONS.

CHAPTER I. HIGH SCHOOL CADETS.

500. The male students of any high school in this State, having forty or more such students, fourteen years of age or over, may be organized into a high school cadet company or companies of not less than forty members each under such rules and regulations as the governing body of the high school prescribes. Organization.

501. Cadet companies shall at all times be under the guidance and control of the principal of the high school, whose duty it shall be to make regulations regarding the moral, educational, and physical welfare of the cadets. Supervision of cadet companies.

502. Upon recommendation of The Adjutant General and with the approval of the school board having jurisdiction over the high school, the Governor may commission, in the same manner that National Guard officers are commissioned, a commandant of cadets for duty in each high school having one or more cadet companies. This officer shall be commissioned major and commandant of cadets, State of California, and shall hold office at the pleasure of the Governor, or until his successor has been appointed and qualified or his connection with the cadets is severed. The major and commandant of cadets shall be entitled to the same privileges and exemptions accorded National Guard Officers, except that pay and expenses on special detail shall be taken from the high school cadet appropriation instead of from National Guard funds. The major and commandant of cadets shall wear the same uniform and shoulder straps as a major of infantry in the National Guard, with cap and collar ornaments designating the California high school cadets. Commandant

503. Cadet companies shall each have one captain, one first lieutenant, and one second lieutenant appointed and commissioned by The Adjutant General upon the recommenda- Company organization

tion of the commandant of cadets with the approval of the principal, and such noncommissioned officers and privates as correspond to the noncommissioned officers and privates of the infantry companies of the National Guard, the noncommissioned officers to be appointed and warranted by the commandant of cadets with the approval of the principal.

Battalion organization.

504. In case any high school has more than one company it shall have one cadet major, one cadet adjutant, and one battalion quartermaster and commissary, the last two mentioned officers to have the rank of first lieutenant, who shall be appointed and commissioned by The Adjutant General upon the recommendation of the commandant of cadets with the approval of the principal, and one sergeant major and one color sergeant, who shall be appointed and warranted by the commandant of cadets with the approval of the principal.

Regimental organization.

505. The Adjutant General may organize companies of high school cadets into one or more regiments and may commission the necessary officers and warrant the necessary noncommissioned officers of the same grades and number provided for similar organizations of the National Guard.

Cadet officers

506. All cadet officers shall be appointed from the senior and junior classes of high schools.

Cancellation of commission or warrant.

507. Any commissioned officer or noncommissioned officer may have his commission or warrant canceled and be reduced to the ranks, upon the recommendation of the principal of the high school, for deficiency in his studies or for misbehavior either in school or in the cadet company or for other good cause in the judgment of the principal.

Drill.

508. High school cadets shall drill in accordance with the infantry drill regulations prescribed by the United States Army.

Books and stationery.

509. The Adjutant General shall provide suitable drill regulations, books of instruction, and the necessary blank forms for reports of each of the high school cadet companies.

Uniforms

510. High school cadets shall wear such uniforms as The Adjutant General prescribes. The Adjutant General may issue to the high school cadets necessary cap and collar ornaments and chevrons. A regulation uniform for cadets shall be kept in The Adjutant General's office to be used as sample from which the uniforms for the high school cadets shall be made.

Rifles

511. A sufficient number of obsolete rifles for drill purposes may be purchased by the board of high school trustees, board of education, county superintendent of schools, the State Superintendent of Public Instruction, or The Adjutant General out of any funds available and not otherwise appropriated.

Target practice.

512. Target practice shall constitute a part of the instruction to be given to cadets. The Adjutant General shall purchase and supply to each of the high schools a sufficient number of Springfield or other efficient rifles for field target work and gallery practice and the ammunition and equip-

ment therefor, as in his judgment is necessary for efficient rifle practice. All target practice shall be under the supervision of the commandants of cadets or competent members of the National Guard or Naval Militia detailed by The Adjutant General. The expenditures therefor may be paid out of the moneys appropriated for the maintenance of the high school cadets.

Drill and rifle practice instructor.

513. The Adjutant General may detail from the organizations of the National Guard or Naval Militia some competent member thereof who shall act as drill and rifle practice instructor for high school cadets. The Adjutant General may provide for compensating the persons detailed by him to instruct the cadets in drill and target practice.

Use of rifle ranges.

514. Whenever practicable high school cadets shall, under the supervision of the commandant of cadets, be permitted to shoot at target practice upon National Guard rifle ranges, when not needed by the National Guard.

Inspection.

515. High school cadet companies shall be inspected once each year by officers of the National Guard or Naval Militia detailed by The Adjutant General for that purpose. Such inspectors shall report to The Adjutant General the result of inspections relating to the drill, target practice, attendance, discipline, and condition of property of high school cadet organizations. Such reports shall contain an inventory of the State property on hand in the cadet companies at the time of inspections. Such reports shall be made and forwarded, in duplicate, one copy to the State Superintendent of Public Instruction and one copy to The Adjutant General's office, and shall bear the indorsement of the principal of the high school, containing remarks the principal deems pertinent.

Responsibility for property.

516. The principal of the high school shall be responsible for all public property supplied to cadet companies and shall supervise the proper care thereof.

Cooperation of school authorities.

517. Each board of high school trustees, board of education, county superintendent of schools, and the State Superintendent of Public Instruction shall facilitate the purposes of this code by cooperating with The Adjutant General.

CHAPTER II. MILITARY ACADEMIES.

Military instructors in academies

530. In any military academy, having not less than eighty boys, uniformed, drilled, and instructed in strict accordance with the tactics of the regular United States Army, and in which the instruction is conducted in strict accordance with military principles, the military instructor of such academy regularly elected by the board of trustees or other lawful authority of the academy, may be commissioned in the National Guard with the rank of major or lower rank. Such officer shall exercise no authority or command except as military instructor of such academy. Such commission may be revoked by The Adjutant General, under such rules and regulations as he may prescribe.

CHAPTER III. VOLUNTARY ORGANIZATIONS.

Licensed military companies

550. As used in this chapter, "Licensed Military Company" means any organization, company, or body of men associated or organized to drill and to bear arms and licensed so to do by the Governor.

Muster roll

551. Each licensed military company shall file with The Adjutant General, at such time as the Governor designates, a muster roll of such military company certified by the oath of the commanding officer thereof. The muster roll shall contain the names, ages, occupations, and places of residence of all members thereof, and the number and character of all arms in the possession of such organization.

Inspection

552. Each licensed military company shall appear for inspection by The Adjutant General or by a military inspector designated by the Governor, at least once a year, at their respective armories, at such time as the Governor designates.

Oath

553. Each member of a licensed military company shall take and subscribe to an oath that he will support the Constitution of the United States and the Constitution of this State and will obey and maintain all laws and all officers employed in administering the same.

Active service.

554. Whenever the Governor deems it necessary for the public safety, he may call any licensed military company into active service of the State for the causes and purposes for which he may call the National Guard into active service. Such military company shall rendezvous and report for active service at such time and place and to such officer as the Governor designates, and shall enter the active service of the State and obey all lawful orders and commands issued by the Governor or any officer placed in command by his orders in the same manner as if such military company were a part of the National Guard.

Members subject to military laws and regulations

555. The members of a licensed military company when called into active service by order of the Governor shall be subject to all military penalties and punishments for violation of the orders of the Governor, or of any officer placed in command of such organization by order of the Governor, as are the members of the National Guard. They shall be subject to the Articles of War and the rules and regulations governing the National Guard, and shall receive the same pay and allowances while in active service as the members of the National Guard.

Organizations from unorganized militia

556. The Governor, when not in conflict with the provisions of the laws of the United States, may, at any time, order, authorize, or recognize, such organizations of the unorganized militia, or of designated classes thereof, or of volunteers therefrom, as he may deem to be for the public interest, and may prescribe therefor parts of the regulations governing the National Guard or the Naval Militia applicable thereto, or establish special regulations therefor, or both. The Governor may likewise, at any time, provide for the separate organization, or authorize the service and enrollment in organizations

of the unorganized militia, of persons volunteering for such service, not otherwise subject to military duty.

557. No body of men, other than the National Guard and Naval Militia, the troops and naval forces of the United States, and peace officers shall associate themselves together as a military company or organization, or drill or parade with arms, except such organizations authorized so to do by this code. Unauthorized organizations prohibited

Any person who violates any of the provisions of this section is guilty of a misdemeanor.

558. Members of benevolent or social organizations may wear swords or carry guns which have been rendered incapable of use as firearms. Social organizations

559. Students in educational institutions in which military science is a part of the course of instruction may, with the consent of the Governor, drill and parade with arms in public under the supervision of their instructor and shall be exempt from the provisions of this chapter. Drills and parades by students

DIVISION III. EMBLEMS AND DECORATIONS.

CHAPTER I. EMBLEMS.

610. The Bear flag is the State flag of California. Its length is one and one-half times its width; the upper five-sixths of the width thereof is a white field and the lower sixth a red stripe; there appears in the white field in the upper lefthand corner a single red star, and at the bottom of the white field the words "California Republic," and in the center of the white field a California grizzly bear upon a grass plat, in the position of walking towards the left of the white field, the bear is dark brown in color and its length one-third of the length of the flag. State flag

611. "Flag," as used in this division, includes every flag, standard, color, or ensign authorized by the laws of the United States or of this State, and every picture or representation thereof, of any size, made of any substance, or represented on any substance evidently purporting to be any such flag, standard, color, or ensign of the United States or of this State, and every picture or representation which shows the design thereof. "Flag" defined

612. The colors carried by organizations of the National Guard or Naval Militia shall be such as are borne by similar organizations of the United States Army or Navy, except that the regimental or battalion colors may have thereon the State coat of arms, instead of the coat of arms of the United States. Colors

613. No military organization provided for by the Constitution and laws of this State and receiving State support shall, while under arms, either for ceremony or duty, carry any device, banner or flag of any State or Nation except that of the United States or of this State. Carrying certain flags prohibited

614. A person is guilty of a misdemeanor who: Desecration of flags.

(a) In any manner for exhibition or display, places or causes to appear any word, figure, mark, picture, design, draw-

ing, or any advertisement of any nature upon any flag of the United States or of this State.

(b) Exposes to public view any such flag upon which is printed, painted, or placed or to which is attached, appended, affixed, or annexed any word, figure, mark, picture, design, drawing, or any advertisement of any nature.

(c) Exposes to public view, manufactures, sells, exposes for sale, gives away, or has in possession for sale or to give away or for use for any purpose any article or substance being an article of merchandise or a receptacle of merchandise or article or thing for carrying or transporting merchandise upon which is printed, painted, attached, or placed a representation of any such flag, standard, color, or ensign to advertise, call attention to, decorate, mark or distinguish the article or substance on which so placed.

(d) Publicly mutilates, defaces, defiles, or tramples any such flag.

Representations on flags.

615. No provision of this code or of any law of this State which makes unlawful the use of the flag of the United States or of this State or of any picture or representation thereof shall apply to any act permitted by the statutes of the United States or of this State or by any regulations of the United States Army or Navy, nor shall it be construed to apply to any newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant, or commission of appointment to office, ornamental picture, article of jewelry, or stationery for use in correspondence, on which is printed, painted, or placed a flag with no design or writing thereon and not connected with any advertisement.

Certain banners prohibited.

616. Any person who displays a red flag, banner, or badge or any flag, badge, banner, or device of any color or form whatever in any public place or in any meeting place or public assembly, or from or on any house, building, or window as a sign, symbol, or emblem of forceful or violent opposition to organized government or as an invitation or stimulus to anarchistic action or as aid to propaganda that advocates by force or violence the overthrow of government is guilty of a felony.

CHAPTER II. MILITARY REWARDS AND DECORATIONS.

Decorations

640. The following decorations are authorized for members of the National Guard and Naval Militia:

(a) Medal of Valor.

(b) Military Cross.

(c) Medal of Merit.

(d) Service Medal.

The Adjutant General may provide and procure appropriate emblematic devices for each such decoration, together with suitable ribbons and insignia to be worn therewith or in lieu thereof.

Medal of Valor.

641. A Medal of Valor may be presented to each person who, while an officer or enlisted man of the National Guard

or Naval Militia, distinguishes himself by courageous conduct at the risk of his life, above and beyond the call of duty while in the service of the State or of the United States.

No award of the Medal of Valor shall be made except upon clear and incontestable proof by affidavit of at least one eye-witness or person having personal knowledge of the act or deed.

642. A Military Cross may be presented to each person who, while an officer or enlisted man of the National Guard or Naval Militia, distinguishes himself by extraordinary heroism while in the service of the State or of the United States. Military Cross.

643. A Medal of Merit may be presented to each person who, while an officer or enlisted man of the National Guard or Naval Militia, distinguishes himself by exceptionally meritorious service to the State or the United States in a duty of great responsibility or who, by unselfish and untiring activities in connection with the National Guard or Naval Militia, has rendered a distinct service in furthering the interests of and in promoting the security and welfare of the State. Medal of Merit.

644. A Service Medal or bar shall be issued for ten years' service on the active list of the National Guard and of the Naval Militia, and for each period of five years' of service thereafter. Such medal or bar shall be issued to those entitled to the same upon application. Service Medal

645. The Medal of Valor shall be presented by the Governor The Military Cross, the Medal of Merit, the Service Medal, and other authorized medals and awards shall be presented by the Governor or The Adjutant General in the name of the Governor. Presentation of medals

646. No more than one Medal of Valor, or one Military Cross, or one Medal of Merit shall be issued to any one person; but for each succeeding deed or act sufficient to justify the award of a Medal of Valor, or a Military Cross, or a Medal of Merit, a suitable bar or other device denoting such additional award may be issued and worn as directed by appropriate regulations. Additional awards

647. The Adjutant General may procure and issue annually appropriate badges or insignia for excellence in marksmanship and for drill attendance. Marksmanship and attendance badges

648. Decorations authorized by this chapter and decorations, medals, badges, ribbons, and insignia authorized by the laws or regulations of the United States pertaining to the National Guard and Naval Militia may be worn by officers and enlisted men in accordance with such laws or regulations. No other decorations, medals, badges, ribbons, or insignia may be worn. Wearing of decorations

649. The Adjutant General may make from time to time rules, regulations, and orders not inconsistent herewith which he deems necessary to carry into effect the provisions of this chapter. Rules and regulations

DIVISION IV. VETERANS' AID AND WELFARE.

CHAPTER I. VETERANS' WELFARE BOARD.

Veterans' Welfare Board.

690. As used in this division, "board" means the Veterans' Welfare Board.

Members of board

691. There is in the Department of Military and Veterans' Affairs a Veterans' Welfare Board. The board consists of five members appointed by the Governor to hold office for a term of four years. Four members shall be veterans as defined by section 720. The terms of the members of the board in office on the date this division takes effect shall expire on the dates and in the rotation heretofore established. Vacancies shall be filled for the unexpired term. The Governor shall designate one of the veteran members chairman of the board. The secretary need not be a member of the board.

Per diem of members

692. Each member of the board other than the chairman and the secretary, if he is a member of the board, shall receive for each day's attendance at each meeting of the board a per diem fixed by the Department of Finance with the approval of the Governor, and shall also receive the same per diem for each day spent under the direction of the board in the performance of its official duties. The chairman shall receive a salary fixed by the Department of Finance with the approval of the Governor. The members shall also receive their actual necessary traveling expenses in the discharge of their duties. Each member of the board is a civil executive officer.

Salary of chairman.

Quorum

693. Three members of the board constitute a quorum and such quorum may exercise all the power and authority conferred on the board.

Powers of board.

694. The board constitutes a public corporation and may, on behalf of the State, hold property, request and receive donations, contract, sue and be sued, and has all other rights and powers provided by the Constitution and laws of this State as belonging to public corporations.

Cooperation with United States

695. The board may cooperate and contract with the duly authorized representatives of the United States government in carrying out the provisions of this division.

Assistants

696. The board may select and employ necessary expert, technical, legal, clerical, and other employees. Whenever possible preference shall be given to veterans for employment hereunder. The board shall fix the salaries of all employees with the approval of the Department of Finance.

Civil service.

697. The board shall, so far as possible, utilize the services of veterans in administrative and other work for the purpose of carrying out the provisions of this division. Nothing contained in the State Civil Service Act or in any other act shall limit the power of the board to utilize the services of veterans in carrying out the provisions of this division or in the selection of expert or technical assistance.

Investigation of land settlement

698. In furtherance of the provisions of Chapter II of this division, the board may investigate soldiers' land settlement conditions in this State and elsewhere and submit recom-

mendations for legislation deemed necessary or desirable. The board shall render an annual report to the Governor and a copy thereof to the Secretary of the Interior. The report shall be filed and printed as required by law with respect to other official reports to the Governor, with the exception that the report shall be filed annually instead of biennially. Report

699. All State and county officials shall furnish all required information to the board, upon request, and shall further assist the board in any manner in accordance with law and without charge therefor. Information and assistance

700. The board may make rules and regulations to carry out the provisions of this division. Rules and regulations

CHAPTER II. LAND SETTLEMENT.

Article 1. Scope and Object.

720 As used in this chapter, "veteran" means any citizen of the United States who has served on active duty in the Army, Navy, or Marine Corps of the United States in time of war and has received an honorable discharge therefrom or who has been released from active duty under honorable conditions and who was, at the time of his enlistment, induction, commission, or drafting, a bona fide resident of this State, but does not include: "Veteran" defined

(a) A person who was separated from such forces under other than honorable conditions at any time after April 5, 1917.

(b) A person who was separated from the military or naval forces on account of alienage at any time after April 5, 1917.

(c) A person who performed no military duty whatever or refused to wear the uniform.

(d) A person who has received from another State a bonus, compensation, or benefit, the prerequisite of which is service in the army, navy, or marine corps of the United States, which service is the basis for the claim for benefits under this chapter.

(e) A person who did not enter the military or naval forces of the United States prior to November 12, 1918.

721. The object of this chapter is to provide veterans useful employment and the opportunity to acquire farm homes for profitable livelihood on the land and to provide for cooperation of the State with the agencies of the United States engaged in work of a similar character. Object of provisions.

722 No veteran who has taken advantage of the benefits provided by Chapter III of this division may take advantage of the provisions of this chapter. Certain veterans ineligible.

Article 2. State Acquisition of Land.

730. For the purposes of this chapter, the board may acquire on behalf of the State by purchase, gift, or condemnation all lands, water rights, and other property needed Acquisition of property.

for the purposes hereof, and may take title in trust and shall without delay improve, subdivide, and sell such land, water rights, and other property with appurtenances and rights to approved bona fide settlers who are veterans. The board may set aside for town site purposes a suitable area acquired under the provisions of this chapter and subdivide such area and sell or lease the same to veterans or others for cash, or on such terms and in lots of such size, and with such restrictions as to sale as the board deems proper. The board may set aside and dedicate to public use areas for roads, schoolhouses, churches, and other public purposes.

Notice

731. Whenever the board decides that private land should be purchased for settlement under this chapter, it shall give notice by publication in one or more newspapers of general circulation in this State setting forth approximately the location, area, and character of the land desired and the conditions that shall govern the proposed purchase and inviting owners of land to submit such land for inspection.

Inspection and report.

732. Within thirty days after publication of notice, the board shall direct an officer or employee or one or more persons who may, at its request, be designated by the dean of the College of Agriculture of the University of California, to inspect and report on all tracts of land submitted as suitable for closer settlement.

Contents of report

733. Each such report shall as far as practicable specify:

(a) Location, acreage, and brief description of the tracts.

(b) Names and addresses of the owners thereof.

(c) Character of the land and the water rights.

(d) Nature of improvements.

(e) Crops being grown on land.

Appraisal

(f) Appraisement of land, water rights, and improvements.

734. On receiving the reports of all the tracts examined, the board shall decide which tracts are best suited for the purposes of this chapter. Before so deciding the board may examine the land or it may employ one or more competent appraisers to fix the productive value of the land and report thereon in writing. The owner of the land or his agent may give evidence as to its value.

735. If the board is satisfied that one or more of the tracts submitted is suited to intensive closer settlement and may be acquired at a reasonable price, it shall submit to the Governor its report giving the reasons for recommending the purchase.

Purchase

On the approval of the Governor, the board may purchase the same. Such purchase may be made only if the Attorney General approves the title of such lands and any water rights appurtenant thereto and the division of water resources certifies in writing as to the sufficiency of any water rights to be conveyed.

Article 3. Improvement and Sale of Land.

Terms and conditions of sale.

740. All sales to settlers of land under this chapter shall be made upon such terms and conditions which give to the

board full control of any subdivision thereof until all moneys advanced by the State for the purchase, improvement, or equipment of such subdivisions together with interest thereon are fully repaid.

741. Lands disposed of under this chapter, other than land set aside for town sites or public purposes, shall be sold either as farm allotments, each of which shall have a value without improvements, not to exceed fifteen thousand dollars, or as farm laborer's allotments, each of which shall have a value, without improvements, not to exceed one thousand dollars. Farm allotments and farm laborer's allotments

742. Immediately upon taking possession of any land acquired, and after deducting any areas to be set aside for town sites or public purposes in accordance with this chapter, the board shall subdivide it into areas suitable for farm and farm laborer's allotments, and lay out, and, when necessary, construct roads, ditches, and drains for giving access to and insuring proper cultivation for the several farm and farm laborer's allotments. The board, prior to disposing of land to settlers, or at any time within five years from the commencement of the term of the settler's contract of purchase, may: Subdivision

(a) Prepare such land for irrigation and cultivation. Powers of board.

(b) Seed, plant, or fence the land, erect a dwelling and outbuildings on any farm allotment, and make any improvements necessary to render the allotment habitable and productive in advance of or after settlement, the total cost to the board of such dwelling, outbuildings, and improvements not to exceed five thousand dollars on any one farm allotment.

(c) Erect a cottage on any farm laborer's allotment and provide a domestic water supply, the combined cost to the board of the cottage and water supply not to exceed one thousand five hundred dollars on any one farm laborer's allotment.

(d) Make loans not to exceed three thousand dollars to any one settler for the purchase of necessary livestock and equipment, such loans to be made without security or secured in any manner that the board directs.

743. After the purchase of land and before its disposal, the board may lease such land or a part thereof on bonded or secured leases on such terms as it deems fit. Leases.

744. The board may, operate and maintain any irrigation works constructed to serve any lands acquired and sold under the provisions of this chapter. All moneys received in tolls or charges for the operation and maintenance of any works or for any water supplied therefrom shall be deposited in the veterans' welfare fund for land settlement and shall become available for the payment of any charges or expenses authorized by this chapter to be paid from such fund. Irrigation works.

745. Before any part of an area is thrown open for settlement there may be notice thereof given once a week for four weeks in one or more daily newspapers of general circulation in the State, setting forth the number and size of farm allotments or farm laborer's allotments, or both, the prices at which Notice of opening for settlement

they are offered for sale, the terms of payment, and such other particulars as the board deems proper.

Application

746. The notice shall specify a definite period within which applications may be filed with the board on forms provided by the board. The board may reject any and all applications and may readvertise until it receives and accepts the number of applications which it deems necessary.

Proceedings when no application

747. If no application satisfactory to the board is received for any farm allotment or farm laborer's allotment, the board, at any time prior to readvertising, may sell to an approved applicant any such farm allotment or farm laborer's allotment at the price at which it was theretofore offered for sale. In dealing with any farm allotments or farm laborer's allotments for which no application satisfactory to the board was made, the board may subdivide or consolidate any one or more of such allotments and fix the prices thereof within the limits of fifteen thousand dollars for a farm allotment and one thousand dollars for a farm laborer's allotment.

Sale at auction

748. The board may also sell at public auction, under the conditions of sale and notice thereof the board prescribes, any areas which the board determines are not suitable for farm allotments or farm laborer's allotments. If any such area has been included in a farm allotment or farm laborer's allotment, then such sale at public auction may be made only after a failure to receive any application satisfactory to the board.

Sale price

749. The selling prices of the several allotments, other than those set aside for town site and public purposes, shall be fixed by the board so as to render such allotments as nearly as possible equally attractive, and calculated to return to the State the original cost of the land, together with a sufficient sum added thereto to cover all expenses and costs of surveying, improving subdividing, and selling such lands, including the payment of interest, and all costs of engineering, superintendence, administration, the cost of operating any works built, directly chargeable to such land, the price of the land used for roads and other public purposes, and the sum deemed necessary to meet unforeseen contingencies.

Qualifications of purchaser

750. Any veteran who, by purchase under this chapter, would not become the holder of real estate or possessory rights thereto exceeding the value of fifteen thousand dollars, and who is prepared to enter within six months upon actual occupation of the land acquired, may apply for and become the purchaser of either a farm allotment or a farm laborer's allotment. No more than one farm allotment or one farm laborer's allotment shall be sold to any one person. No applicant shall be approved who does not satisfy the board as to his or her fitness successfully to cultivate and develop the allotment applied for. Preference may be given to veterans trained in agriculture under the provisions of the Vocational Rehabilitation Act of Congress approved June 27 1918, or to veterans who were wounded or disabled as a result of their military or naval service, and who are otherwise qualified by experience.

751. Every approved applicant shall enter into a contract of purchase with the board, the terms of which shall be determined by the board. Such applicant shall, if required by the board, apply for a loan from a bank organized under the provisions of the Federal Farm Loan Act, for an amount fixed by the board, and shall pay the board the amount of any loan so made as a partial payment on such land and improvements. The board may make conveyances and receive and accept mortgages or deeds of trust necessary to effectuate such loan and adequately secure the interest of the board and of the State in the premises. Contract of purchase

The amount due on the land may be amortized over a period fixed by the board, not exceeding forty years, together with interest thereon at the rate of five per cent per annum compounded at periods fixed by the board. The amount due on improvements may be amortized over a period fixed by the board, not exceeding twenty years, together with interest at the rate of five per cent per annum compounded at periods fixed by the board. The repayments of loans may extend over a period fixed by the board, not exceeding five years. In each case, the purchaser on any installment date may pay any or all installments still remaining unpaid. In any individual case the board may postpone from time to time, upon such terms as the board deems proper, the payment of the whole or any part of any installment of principal or interest, on account of land, or improvements, or loans. Method of payment

752. Every contract entered into between the board and a purchaser shall provide that the purchaser will cultivate the land in a manner approved by the board and will keep in good order and repair all buildings, fences, and other permanent improvements situated on his allotment, reasonable wear and tear, and damage by fire excepted. The purchaser shall, if required, insure and keep insured against fire or other hazards, all buildings, fences, other permanent improvements, or crops on his allotment, loss if any, under the policies therefor to be made payable to the board as its interest may appear and in the amount and with the insurance companies specified by the board. The board may in its own name insure against fire and other hazards all buildings, fences, improvements, and crops on any of the lands under its control. The board, in any contract under which the board purchases lands hereunder, may provide for the return by the board to the owner so selling of any insurance premium or taxes which have been paid on the property by the owner or for which the owner has become obligated to pay. Provisions of contract

753. If the purchaser fails or neglects to pay, satisfy, and discharge at maturity all taxes and assessments, and all other charges and encumbrances which are a lien upon the property being purchased from the board, or any part thereof, and also all taxes and assessments levied or assessed upon the interest created by the contract of purchase of such property; or to keep the buildings, fences, other permanent improve- Default.

ments, and crops upon such property insured and in good order and repair; or to keep the crops on such property insured; then, in any such event, the board may pay, satisfy, discharge, settle, or compromise the taxes, assessments, charges, or encumbrances, or insure the buildings, fences, permanent improvements, or crops, or do the work and supply the materials necessary to keep the buildings, fences, and other improvements in good order and repair.

Expenditures by board.

754. All moneys so expended by the board shall be added to the selling price of the property and bear interest at the rate of seven per cent per annum compounded semiannually from the date of expending the same, and shall be repaid by the purchaser to the board on demand. The board may amortize the repayment of such expenditures or permit repayment in installments upon the terms and conditions which it deems proper.

Board sole judge of amounts due

755. The board shall be the sole judge of the legality or validity of such taxes, assessments, charges, or encumbrances and the amount necessary to be paid in satisfaction or discharge thereof, of the amount of insurance to be placed upon the buildings, fences, other permanent improvements, and crops situate upon such property and the amount necessary to be paid for the premiums for such insurance, and of the necessity and nature of the work necessary to keep the buildings, fences, and other improvements in good order and repair and of the amount necessary to be paid therefor.

Transfer of allotment

756. No allotment sold hereunder shall, voluntarily or involuntarily, by operation of law or otherwise, be transferred, assigned, encumbered, leased, let or sublet, in whole or in part, without the written consent of the board, until the purchaser has paid therefor in full and has complied with all the terms and conditions of his contract of purchase. When a purchaser dies, indebted to the board under contract of purchase, his rights acquired under this chapter and such contract shall devolve upon his heirs, devisees, or personal representatives, but subject to all rights, claims, and charges of the board. Default on the part of an heir, devisee, or personal representative, with respect to any right, claim, or charge of the board shall have the same effect as would default on the part of the purchaser but for his death.

Cancellation of contract.

757. In the event of a failure of a purchaser to comply with any of the terms of his contract of purchase and agreement with the board, the State and the board may cancel such contract and agreement, and thereupon be released from all obligations, at law or in equity, to convey the property, and the purchaser shall forfeit all right thereto. All payments theretofore made shall be deemed to be rental paid for occupancy. Upon forfeiture, the board shall take possession of the property covered by such contract and shall remove all persons and the personal property therefrom without any liability whatsoever on the part of the board or of any official

or employee thereof for any damage or injury caused by or incident to the entry or removal.

758. The board may require of the purchaser a mortgage or deed of trust or other instrument if necessary under the terms and conditions of the contract of purchase in order to adequately protect and secure the board. There may be included in such contract, mortgage, deed of trust, or other instrument any conditions with reference to sale of the property or reconveyance back to the board or notice of such sale or reconveyance which the board deems necessary adequately to protect the board in the premises. Mortgages and trust deeds.

759. The failure of the board or of the State to exercise any option to cancel or to exercise any other privilege under the contract of purchase for any default shall not constitute a waiver of the right to exercise such option or privilege for any other default on the part of the purchaser. No forfeiture occasioned by default on the part of the purchaser shall in any way, or to any extent, impair the lien and security of the mortgage or trust instrument securing any loan that the board has made. Nonexercise of power not waiver thereof.

760. In the event of a forfeiture of a contract of purchase under the provisions of this chapter, the board may sell, dispose of, lease, or let the property covered by the forfeited contract of purchase to such persons and upon such terms and conditions as it deems proper. Sale upon forfeiture.

761. The board may, in the contract of purchase with a veteran, provide that, in the event of default by the veteran and forfeiture of his rights under the contract and subsequent sale of the property by the board, it may pay to him any net gain realized by the board upon the subsequent sale. The board shall be the sole judge of the net gain. Net gain

762. If illness or accident prevents a purchaser from cultivating his land or harvesting any crop thereon, the board may enter upon and cultivate the land or harvest the crop. In such event the board has a first lien upon the crop for all moneys expended under this section and may sell the harvested crop. Out of the proceeds of the sale the board may reimburse itself for any expense which it has incurred in the cultivation of the land, the harvesting of crops and the sale thereof, and retain any moneys due to the board from the purchaser. Any balance shall be paid by the board to the purchaser. Operation by board

763. Except as in this chapter otherwise provided, no land acquired under the provisions of this chapter shall in any event become liable for any debt contracted prior to the issuance of a deed therefor by the board. Land not liable for prior debts

764. Actual residence on any allotment sold under the provisions of this chapter shall commence within six months from the date of the approval of the application and shall continue for at least eight months in each calendar year for at least five years from the date of the approval of the application, unless prevented by illness or some other cause satisfactory to the board. In case any allotment disposed of Residence

under this chapter is returned to and resold by the State, the time of residence of the preceding purchaser may in the discretion of the board be credited to the subsequent purchaser.

Eminent domain.

765. The power of eminent domain shall be exercised by the State at the request of the board for the condemnation of water rights and rights of way for roads, canals, ditches, dams and reservoirs, necessary or desirable for carrying out the provisions of this chapter. On request of the board the Attorney General shall bring the necessary and appropriate proceedings authorized by law for such condemnation of water rights or rights of way. The cost of all water rights or rights of way so condemned shall be paid out of the veterans' welfare fund for land settlement.

Appropriation of water

The board shall have full authority to appropriate water under the laws of the State when such appropriation is necessary or desirable for carrying out the purposes of this chapter.

Article 4. Funds.

Revolving fund.

770. There is in the State treasury a revolving fund known as the veterans' welfare fund for land settlement. All moneys in such fund at the time this chapter becomes effective shall remain in such fund and be subject to the provisions of this chapter.

The Controller is authorized and directed to draw warrants upon such fund from time to time upon requisition of the board approved by the State Board of Control, and the Treasurer is hereby authorized and directed to pay such warrants.

Payments into fund

771. The money paid by purchasers on lands, improvements, or in the repayment of advances, shall be deposited in the veterans' welfare fund for land settlement and be available for the purpose of carrying out the provisions of this chapter.

Contingent fund.

772. The Department of Finance may provide for advances of money to the board, needed to meet contingent expenses, to an amount not to exceed twenty-five thousand dollars, as the Department of Finance deems necessary. Such advances shall be administered as a revolving fund or funds.

CHAPTER III. FARM AND HOME PURCHASE.

Article 1. Scope and Object.

Definitions.

800. As used in this chapter, unless the context otherwise requires:

Veteran

(a) "Veteran" means any citizen of the United States who has served on active duty in the army, navy or marine corps of the United States in time of war for not less than sixty days and has received an honorable discharge therefrom or who has been released from active duty under honorable conditions and who was, at the time of his enlistment, induction, commission, or drafting, a bona fide resident of this

State or who, if a minor at such time, had lived in this State for six months immediately preceding his enlistment, induction, commission or drafting; but does not include:

(1) A person who was separated from such forces under other than honorable conditions at any time after April 5, 1917.

(2) A person who was separated from the military or naval forces on account of alienage at any time after April 5, 1917.

(3) A person who performed no military duty whatever or refused to wear the uniform.

(4) A person who has received from another State a bonus, compensation, or benefit, the prerequisite of which is service in the army, navy, or marine corps of the United States, which service is the basis for the claim for benefits under this chapter.

(5) A person who did not enter the military or naval forces of the United States prior to November 12, 1918.

(b) "Farm" means a tract of land which, in the opinion of the board, is capable of producing sufficient to provide a living for the purchaser and his dependents. Farm.

(c) "Home" means a parcel of real estate upon which there is a dwelling-house and such other buildings as will, in the opinion of the board, suit the needs of the purchaser and his dependents as a place of abode. Home

(d) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the board. Purchaser.

(e) "Purchase price" means the price which the board pays for any farm or home. Purchase price

(f) "Selling price" means the price for which the board sells any farm or home. Selling price.

(g) "Initial payment" means the first payment to be made by a purchaser to the board for a farm or home. Initial payment

801. The object of this chapter is to provide veterans with the opportunity to acquire farms and homes. Purpose of provisions.

802. The administration of the provisions of this chapter is vested in the Veterans' Welfare Board. Administration

803. No veteran who has taken advantage of the benefits provided by the provisions of Chapter II or Chapter IV of this division may take advantage of the opportunities offered under this chapter. Certain veterans ineligible

804. No veteran shall receive the benefits hereof who, in the case of the purchase of a farm would thereby become the holder of real estate exceeding in value twelve thousand five hundred dollars or who in case of the purchase of a home would thereby become the holder of real estate exceeding in value seven thousand five hundred dollars. Limit of value of property of veteran.

(Amended by Ch. 822, Stats. 1935.)

[ORIGINAL SECTION.]

804 No veteran shall receive the benefits hereof who, in the case of the purchase of a farm or a home would thereby become the holder of real estate exceeding in value seven thousand five hundred dollars.

Article 2. Acquisition and Sale of Farms and Homes.

Qualification of veterans.

810. The board shall prescribe and determine the qualifications of all veterans. Any person deeming himself a veteran and desiring to benefit hereunder, shall submit to the board information, in such form as the board prescribes, which will enable the board to determine his eligibility and qualifications. The board may make further inquiries and investigations in order to determine such eligibility and qualifications. Veterans who are otherwise qualified and who were wounded or disabled as a result of their service shall be given preference in the benefits conferred by this chapter. The board shall determine, in each case, whether or not the veteran was wounded or disabled as a result of service.

Rights of widow of applicant.

811. If a veteran dies after filing his application for a farm or a home, and his application setting forth his eligibility and qualifications is subsequently approved, his widow may, in the discretion of the board, succeed to his rights under the application, and may be entitled to the rights, privileges, and benefits under this chapter that would have been his, but for his death. The contract of purchase which the board otherwise would have made with such veteran may be made with his widow.

Selection.

812. When a veteran has been authorized by the board to select a farm or home, he shall submit his selection in such form as the board prescribes.

When board may purchase

813. The board may purchase such farm or home from the owner thereof upon the terms agreed if:

(a) The board is satisfied of the desirability of the property submitted.

(b) The veteran has agreed with the board actually to reside on the property within sixty days from the date of purchase by the board.

(c) The purchase price of the property does not exceed the sum of seven thousand five hundred dollars in the case of a farm, or five thousand dollars in the case of a home.

Maximum value of farm or home.

814. The board may acquire in any manner for sale to a veteran a home in this State, the value of which does not exceed the sum of seven thousand five hundred dollars, or a farm in this State the value of which does not exceed the sum of twelve thousand five hundred dollars

(Amended by Ch. 822, Stats. 1935.)

[ORIGINAL SECTION.]

814. The board may acquire in any manner for sale to a veteran a farm or a home in this State, the value of which does not exceed the sum of seven thousand five hundred dollars.

Maximum cost to board.

815. The cost of a home to the board shall not exceed the sum of five thousand dollars, and a veteran purchasing the home may advance not to exceed two thousand five hundred dollars on the purchase price of the home so that the total purchase price thereof does not exceed seven thousand five hundred dollars. The cost of a farm to the board shall not

exceed seven thousand five hundred dollars, and a veteran purchasing the farm may advance not to exceed five thousand dollars on the purchase price of the farm so that the total price thereof does not exceed twelve thousand five hundred dollars.

(Amended by Ch. 822, Stats. 1935.)

[ORIGINAL SECTION.]

815 The cost of a home to the board shall not exceed the sum of five thousand dollars, and a veteran purchasing the home may advance not to exceed two thousand five hundred dollars on the purchase price of the home so that the total purchase price thereof does not exceed seven thousand five hundred dollars.

Acquisition when veteran has interest

816. The board may acquire a farm or home in which the veteran to whom such farm or home is to be sold has theretofore acquired an interest.

Appraisal

817. Before the purchase of any property by the board there shall be filed with the board an appraisement of the market value of the property by a member or an authorized agent of the board, and by an officer or an authorized appraiser of a banking corporation formed under the laws of this State, or by the manager of a branch bank of such banking corporation, or by an officer or cashier of a National banking association, having a place of business in the county in which the property or some portion thereof is situated. If there is no such banking corporation or National banking association having a place of business in the county in which the property or some portion thereof is situated, then such appraisement shall be filed by an officer or an authorized appraiser, or the manager of a branch bank of such a banking corporation, or by an officer or cashier of a National banking association, having a place of business in a county adjacent thereto. Each appraisement shall be verified by the maker thereof. The verification shall state that it is made in good faith, and that the valuation is honestly determined and represents the bona fide opinion of the maker.

Title.

818. The board, before consummating a purchase under the provisions of this chapter, shall cause the title of the property sought to be purchased to be examined and may require for that purpose an abstract, an unlimited certificate of title, or a policy of title insurance, and may refer the same to the Attorney General for his opinion.

Contract.

819. The board shall then enter into a contract with the veteran for the sale of the property to the veteran. The board shall fix the selling price of the property by adding to the purchase price thereof, or to the value of such property as determined by the board when such property is acquired by the board in a manner other than by purchase, all expenses incurred and estimated to be incurred by the board in relation thereto, inclusive of interest, administration, appraisals, examination of title, incidental expenses, and the sum deemed necessary to meet unforseen contingencies,

Initial payment.

820. The purchaser shall make an initial payment of at least ten per cent of the selling price of the property, in case of a farm and five per cent in the case of a home. The balance of the selling price may be amortized over a period fixed by the board, not exceeding forty years, together with interest thereon at the rate of five per cent per annum compounded at periods fixed by the board. The purchaser on any installment date may pay any or all installments still remaining unpaid. In any individual case the board may for good cause postpone from time to time, upon terms as the board deems proper, the payment of the whole or any part of any installment of the selling price or interest thereon.

Installments.

Transfer.

821. The board in each individual case may specify the terms of the contract entered into with the purchaser, but no property sold under the provisions of this chapter shall, voluntarily or involuntarily, by operation of law or otherwise, be transferred, assigned, encumbered, leased, let or sublet, in whole or in part, without the written consent of the board, until the purchaser has paid therefor in full and has complied with all the terms and conditions of his contract of purchase.

Provisions of contract.

822. The contract made between the board and purchaser shall provide that the purchaser maintain the farm or home as his place of residence and keep in good order and repair all buildings, fences, and other permanent improvements situate thereon and that the purchaser, if required, insure and keep insured against fire or other hazards, all buildings, fences, other permanent improvements, or crops on the property, loss, if any, under the policies therefor to be made payable to the board as its interest appears. Insurance shall be in the amount, with the insurance companies, and under the conditions specified by the board.

Default.

823. If the purchaser fails or neglects to pay, satisfy, and discharge at maturity all taxes and assessments, and all other charges and encumbrances which are a lien upon the property being purchased from the board, or any part thereof, and also all taxes and assessments levied or assessed upon the interest created by the contract of purchase of such property; or to keep the buildings, fences, other permanent improvements upon such property insured and in good order and repair, or to keep the crops upon such property insured; or to keep in good order and repair all buildings, fences, and other permanent improvements situated upon such property; then, in such event, the board may pay, satisfy, discharge, settle, or compromise the taxes, assessments, charges, or encumbrances, or insure the buildings, fences, permanent improvements, or crops, or do the work and supply the materials necessary to keep the buildings, fences, and other improvements in good order and repair. All moneys so expended by the board shall be added to the selling price of the property and bear interest at the rate of seven per cent per annum compounded semi-annually from the date of expending the same, and shall be repaid by the purchaser to the board on demand. The board

may amortize the repayment of such expenditures or permit repayment in installments upon the terms and conditions which it deems proper.

824. The board shall be the sole judge of: Board sole judge of amounts due.

(a) The legality or validity of taxes, assessments, charges, or encumbrances, and the amount necessary to be paid in satisfaction or discharge thereof.

(b) The amount of insurance to be placed upon the buildings, fences, other permanent improvements, and crops and the amount necessary to be paid for the premiums for such insurance.

(c) The necessity and nature of the work necessary to keep the buildings, fences, and other improvements in good order and repair, and the amount necessary to be paid therefor.

825. In the event of a failure of a purchaser to comply with any of the terms of his contract of purchase, the board may cancel such contract, and thereupon be released from all obligations, at law or in equity, to convey the property, and the purchaser shall forfeit all right thereto. All payments theretofore made shall be deemed to be rental paid for occupancy. Upon such forfeiture, the board shall take possession of the property covered by such contract, and shall remove all persons and personal property therefrom without any liability whatsoever on the part of the board or of any official or employee thereof for any damage or injury caused by or incident to the entry or removal. The failure of the board to exercise any option to cancel or to exercise any other privilege under such contract for any default shall not constitute a waiver of the right to exercise such option or privilege for any other default on the part of the purchaser Cancellation.

826. In the event of a forfeiture of a contract of purchase under the provisions of this chapter, the board may sell or otherwise dispose of the property covered by the forfeited contract to such person and upon such terms and conditions as it deems proper. Sale after forfeiture.

827. The board may, in the contract of purchase with a veteran, provide that, in the event of default by the veteran and forfeiture of his rights under the contract and subsequent sale of the property by the board, it may pay to him any net gain realized by the board upon the sale. The board is the sole judge of the net gain. Net gain

828. The board may insure and keep insured against fire or other hazards all buildings, fences, other permanent improvements, or crops situated upon any property which has reverted to and is under the control of the board, or may do the work and supply the materials necessary to keep the buildings, fences, and other improvements situated upon the property in good order and repair. The board may lease or let the property, in whole or in part, upon such terms as it deems proper. In the case of a farm, the board may cultivate the farm or harvest the crop. Insurance of reverted property Lease or cultivation

Operation by board.

829. If illness or accident prevents a purchaser of a farm from cultivating his farm or harvesting any crop, the board may enter and cultivate the farm or harvest the crop. In such event the board has a first lien upon the crop for all moneys expended and may sell the harvested crop. Out of the proceeds of the sale the board may reimburse itself for any expense which it has incurred in the cultivation of the farm, the harvesting of crops and the sale thereof, and retain any moneys due to the board from the purchaser. Any balance shall be paid by the board to the purchaser.

Succession.

830. When a purchaser dies, indebted to the board under contract of purchase, his rights acquired under this chapter and such contract shall devolve upon his heirs, devisees, or personal representatives, but subject to all rights, claims, and charges of the board. Default on the part of an heir, devisee, or personal representative, with respect to any right, claim, or charge of the board shall have the same effect as would default on the part of the purchaser but for his death.

Article 3. Funds.

Revolving fund.

840. There is in the State treasury a revolving fund known as the veterans' farm and home building fund. All moneys in such fund at the time this chapter becomes effective shall remain in such fund and be subject to the provisions of this chapter. Moneys may be withdrawn from such fund in accordance with law upon requisition of the board.

Disposition of money.

841. The money paid by purchasers shall be deposited in the veterans' farm and home building fund and be available for the purpose of carrying out the provisions of this chapter.

CHAPTER IV. EDUCATIONAL ASSISTANCE.

Article 1. Veterans.

"Veteran" defined.

870. As used in this article, "Veteran" means any citizen of the United States who has served on active duty in the army, navy, or marine corps of the United States in time of war and has received an honorable discharge therefrom or who has been released from active duty under honorable conditions and who was, at the time of his enlistment, induction, commission, or drafting, a bona fide resident of this State, but does not include:

(a) A person who was separated from such forces under other than honorable conditions at any time after April 5, 1917.

(b) A person who was separated from the military or naval forces on account of alienage at any time after April 5, 1917.

(c) A person who performed no military duty whatever or refused to wear the uniform.

(d) A person who has received from another State a bonus, compensation, or benefit, the prerequisite of which is service

in the army, navy, or marine corps of the United States, which service is the basis for the claim of benefits under this article.

(e) A person who did not enter the military or naval forces of the United States prior to November 12, 1918.

California Veterans' Educational Institute

871. There is in the State government an educational institution known as the California Veterans' Educational Institute, which is under the management and control of the Veterans' Welfare Board. The purpose of the institute is to provide opportunities for veterans to continue their education.

Application.

872. Any veteran who desires to continue his education may apply for admission to the institute and if, in the opinion of the board, the educational needs and desires of the veteran can be satisfactorily met in educational institutions in this State, the board shall assume State wardship over the education of such veteran. The board may provide educational counsel for students and assist them in securing admission to suitable institutions of learning. Private tuition schools may be chosen only when suitable opportunity is not available in public or semipublic institutions.

Powers of board.

873. The board, in so far as the funds permit, may provide:

(a) For the payment of transportation charges once each year from the home of the student to and from the institution of learning.

(b) For the payment of tuition and other fees.

(c) For the purchase of necessary books and supplies.

(d) For the monthly payment of an allowance for the living expenses of the student in an amount not exceeding forty dollars per month for the time the student is in actual attendance at a day school, absence during the month on account of illness to be included as a part of such attendance.

Limit of expenditure.

874 The amount expended on account of any one veteran under the provisions of this article shall not exceed one thousand dollars.

Order of considering applications

875. The board shall consider the application of veterans for admission to the institute in the order in which they are received. If the funds available are insufficient to meet the obligations which would arise from the guardianship of all worthy applicants, the board shall assume wardship over such veterans as are most urgently in need of further education.

Cooperation with United States.

876. The board may cooperate and confer with authorized agencies of the United States in carrying out the provisions of this article.

Certain veterans ineligible.

877. No veteran who has taken advantage of the benefits provided by Chapters II or III of this division may take advantage of the provisions of this article.

Unexpended balance.

878. Nothing in this article shall be construed as repealing the provisions of Chapter 579, Statutes of 1921, appropriating money for educational assistance to veterans. Any unexpended balance of such appropriation may be expended under the provisions of this article.

Article 2. Veterans' Dependents.

Definitions

890. As used in this article:

Veteran.

(a) "Veteran" means any person who served in the army, navy, or marine corps of the United States and was killed in action or died as a result of war service in the World War from April 6, 1917, to July 2, 1921.

Dependent of veteran

(b) "Dependent of a veteran" means the child of a veteran.

Eligibility of dependent.

891. A dependent of a veteran applying for aid under the provisions of this article shall be over sixteen and not more than twenty-one years of age and shall have lived in this State for five years immediately preceding the date upon which the application is filed.

Application

892. A dependent of a veteran who desires to continue his education may apply to the board. If in the opinion of the board the educational needs of the applicant can be satisfactorily met in educational institutions in this State, the board shall assume State wardship over the education of the applicant. The board may provide educational counsel for applicants and assist them in securing admission to suitable institutions of learning. Private tuition schools may be chosen only when suitable opportunity is not available in public or semipublic institutions.

Powers of board.

893. The board, in so far as the fund permits, may provide:

(a) For the payment of tuition and other fees.

(b) For the purchase of necessary books and supplies.

(c) For the monthly payment of an allowance for living expenses of the student.

Limit of expenditure.

894. For students of collegiate, business, and trade school rank the amount expended by the board shall not exceed twenty-five dollars per month. For students of secondary schools the amount shall not exceed fifteen dollars per month, during the time the student is in actual attendance at a day school. Absence during the month on account of illness shall be included as part of such attendance.

895. The amount expended on account of any one applicant of collegiate, business, and trade school rank under the provisions of this article shall not exceed two hundred fifty dollars for any one year, and for students of secondary school rank the sum shall not exceed one hundred thirty-five dollars for any one year.

Order of considering applications

896. The board shall consider applications in the order in which they are received. If the funds available are insufficient to meet the obligations which would arise from the guardianship of all worthy applicants, the board shall assume wardship over the applicants who are most urgently in need of further education.

Fund

897. There is in the State treasury a veterans' dependents' education fund. All moneys in such fund shall be expended in accordance with law by the board in providing instruction,

educational counsel, textbooks, quarters, and assistance for dependents of veterans.

Continuing appropriation.

898. The sum of twenty-five thousand dollars is hereby annually appropriated from the receipts collected under the provisions of Chapter 303, Statutes of 1921, other than those receipts received from rents, bonuses, and royalties accruing from the use of State school land, to carry out the purposes of this article. Such amount shall annually be paid into the veterans' dependents' education fund.

CHAPTER V. LOCAL AID.

Article 1. Indigent Veterans.

"Veteran" defined

920. As used in this article, unless the context otherwise indicates, "veteran" means a person who has been honorably discharged from any branch of the United States Army or Navy, or the American Red Cross, and who has served in any war in which the United States has been engaged.

Aid by board of supervisors.

921. The board of supervisors of any county may grant financial assistance, relief, and support to indigent veterans. Such assistance, relief, and support shall be administered through and by any military, naval, or marine organization created for the purpose of aiding, relieving, and supporting such veterans under the terms and conditions set forth in this article.

Assistance by organization

922. Any organization desiring to assist indigent veterans shall first file with the board of supervisors of the county in which it is operating or intending to operate, a verified statement setting forth the following:

Statement by organization

(a) Name, objects, and purposes of the organization. One of the purposes shall be that mentioned in section 921.

(b) Date of organization.

(c) Names and addresses of officers and relief committee.

(d) Name and address of the treasurer or financial officer in charge of the receipt and disbursement of funds.

(e) Number of members.

(f) Financial condition, showing total assets and liabilities.

(g) That financial assistance for indigent veterans to be administered in accordance with the provisions of this article will be requested.

Notice of hearing

923. Upon the filing of the statement the board of supervisors shall set a day for its consideration not more than ten days after the date of filing. At least five days' notice of the hearing shall be given by mail to the clerk or secretary of the organization.

Hearing

924. On the day set, the board of supervisors shall, after hearing any evidence presented, determine by resolution entered upon its minutes whether the organization is qualified to carry out this article. The resolution shall be effective for a period of one year only and may be revoked at any time.

Resolution

Bond of financial officer.

925. No money shall be transferred to any person under this article except to the treasurer or financial officer whose name is given in the statement required by section 922. The

treasurer or financial officer shall, before receiving any money hereunder, file with the board of supervisors a bond or undertaking signed by at least two sureties, in an amount fixed by the board of supervisors. The bond shall inure to the benefit of the county and shall be conditioned upon the faithful and honest administration of the funds intrusted to such officer.

Request by organization.

926. Upon receipt of a request from any organization qualified under this article, giving the names of all indigent veterans for whom relief is desired, together with the branch of service, division, regiment, and company, or other unit or designation by which each of such veterans may be identified, and a further statement that the circumstances of each of such veterans has been personally investigated by the relief committee of the organization, and that each is in all respects worthy and entitled to relief hereunder, the board of supervisors may direct the county auditor to draw his warrant upon the county treasurer for the amount specified in the request, or a lesser amount. Such warrant shall be delivered to the treasurer or financial officer of the organization.

Money used only for aid.

927. All money paid out by any county under this article shall be used by the organization receiving it exclusively for the relief of indigent veterans and no part of it shall ever be used for administration or overhead expenses.

Persons eligible for aid.

928. The indigent and dependent widow, minor child, father, or mother of any indigent veteran may be granted relief by the organization out of the money available under this article.

Burial or cremation.

929. The necessary expenses, not to exceed seventy-five dollars, for burial or cremation of any indigent veteran may be paid out of the money available under this article.

Tax levy.

930. The money necessary to carry out this article may be taken from the general fund of the county, or the board of supervisors may levy a special tax therefor not to exceed one-half cent on each one hundred dollars of assessed valuation of all property within the county.

Aid by municipalities.

931. Any municipal corporation may extend assistance to any organization under this article. In such case all proceedings required to be had before the board of supervisors of the county shall be had before the legislative body of the city. The words "board of supervisors," "county," "county auditor" and "county treasurer" wherever used in this article shall mean "legislative body," "city," "city auditor" and "city treasurer."

Article 2. Burial of Veterans and Veterans' Widows.

"Veteran" defined.

940. As used in this article, unless the context otherwise indicates, "veteran" means an honorably discharged soldier, sailor, marine, or nurse who has served in or with the army or navy of the United States.

Not to apply to veterans in homes.

941. This article shall not apply to soldiers, sailors, or marines who die in the national or State soldiers' homes in this State.

942. The board of supervisors of each county shall designate an honorably discharged soldier, sailor or marine in the county who has served in or with the army or navy of the United States and who shall cause to be decently interred the body of any veteran or widow of a veteran who dies in the county without having sufficient means to defray the expenses of burial, other than moneys paid or due and payable by the United States, pursuant to the World War adjusted compensation act. Designation of administrative officer.

943. Such burial shall not be made in any cemetery or burial ground, or any portion thereof, used exclusively for the burial of the pauper dead. Burial not to be made in pauper's field.

944. In the event a deceased veteran or a widow of a veteran has been interred other than by the person designated by the board of supervisors, the person so designated may pay the sum of one hundred twenty-five dollars toward the burial expenses of the person who would have been entitled to interment by the person designated by the supervisors. Private burial.

945. The expenses to the county of each burial or contribution shall not exceed the sum of one hundred twenty-five dollars. Claims therefor and the proof required under the terms of this article may be made at any time within sixty days after the date of the death of the veteran or widow of a veteran. Limit of expenditures

946. Such claims shall be paid by the county in which the veteran or widow dies. If the decedent was a resident of any other county than the one paying the claim, the county of the decedent's residence shall refund the money advanced by the county where such person died. Such claims shall be audited and paid by the county as other accounts. County of residence liable.

947. The person appointed under section 942, before he assumes the charge and expenses of any burial, shall first satisfy himself by a careful inquiry into and examination of all the circumstances in the case that the family of the decedent, if any, residing in the county, is unable for want of means to defray the expenses of the burial. If he finds such inability he shall cause the decedent to be buried as provided in this article. He shall immediately report his action to the clerk of the board of supervisors of the county, stating all the facts and that he found the family of the decedent in indigent circumstances and unable to pay the expenses of the burial. He shall also report the name, rank, and command of the veteran, the date of death, place of burial, occupation, and an itemized statement of the expenses of such burial. Duty of administrative officer

948. The clerk of the board of supervisors, upon receiving the report and statement of expenses, shall transcribe in a book kept for that purpose all the facts contained in the report respecting such decedent. The clerk, upon the burial of any honorably discharged soldier, sailor, or marine, shall make application to the proper authorities of the United States, for a suitable headstone, as provided by act of Congress, and cause the same to be placed at the head of the Duty of clerk. Headstone

grave of such soldier, sailor, or marine. The expenses shall not exceed five dollars for cartage and properly setting each stone.

Maintenance of graves

949. The board of supervisors shall perpetually maintain the grave of any such honorably discharged soldier, sailor, or marine. The expenses thus incurred shall be audited and paid as provided in section 943 for burial expenses.

Compensation of administrative officer.

950. The person appointed under section 942 shall receive no compensation for any duties he may perform in compliance with this article.

Article 3. Care of Veterans' Graves.

Marking and care of veterans graves.

960. Whenever in any cemetery or place of burial of human remains, which is established or organized under the authority of the board of supervisors of any county or the governing body of any city, there is any known grave of a former soldier, sailor, or marine of the United States who was not dishonorably discharged from the service, the officers who manage such cemetery or place of burial shall keep such grave properly marked and identified, and free from weeds and rubbish, and keep in decent order and repair and free from defacement, injury, and unlawful markings any tomb, monument, gravestone, wall, or other appurtenance to such grave.

Burial plots of fraternal or benevolent associations.

961. Any fraternal or benevolent organization which maintains a plot in a place of burial mentioned in section 960, which is devoted exclusively to the burial of soldiers, sailors, or marines of the United States, may apply under this article to the board of supervisors of the county in which the plot is maintained. Upon a showing of need, the board may keep the plot free from weeds and rubbish, and keep in decent order and repair and free from defacement and injury any tomb, monument, gravestone, wall, or other appurtenance to the graves in the plot.

Tax levy.

962. The officers who are charged by law with raising money by taxation for maintaining any such cemetery or place of burial shall fix the tax levy at an amount sufficient to comply with the requirements of this article.

DIVISION V. VETERANS' INSTITUTIONS.

CHAPTER I. VETERANS' HOME OF CALIFORNIA.

1010. As used in this chapter:
(a) "Home" means the Veterans' Home of California.
(b) "Board" means the board of directors of the home.
(c) "Veterans" means a member of the home.
(Amended by Ch. 822, Stats. 1935.)

[ORIGINAL SECTION.]

1010. As used in this chapter:
(a) "Home" means the Veterans' Home of California.
(b) "Board" means the board of directors of the home.
(c) "Veterans" means an inmate of the home.

1011. There is in the Department of Military and Veterans' Affairs a Veterans' Home of California, which is situated at Yountville, Napa County. Veterans' Home.

1012. The home is for aged and indigent ex-soldiers, sailors, and marines of the United States. The property of the home shall be used for this purpose. Purpose

1013. All property conveyed to and accepted by the State under the provisions of Chapter 101, Statutes of 1897, and any other property conveyed to and accepted for the home shall be the property of the home the same as though the description of such property and acceptance thereof were herein set forth. Property.

1014. The home shall be under the management and control of the board. Management.

1015. The board consists of seven members appointed by the Governor for a term of four years. The terms of the members in office at the time this chapter takes effect shall expire on the dates and in the rotation heretofore established. Vacancies shall be filled by the Governor for the unexpired term. Board

1016. Each member of the board shall within thirty days after his appointment take and file with the Secretary of State the oath required of State officers. Oath.

1017. The president and vice president of the board in office at the time this chapter takes effect shall remain in office until the expiration of their respective terms. Thereafter the board shall elect from its members a president and vice president for terms of two years each. Vacancies shall be filled in the same manner by the board for the unexpired terms. Officers of board.

1018. The commandant, surgeon, quartermaster, adjutant, finance officer, chaplain, and assistant surgeons in office at the time this chapter takes effect shall remain in office until the expiration of their respective terms. Thereafter the board shall appoint, subject to civil service, qualified persons to fill such offices for terms of two years, none of whom shall be members of the board. Vacancies shall be filled by the board for the unexpired terms. Officers of home

(Amended by Ch 822, Stats. 1935.)

[ORIGINAL SECTION.]

1018. The commandant, secretary, treasurer, surgeon, assistant surgeon, quartermaster, and commissary in office at the time this chapter takes effect shall remain in office until the expiration of their respective terms. Thereafter the board shall appoint qualified persons to fill such offices for terms of two years, none of whom shall be members of the board. Vacancies shall be filled by the board for the unexpired terms.

1019. Officers of the home shall take the oath of office required of State officers, shall file a bond in form and amount approved by the board, and shall reside at the home. Officers may be removed by the board for cause after a hearing. Oath and bond.

1020. The board, subject to civil service, may appoint employees of the home, and shall prescribe the duties and compensation of all officers and employees. Employees

(Amended by Ch. 822, Stats. 1935.)

[ORIGINAL SECTION.]

1020. The board may appoint employees of the home who shall serve at the pleasure of the board, and shall prescribe the duties and compensations of all officers and employees.

Traveling expenses

1021. Each director and officer shall receive his actual and necessary traveling expenses in attending meetings of the board and in traveling on business authorized by the board. Such expenses shall be paid out of any moneys appropriated for the support of the home.

Office expenses

1022. The board may maintain an office in San Francisco. The total expenses of such office, including clerical service, rent, light, fuel, telephone, and janitor, shall not exceed one thousand five hundred dollars per annum.

Powers of board.

1023. The board may sue and be sued in any of the courts of this State. All property held by the board shall be held in trust for the State and for the use and benefit of the home. The board shall manage the home, and administer its affairs, make by-laws for the government of the board, and adopt rules and regulations for the government of the home, in conformity as nearly as possible, to the rules and regulations of the United States Soldiers' Home and branches thereof.

Records

1024. The board shall keep a complete record of its proceedings which shall be open at all times to the inspection of any citizen.

Inspection.

1025. The home shall be open at any time to the inspection of the board of managers of the National Home for Disabled Volunteer Soldiers.

Keeping of records, reports, accounts

1026. The records, reports, and accounts kept by the board shall conform to the requirements of the board of managers of the National Home for Disabled Volunteer Soldiers.

Register.

1027. The board shall keep a general register, in which shall be recorded concerning each applicant for admission:

(a) Name, age, place of birth, and occupation.

(b) Date of admission, or date of rejection, if not admitted

(c) Residence at time of admission, length of residence in this State immediately prior to admission, and residence at time of entering the service.

(d) Date of enlistment, company, regiment, branch or arm of service, and date of discharge.

(e) Disease, wounds, or disability.

(f) Married or single.

(g) Pensioner or not, rate of pension, estate, and income.

(h) All fraternal societies to which he belongs.

(i) Date of discharge from the home and reason therefor, place of and date of death and place of burial.

(j) Remarks.

Meetings.

1028. The board shall hold stated meetings at least once a month at its office in San Francisco and at least once every three months at the home.

Quorum.

1029. A majority of the members of the board shall constitute a quorum for the transaction of business.

Report to Governor.

1030. The board shall report to the Governor before the first day of January of each year stating all receipts and

expenditures, the condition of the home, the number of veterans received and discharged during the preceding fiscal year, and such other matters touching upon the management, conduct, and interests of the home as the board deems proper, or as are required by the Governor.

The board shall also make any other reports which the Governor requires. All reports shall be verified by the president of the board, or in his absence by the vice president, and shall be certified by the secretary of the board.

Fund

1031. There is in the State treasury a Veterans' Home of California Federal fund. All moneys received by the State from the United States for the use of the home shall be placed to the credit of this fund.

Wages.

1032. The board shall fix a schedule of wages for veterans who are employed at the home.

Audits.

1033. All bills and charges against the board for supplies, salaries, or other expenses shall be prepared and audited in the manner provided by law and warrants therefor shall be paid out of the Veterans' Home of California Federal fund or any money available for such purposes according to the directions of the board approved by the Department of Finance.

Disposition of money.

1034. Except moneys received from the State for disbursement, all moneys received by the board or by any officer of the home, including pension and other moneys belonging to veterans and other trust moneys, shall be immediately paid to the treasurer of the home On or before the tenth day of each month the treasurer of the home shall forward to the State Treasurer all moneys in his possession, except pension and other moneys belonging to veterans, trust moneys, the post fund, and the emergency fund, hereinafter mentioned, together with a statement of the sources from which the same have been received. The moneys shall be deposited by the State Treasurer to the credit of the general fund of the State.

Pension money.

1035. Any balance of pension moneys of any pensioner held by the board, or by its authority, shall, upon the death of the pensioner, where undisposed by will, be held as a trust fund, to be paid by the board upon proper proof, directly and without probate, to the heirs of the pensioner.

If no heirs are discovered within five years after the death of the pensioner, or if the heirs discovered within such time are not entitled to the whole thereof, the moneys not paid to the heirs, and undisposed of by will, shall be paid to the post fund of the home which fund shall be used for the common benefit of the veterans under the direction of the board.

Deposits by veterans

1036. The veterans may voluntarily deposit money with the board, which the board shall receive and keep without charge as a trust fund.

Withdrawal of deposits

1037. The money belonging to a veteran and voluntarily deposited with the board may be withdrawn, in whole or in part, at the will of the veteran. Any balance remaining upon his death, undisposed by will, and not paid to his heirs at law

within the time and in the manner hereinbefore provided, shall be paid to the post fund.

Unclaimed deposits

1038. All money deposited with the board for a veteran shall be paid to him on demand, upon his discharge from or voluntary leaving the home. If such money is not so demanded at the time of discharge or leaving or within a period of five years thereafter, or demanded by the heirs, devisees, or legatees in case of his decease after his discharge or voluntary leaving, the same shall be paid to the post fund.

Termination of trusts.

1039. All moneys received by the board under specific trust agreements shall be paid into the post fund five years after the trust agreement terminates if not claimed by the heirs, devisees, or legatees of the veteran as hereinabove provided.

Personal effects of deceased veterans.

1040. The personal effects of deceased veteran shall be held for the heirs, devisees, or legatees for the period of one year from the date of his death. The personal effects of a veteran who is discharged or voluntarily leaves shall be held for the veteran himself or his heirs, devisees, or legatees for the period of one year from the date of discharge or leaving.

Charge for keeping personal effects.

1041. The officer in charge may make a monthly charge for the safe-keeping of the unclaimed personal effects of veterans. If the charge is not paid a lien upon the effects to secure its payment shall accrue to the State. If the amount due is not paid within three years then the lien may be foreclosed and the officer in charge may proceed by public or private sale to sell the property or so much thereof as is necessary to satisfy the lien and costs of sale. The sale shall take place at a public place in the home, and notice of sale shall be posted in such place at least ten days previous to the date of sale. The proceeds of sale shall be credited to the post fund.

Sale.

Interest

1042. All accrued interest on moneys turned over to the treasurer and retained by him under this chapter shall be accounted for by him and deposited to the credit of the post fund and used for the common benefit of the veterans.

Persons eligible for admittance.

1043. With the exception of officers and employees and their families, no person shall be admitted to reside in the home, who is not an honorably discharged United States soldier, sailor, or marine, and who has not been a bona fide resident of this State for six years immediately preceding his application.

Rules and regulations.

1044. The board may make rules and regulations governing the admission of applicants and may prescribe the conditions upon which they may enter and the conditions upon which they may remain.

Transfer of property to United States.

1045. Nothing in this chapter shall prevent the State from transferring the property and management of the home to the United States for a home of similar character.

CHAPTER II. WOMAN'S RELIEF CORPS HOME OF CALIFORNIA.

1080. As used in this chapter: Definitions

(a) "Home" means the Woman's Relief Corps Home of California.

(b) "Board" means the board of directors of the home.

1081. There is in the Department of Military and Veterans' Affairs a Woman's Relief Corps Home of California which is situated at Evergreen, Santa Clara County. Woman's Relief Corps Home

1082. The home is maintained for the support of ex-army nurses and the wives, widows, mothers, and dependent, destitute, unmarried daughters and sisters of the Union veterans who served honorably in the Civil War. Purpose of home

1083. No person is entitled to aid under this chapter unless she is a person mentioned in section 1082 and has been continuously a resident of this State for one year next preceding her admission to the home. Persons eligible for admittance

1084. The home is managed and controlled by a board of seven directors, appointed by the Governor, to hold office for two years from and after their appointment, unless sooner removed by him for cause. Each director, before entering upon the discharge of his duties, shall file with the Secretary of State his oath of office, in the form prescribed by law. Control of home.

1085. The board may sue and be sued in any of the courts of the State. The board shall manage the home, administer its affairs, make laws for its government, and adopt rules and regulations for its management. A majority of its members constitute a quorum to transact business. Powers of board.

1086. The board shall elect from its members a president, vice president, secretary, and treasurer, each of whom shall hold office for one year from his election. Officers of board

1087. No member of the board other than the secretary and treasurer shall receive any compensation for services. The secretary and treasurer shall each receive for his services the compensation fixed by the board with the approval of the Director of Finance. Such compensation shall be paid from the State treasury at the same time and in the same manner as the salaries of other State officers. Compensation of officers

1088. The board shall: Duties of board

(a) Hold at least one meeting each month for the transaction of business pertaining to the home.

(b) Keep a general register, in which shall be entered the date of admission, name, age, and place of birth of each inmate, and the military or naval history of her husband, father, or brother, and her estate and income.

(c) Keep a full record of its meetings.

1089. Every claim for aid under this chapter shall be presented, audited, and paid in the manner provided by law. Claims

1090. All pension money received by any inmate of the home shall be retained by her subject to her own disposition. Pension money.

CHAPTER III. COUNTY INSTITUTIONS.

County homes.

1120. Any county may provide and maintain a home for veteran soldiers, sailors, and marines who have served the United States honorably in any of its wars.

Powers of board of supervisors.

1121. For the purposes of this chapter the board of supervisors of any county may:

(a) Purchase, receive by donation, condemn, lease, or otherwise acquire real and personal property necessary for such home, and improve, preserve, manage, and control the same.

(b) Purchase, construct, lease, furnish, and repair buildings for such home and provide the necessary custodians, employees, attendants, and supplies for its proper maintenance.

Tax levy.

(c) Levy in any year a special tax not to exceed one and one-half mills on the one dollar of assessed valuation on all the taxable property in the county, in addition to all other taxes, the fund so created to be expended for the purposes of this chapter.

Fund.

(d) Establish a fund for the purposes of this chapter, and transfer from the general fund to such fund such moneys as the board deems necessary.

Bonds.

(e) Incur, in the manner provided by law, a bonded indebtedness on behalf of the county for any of the purposes of this chapter.

Cooperation with cities

(f) Join with any incorporated city in the county in the accomplishment of the purposes of this chapter and to that end hold jointly with such city all property acquired, and expend money in conjunction with such city.

DIVISION VI. VETERANS' BUILDINGS AND MEMORIALS.

CHAPTER I. MEMORIAL DISTRICTS.

Article 1. Formation.

Definitions

1170. As used in this chapter, unless the context otherwise indicates:

(a) "District" means a memorial district organized under the provisions of this chapter.

(b) "Board" means the board of directors of a memorial district.

(c) "County clerk" includes registrar of voters.

Formation

1171. Subject to the provisions of the District Investigation Act of 1933 a memorial district may be established, maintained, governed, supported, and operated in the manner and for the purposes herein provided, and may exercise the powers and jurisdiction herein expressly granted or necessarily implied.

Boundaries of district.

1172. No district shall include territory not wholly in the same county. A district may include any incorporated territory of the county together with any contiguous unincorporated territory thereof, or may be formed entirely of

contiguous incorporated territory or entirely of contiguous unincorporated territory.

Petition

1173. By petition filed with the county clerk, registered electors residing within the boundaries of a proposed district, equal in number to at least eight per cent of the number of votes cast in the proposed district for the office of Governor at the last general election at which a Governor was elected, may propose the formation of a district. If both incorporated and unincorporated territory are included within the proposed district, the petition shall be signed by registered electors equal in number in each territory to at least eight per cent of the votes so cast therein for Governor.

Contents of petition

1174. The petition shall be addressed to the board of supervisors of the county within which the proposed district is situated, shall be signed by the number of qualified registered electors specified in section 1173, and shall propose and set forth:

(a) The formation of a district under this chapter.

(b) The calling by the board of supervisors of a special election to vote upon the question whether the proposed district shall be formed and to elect the first board of directors of the district.

(c) The name of the proposed district, as "_____ memorial district."

(d) An accurate description of the boundaries of the proposed district specifying what portion of the territory is incorporated territory and what portion unincorporated territory.

Filing in sections

1175. The petition may be filed in sections, each of which shall fully comply with all of the requirements for a petition, except that each section need not contain the total number of signatures required for a petition.

Certification by clerk

1176. Within ten days after the filing of such petition the county clerk shall find and certify whether the petition is signed by the requisite number of qualified registered electors of the proposed district and of the incorporated and unincorporated portions thereof and shall present the petition with the certificate of his findings attached thereto to the board of supervisors at its first regular meeting held ten days from the date of filing of the petition.

Finding as to sufficiency

1177. If the petition and certificate is presented to the board of supervisors at a regular meeting the board at that meeting shall ascertain whether the petition in all respects complies with the requirements therefor, except that the certificate shall be conclusive evidence of the sufficiency of the signatures to the petition.

Special elections

1178. If the petition complies with the requirements the board of supervisors at such meeting shall call a special election to vote upon the question of formation of the proposed district and to elect the members of the first board of directors thereof.

Date of election.

1179. The special election shall be held upon a date not later than the sixtieth day after the meeting of the board

at which the petition was presented. At the special election, the proposition submitted shall be "Shall the proposed _____ memorial district be formed?" There shall be elected at the same election a board of directors consisting of five members.

Conduct of election

1180. The special election shall be called, noticed, held, and conducted, election officers appointed, voting precincts designated, candidates nominated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, results declared, certificates of election issued, oaths of office administered, and all other proceedings incidental to and connected with the election shall be regulated and done, in accordance with the provisions of law regulating municipal elections in cities of the fifth and sixth class.

1181. For the purposes of this chapter the board of supervisors and the county clerk, respectively, shall have all the powers and duties which boards of trustees and city clerks have under section 1180 and the terms "city," "municipal election," "board of trustees," and "city clerk," shall mean "proposed memorial district," "proposed memorial district election," "board of supervisors," and "county clerk."

Declaration of result of election.

1182. If a majority of the votes cast at the special election are in favor of formation of the district, the county clerk shall, within ten days after the board of supervisors has declared the result thereof, record in the office of the county recorder a complete certified copy of the statement of results entered on the minutes of the board of supervisors in accordance with section 1180, together with a complete certified copy of the petition for formation of the district, except that the signatures on the petition need not be certified and recorded.

Recordation of statement of election conclusive

1183. Such certified copies when recorded shall, after sixty days from the date of the special election, be conclusive evidence against all persons, firms, associations and corporations, except the State, of the regular and sufficient formation of the district and establishment of the boundaries thereof as set forth in the petition and of the validity of all proceedings preliminary to the formation and establishment of the district.

Article 2. Management.

General powers of districts.

1190. Every district shall be a public corporation, have perpetual succession, and may:

(a) Sue and be sued in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(b) Adopt a seal and alter it at pleasure.

(c) Call upon the district attorney for legal advice and assistance in all matters concerning the district.

(d) Make contracts, employ labor, and do all acts necessary or convenient for the full exercise of any of the powers of the district.

Halls

1191. Every district may:

(a) Provide and maintain memorial halls, assembly halls, buildings, or meeting places for the use of veteran soldiers,

sailors and marines who have honorably served the United States in any wars or campaigns recognized by law for the purposes of section 1¼ of Article XIII of the Constitution, or for the use of patriotic, fraternal, or benevolent associations of such persons.

(b) Purchase, receive by donation, condemn, lease, or acquire real or personal property necessary or convenient for the construction or maintenance of such halls, buildings and meeting places and improve, preserve, manage and control the same. Acquisition of property

(c) Purchase, construct, lease, build, furnish, or repair such halls, buildings and meeting places upon sites owned or leased by the district or made available to the district; and provide custodians, employees, attendants, and supplies for the proper maintenance, care and management thereof. Maintenance

(d) Furnish sites for such halls, buildings, or meeting places, to be built either by the district or by or for patriotic, fraternal or benevolent associations of veterans, the funds for such sites to be supplied by the district or from other sources. Sites.

(e) Enter into agreements with county, municipal, school, park, or other public authorities or agencies, conveying, leasing, or making available to the district either gratuitously or for compensation, sites upon public lands, for the construction, maintenance, and management thereon by the district of such assembly or memorial halls, buildings or meeting places; and construct and maintain thereon such halls, buildings or meeting places. Agreements with other authorities

(f) Adopt, from time to time, reasonable rules and regulations for the use of such halls, buildings and meeting places by veterans or by organizations thereof, and when incidental to such uses, allow such halls, buildings and meeting places to be used for lawful purposes consistent with the objects hereof by persons or organizations other than veterans either free of charge or for stated compensation to aid in defraying the cost of maintenance thereof. Rules and regulations.

1192. Every district may:

(a) Cause to be levied and collected in any year a special tax not to exceed three mills on the one dollar of assessed valuation of all the taxable property in the district, exclusive of any tax which may be required to pay the principal of and interest upon any bonded indebtedness of the district, in addition to all other taxes provided for by law upon the taxable property of the district and to be paid into a special fund in the county treasury to be known as the memorial district fund. Special tax levy

(b) Incur, through the board of supervisors, bonded indebtedness on behalf of the district for the purpose of exercising any of the powers of the district or accomplishing any of the purposes of this chapter. Bonded indebtedness.

(c) Cause to be levied and collected in any one year a special tax sufficient to pay the principal of and interest upon all bonded indebtedness of the district incurred as herein provided, in addition to all other taxes provided for by law or by Tax to pay bonded indebtedness.

the provisions of this chapter and to be paid into a special fund in the county treasury to be known as the memorial district bond retirement fund.

Refund or retirement of indebtedness.

(d) Refund or retire any indebtedness that may exist against the district.

Cooperation with county.

1193. Every district may combine with the county in which it is located or with any incorporated city wholly within the county, in the accomplishment of any of the purposes of this chapter, and to that end hold jointly with such county or city any property acquired or made available for such purposes, and expend money in conjunction with such county or city in accomplishing any of the purposes hereof.

Administration.

1194. The powers of the district, except as otherwise expressly provided, shall be exercised by the board of directors.

Conduct of elections

1195. The general district election shall be held in every district formed under the provisions of this chapter on the fourth Tuesday in March of the third March following the special election held to vote upon the formation of the district and on the fourth Tuesday of March in every fourth year thereafter. Every election shall be held and conducted in all respects the same as the special election provided for in sections 1180 and 1181 except that the board and the secretary thereof shall have the powers and duties of the board of supervisors and the county clerk, under such sections, and the terms "city," "municipal election," "board of trustees," and "city clerk," shall mean "memorial district," "general memorial district election," "board of directors," and "secretary of the board."

Propositions and officers to be voted upon

1196. A new board shall be elected at each general district election. Officers may be elected and propositions submitted at such election which are authorized by law.

Board of directors

1197. The board shall consist of five members who shall be registered electors residing within the district or proposed district at the time of their election and shall be elected by the qualified electors of the district. The directors first elected shall serve from the time of their election and qualification until the election and qualification of their successors at the first general district election. Members of succeeding boards shall serve from the time of their qualification until four years from the time of their election and until their successors are elected and qualified. Any vacancy in the office of director shall be filled by appointment by the remaining directors, the appointee to hold for the unexpired term and until the election and qualification of his successor. Members shall serve without compensation but shall be entitled to actual and necessary expenses incurred in the performance of duties.

Meetings

1198. The board first elected in any district shall hold its first meeting in the meeting room of the board of supervisors commencing at ten o'clock a.m. on the first Monday following the date of declaration by the board of supervisors of the result of the special election at which the board was elected. The board shall elect one of its members president, and shall elect

a secretary, and shall provide for the time and place of holding meetings and the manner in which special meetings may be called. The board may establish rules for proceedings of the board.

Duties of president.

1199. The president shall sign all contracts on behalf of the district and shall certify to the county auditor all lawful demands against the district payable from the memorial district fund and from the memorial district bond fund after such demands have first been approved by at least three members of the board. The president shall also perform any other duties imposed by the board. The secretary shall countersign all contracts on behalf of the district and perform any other duties prescribed by the board. A majority of the board shall constitute a quorum for the transaction of business, but all official acts of the board must receive the affirmative vote, signature, or approval, as the case may require, of at least three members of the board.

Secretary.

Quorum.

Payment of money

1200. The moneys in the several funds of the district shall be paid out by the county treasurer only upon warrants drawn by the county auditor against the appropriate district fund. The county auditor shall draw his warrants against the memorial district bond retirement fund, if that fund contains sufficient moneys, and if not, then, against any other funds of the district in payment of all valid and outstanding bonds of the district at maturity and of interest coupons thereon when due, upon presentation to him of such bonds or coupons by the owners thereof.

Claims

1201. The county auditor shall also draw his warrants against the memorial district fund and against the memorial district bond fund, in payment of lawful claims against the district certified to him by the president of the board.

Budget

1202. The board shall, annually, at least fifteen days before the first day of the month in which the board of supervisors is required by law to levy the taxes required for county purposes, furnish to the board of supervisors and to the auditor estimates in writing of the minimum amount of money required for the payment of the principal of and interest upon all bonded indebtedness of the district; and also of the minimum amount of money required by the district for any other purposes.

Tax levy for bonds

1203. The board of supervisors shall annually at the time of levying county taxes and until all bonded indebtedness of the district is fully paid, levy and cause to be collected by the county tax collector a tax on all taxable property in the district sufficient for the payment of the principal of and interest upon all bonded indebtedness of the district. This tax shall be known as the memorial district bond retirement tax.

Tax levy for expenses.

1204. The board of supervisors shall in like manner and until all other expenses and claims are fully paid, levy and cause to be collected by the county tax collector a tax sufficient for the payment of all other expenses and claims of the district. This tax shall be known as the memorial district tax.

Rate of tax.

1205. The memorial district tax levied in any one year shall not exceed the rate of three mills on each dollar of the assessed valuation of all taxable property in the district, exclusive of any tax which may be required to pay the principal of and interest upon any bonded indebtedness of the district.

Disposition of tax money

1206. Taxes shall be paid into the county treasury to the credit of the memorial district bond retirement fund or to the credit of the memorial district fund, as the purpose of the tax determines.

Delinquent taxes.

1207. Taxes become delinquent at the time the county taxes become delinquent and shall bear like penalties for delinquency. All taxes shall be a lien upon all the taxable property in the district, and shall be of the same force and effect as the liens for county taxes. Their collection shall be enforced by the same means provided for the enforcement of liens for county taxes.

Transfer of property by public agencies

1208. Boards of supervisors, governing bodies of incorporated cities and school districts, and all authorities having control of public lands within this State may on behalf of the county, city, school district, park area, or public agency convey, lease, or make available to districts, either gratuitously or for compensation, sites upon lands under their control or jurisdiction, for the erection and maintenance thereon by districts of assembly or memorial halls, buildings, and meeting places, whenever in the reasonable discretion of such board, body, or authority, such sites can be so conveyed, leased, or made available without inconvenience to the interests of the particular county, city, school district, park, or public agency.

Article 3. Bonds.

Bonds.

1210. Bonds of a district may be issued, sold, and the proceeds thereof expended in the exercise of any of the powers of the district or in the accomplishment of the purposes of this chapter whenever two-thirds of the registered electors of the district who vote upon a proposal to issue bonds vote in favor thereof.

Petition

1211. The board may, and upon petition of eight per cent of the registered electors of the district shall, submit to the electors of the district the question whether bonds of the district shall be issued and sold for the purposes set forth by the board in the notice calling the election at which the question is submitted.

Special bond election.

1212. The question may be submitted at a special bond election called for that purpose or at a general district election. If called upon petition of the electors of the district, the question shall be submitted not later than the ninetieth day after the filing of the petition therefor with the secretary of the board. The notice calling the election shall be entered in the minutes of the board and in addition to other requirements of this chapter governing the general district election shall contain a statement of the purpose of the proposed bond

issue, the amount of bonds proposed to be issued, and the rate of interest, not exceeding six per cent, to be paid thereon.

Conduct of election.

1213. If the question whether bonds of the district are to be issued is submitted at a special election, such election shall be noticed, called, conducted, governed, and regulated, in the same manner prescribed for the general district election.

Two-thirds vote required

1214. If at such election two-thirds of the votes cast are in favor of issuing the bonds of the district, the board shall cause that fact to be entered upon its minutes and shall at once certify to the board of supervisors all of the proceedings of the board in connection with the proposed bond issue, including the purpose thereof, the amount thereof, rate of interest to be paid thereon. and the result of the election.

Issuance and sale of bonds.

1215. Thereupon, the board of supervisors, by an order entered in its minutes, shall provide for the issuance and sale of bonds of the district in the amount approved by the electors of the district at the election and shall provide for the payment of the proceeds of the sale of the bonds into the county treasury to the credit of a special fund known as the memorial district bond fund which shall be used for the purposes specified in the order of the board of directors calling the special election and shall be expended upon warrants of the county auditor.

Method of sale.

1216. The board of supervisors shall issue and sell the bonds of the district in the manner and form prescribed by law for county bonds and subject to the conditions therein specified regarding the denominations, maturities, and interest rates of county bonds.

Signatures on bonds.

1217. If any officer whose signature, countersignature, or attestation appears on any district bonds or coupons thereof, ceases to be such officer before the delivery of the bonds to the purchaser thereof, such signature, countersignature, or attestation shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until the delivery of the bonds. The signature upon the coupons of the person who is county auditor at the date of such bonds shall be valid although the bonds themselves may be attested by a different person who is county auditor at the time of delivery of the bonds.

Tax levy for bonds

1218. The board of supervisors at the time of making the levy of taxes for county purposes shall levy a tax for that year upon the taxable property in the district for the interest and redemption of district bonds. Such tax shall not be less than sufficient to pay the interest of the bonds for that year and the portion of the principal due or to become due during the year, and in any event shall be sufficient to raise annually for the first half of the term of the bonds the sum necessary to pay the interest thereon; and during the balance of the term, sufficient to pay the annual interest and to pay annually a proportion of the principal of the bonds equal to a sum produced by taking the whole amount of the bonds outstanding and dividing it by the number of years the bonds then have to

run. All money so collected shall be paid into the county treasury to the credit of the district bond retirement fund and be used for the payment of the principal and interest on the bonds and for no other purpose until all bonded indebtedness of the district has been paid in full. The principal and interest on bonds shall be paid by the county treasurer upon the warrant of the county auditor out of the district bond retirement fund if that fund has sufficient moneys and otherwise out of any other funds of the district. The county auditor shall cancel and retain such bonds and coupons when he draws his warrants on the treasurer in favor of the owners thereof.

Certification of bonds as legal investment

1219. Whenever the bonds of a district have been investigated and certified by any officer of this State authorized to make such investigation and certification, and by the authority of such certification have been declared to be legal for investment by savings banks of this State, then such bonds may be lawfully purchased or received in pledge for loans by savings banks, building and loan associations, trust companies, insurance companies, guardians, executors, administrators, special administrators, or by any public officer within this State holding funds which by law may be invested or loaned.

Article 4. Dissolution.

Dissolution.

1230. The question of dissolution of a district may be submitted to the electors thereof by the board on its own motion and shall be submitted by the board upon petition signed by eight per cent of the registered electors of the district, at either the general district election or at a special election called for that purpose. If submitted upon petition of the electors of the district the question shall be submitted not later than the ninetieth day after the filing of the petition with the secretary of the board. If submitted at a special election the election shall be called, conducted, governed, and regulated in the same manner as the general district election.

Petition.

Election.

Two-thirds vote required.

1231. If two-thirds of the qualified electors of the district voting upon the question of dissolution of the district vote in favor thereof the district shall be dissolved.

Disposition of property upon dissolution

1232. Upon dissolution, the property of the district lying within the corporate limits of any city shall vest absolutely in the incorporated city, and the property of the district lying without the corporate limits of an incorporated city shall vest in the county.

Effect of dissolution on bonds.

1233. If, at the time of the election for dissolution there is any outstanding bonded indebtedness of the district, then the vote to dissolve the district shall dissolve the same for all purposes excepting only the levy and collection of taxes for the payment of such indebtedness and for the payment of the expenses of assessing, levying, and collecting the same, and the expenses of maintaining the property of the district in good order and repair.

1234. From the time a district is dissolved until the bonded indebtedness thereof with the interest thereon is fully paid, satisfied, and discharged the governing body of the incorporated city, when the property of the district lies wholly within an incorporated city and, in every other case, the board of supervisors, is hereby constituted ex officio the board of directors of the dissolved district. Proceedings where bonds of dissolved district are outstanding

1235. The board of supervisors or governing body shall levy taxes and perform other acts necessary to raise money for the payment of the indebtedness of the district and the interest thereon and for the maintenance of the property of the district in good order and repair; and as ex officio board of directors, shall fulfill and compel fulfillment of contracts made by the district and shall maintain and protect all rights acquired by the district. Tax for outstanding bonds.

CHAPTER II. COUNTY AND CITY BUILDINGS.

1260. As used in this chapter, unless the context otherwise indicates: Definitions

(a) "Political subdivision" means any county, city, or town of this State.

(b) "Governing body" means the board of supervisors in case of a county, or the city council or board of trustees in the case of a city or town.

(c) "Veterans' association" means any association or organization of veteran soldiers, sailors, or marines who have served the United States honorably in any of its wars and who are organized for patriotic, fraternal, and benevolent objects.

1261. Any political subdivision may lease any lot or building or part thereof belonging to it and not required for public use, for not exceeding twenty years, or may acquire and lease or sublease any lot or building or part thereof for not exceeding twenty years, to a veterans' association organized in such political subdivision, to be used for the purposes of such veterans' association. The rental shall be fixed by the governing body of the political subdivisions. Lease by political subdivisions to organizations

(Amended by Ch. 822, Stats. 1935.)

[ORIGINAL SECTION.]

1261. Any political subdivision may lease any lot or building or part thereof belonging to it and not required for public use, for not exceeding twenty years, to a veterans' association organized in such political subdivision, to be used for the purposes of such veterans' association. The rental shall be fixed by the governing body of the political subdivision.

1262. Any county may provide and maintain buildings, memorial halls, meeting places, memorial parks, or recreation centers for the use or benefit of veterans' associations. For these purposes the board of supervisors of any county may: County buildings, etc., for veterans' purposes.

(a) Purchase, receive by donation, condemn, lease, or acquire real or personal property necessary for such buildings, memorial parks, or recreation centers, and improve, preserve, manage, and control the same.

(b) Purchase, construct, lease, furnish, or repair such buildings, and provide custodians, employees, attendants, and supplies for the proper maintenance thereof.

(c) Clear, grade, plant, irrigate, fence, and improve such memorial parks, or recreation centers, and provide custodians, employees, attendants, and supplies for the proper maintenance thereof.

(d) Furnish sites for such buildings to be built by or for such organizations, and furnish sites for the erection thereon of such buildings, the funds for which are supplied by county authorities or from other sources. Any part or portion of any public lot, block, or park may be used for such purpose.

Tax levy.

(e) Levy in any year a special tax not to exceed one and one-half mills on each dollar of assessed valuation on all the taxable property in the county, in addition to all other taxes, and the fund so created to be expended for the purposes hereof.

Fund.

(f) Establish a fund for the purposes hereof, and transfer from the general fund to such fund such moneys as the board deems necessary.

Bonds.

(g) Incur, in the manner provided by law, a bonded indebtedness on behalf of the county for any of the purposes hereof.

Cooperation with cities.

(h) Join with any incorporated city in the county in the accomplishment of the above purposes and to that end hold jointly with such city all property acquired, and expend money in conjunction with such city in accomplishing the above purposes.

CHAPTER III. CAPITOL ACCOMMODATIONS.

Headquarters for Grand Army of the Republic.

1290. There shall be set apart a suitable furnished room at the State Capitol which shall be known as the headquarters' room of the Grand Army of the Republic.

Custody of headquarters.

1291. The room shall be under the charge of the commander of the Grand Army of the Republic for the Department of California and shall be used as headquarters and for the care and storage of books and papers relating to the Grand Army of the Republic.

DIVISION X. REPEALS.

Repeals.

2000. The following acts, parts of acts, and sections, together with all amendments thereof and all acts supplementary thereto, are hereby repealed:

GENERAL LAWS.

Year	Chapter	Page
1851	38	306
1851	125	489
1852	25	59
1852	26	61
1852	183	261

Repeals.

Year	Chapter	Page	
1853	69	97	
1853	68	95	
1853	87	134	
1853	136	194	
1853	162	225	
1855	190	241	
1856	33	42	
1856	94	109	
1858	7	4	
1859	269	295	
1862	60	51	
1862	179	181	
1862	332	449	
1863	187	246	
1863	218	299	
1863	297	399	
1863	298	400	
1863	318	477	
1863	414	662	
1863–64	177	172	
1863–64	327	359	
1863–64	368	410	
1863–64	377	424	
1863–64	394	449	
1863–64	442	486	
1865–66	413	516	
1865–66	464	604	
1865–66	503	640	
1865–66	582	809	
1867–68	382	468	
1869–70	124	119	
1875–76	414	575	
1877–78	610	952	
1880	82	79	
1885	49	53	
1887	12	7	
1889	161	198	
1889	173	206	
1889	199	228	
1889	268	418	
1891	138	184	
1891	212	289	
1893	227	339	
1895	17	26	
1897	101	106,	except title and sections 1 and 15.
1897	103	113	
1897	187	250	
1897	274	447	
1899	55	65	

Repeals.

Year	Chapter	Page
1899	65	80
1899	127	158
1903	32	33
1903	365	514
1905	387	495
1909	408	718
1911	297	488
1911	364	638
1911	566	1080
1911	701	1360
1913	174	278
1917	32	24
1917	222	422
1919	6	4
1919	184	275
1919	418	824
1921	401	589
1921	519	815
1921	579	967
1921	580	969
1927	87	148
1931	5	3
1931	6	3
1931	58	52
1931	1016	2032
1931	1019	2035
1931	1030	2149
1933	693	1782
1933	975	2501

PENAL CODE.

Section
411

POLITICAL CODE.

Sections
Chapter Ic of Title V of Part III, embracing sections 2210 to 2210h, inclusive.
3898b
4041a
4041f
4052c

SCHOOL CODE.

Article II of Chapter IV of Part V of Division III, embracing sections 3.810 to 3.831, inclusive.

CHAPTER 390.

An act to amend section 705 of the Vehicle Code, relating to vehicles and the weight and loading thereof.

[Approved by the Governor July 5, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 391.

An act relating to money appropriated for the encouragement of county and district agricultural fairs, declaring the urgency hereof and providing that this act shall go into immediate effect.

[Approved by the Governor July 5, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Whenever any fair entitled to receive money under the provisions of section 92 of the Agricultural Code has held a fair between August 1, 1934 and July 31, 1935, the Director of Finance may, at any time during the year 1935, allot to such fair an amount not in excess of seventy-five per cent of the premiums paid out for the preceding year, as an advance upon the allotment to which such fair will become entitled under the provisions of section 92 of the Agricultural Code. Such advance shall be deducted from the allotment for such fair under said section 92.

Agricultural fairs, funds.

Stats 1935, Ch. 24.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into immediate effect. The facts constituting such urgency are as follows:

Urgency.

By the amendment of section 92 of the Agricultural Code by Chapter 24, Statutes of 1935, to enable agricultural fairs which have not been held in previous years to participate in the allocation of funds available for such fairs, and changing the basis of such allocation from the premiums paid in the preceding year to the premiums paid in the current year, those fairs which have been conducted for successive years will be unable to obtain the customary allocation of funds until after the fair is over. This act provides for an advance of a portion of the funds to which such fairs are entitled in order to enable them to continue in operation. Unless provision is made for such advance the conduct of such fairs will be hampered and the welfare of an important factor in the economic life of the State will be impaired. Such advances must be made prior to the ordinary effective date of this act, and consequently it is necessary that this act should go into immediate effect.

CHAPTER 392.

An act to add section 3.43 to the School Code, relating to required instruction in the schools.

[Approved by the Governor July 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 3.43 of the School Code is hereby added to read as follows:

Alcohol and narcotics instruction

3.43. All persons responsible for the preparation or enforcement of courses of study must provide for instruction on the subjects of alcohol and narcotics as required by law.

CHAPTER 393.

"Assessment Readjustment Act of 1935"

Stats. 1925, p. 849.

An act to provide for the acquisition and cancellation of bonds heretofore issued under the provisions of that certain act of the Legislature of the State of California designated and known as the "Acquisition and Improvement Act of 1925"; providing for the cancellation of unpaid assessments levied for the purpose of paying the principal and interest of such bonds and of the interest and penalties thereon; providing for the issuance and payment of assessment readjustment bonds to represent certain assessments for the cost of acquisition of such outstanding bonds, including all costs and incidental expenses of proceedings under this act for the issuance of such assessment readjustment bonds; providing a method for the payment of such assessment readjustment bonds; providing a means whereby landowners and bondowners may consent and agree to such proceedings and to the modification of any contract between them involved in such proceedings; providing a method for the redemption of lost or otherwise unobtainable bonds of the issue or issues to be acquired and canceled and for the protection of the owners of such bonds; authorizing proceedings under the bankruptcy laws of the United States of America in connection with any proceedings hereunder; repealing the "Assessment Readjustment Act of 1933"; and to declare the urgency of this act, to take effect immediately.

Stats 1933, p. 1948, repealed.

[Approved by the Governor July 6, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Cancellation of bonds authorized.

SECTION 1. Whenever in the opinion of the legislative body which conducted any proceeding or proceedings under that certain act of the Legislature of the State of California designated and known as the "Acquisition and Improvement Act

of 1925," and pursuant to which proceeding or proceedings any bonds provided for in said act have been issued, the public interest, convenience or necessity require the acquisition and cancellation of any such bonds so issued, such legislative body is hereby authorized and empowered to order, under the provisions of this act, the acquisition and cancellation of any such bonds so issued; provided, however, that no proceeding may be taken under this act unless the total amount of the principal of the assessment readjustment bonds to be issued, as provided for in this act, is less than the total amount of the bonds proposed to be acquired and unless and until a written petition, consent and agreement, signed by the owners of more than one-half of the area of property: (a) within each district the bonds of which are to be acquired and canceled hereunder; and (b) within the district to be assessed hereunder for the purposes of such acquisition and cancellation; shall have been filed with the clerk of such legislative body requesting that such proceedings be taken hereunder, in which said petition, consent and agreement, such owners subscribing thereto consent and agree that, subject to such exceptions and limitations as may be set forth in such petition, consent and agreement, any contract or contractual relation existing between the property owners of such district or districts and the owners or holders of such outstanding bonds may be amended, modified, changed, terminated, abrogated, or otherwise altered, to any extent and in any particular or particulars necessary in order to accomplish the purposes of such proceedings hereunder. Unless otherwise limited by the context of this act the term "bonds" as used herein shall include bonds and their respective coupons.

Stats. 1925, p. 849.

"Bonds" includes coupons.

SEC. 2. Before ordering the acquisition and cancellation of any such bonds, as hereinabove contemplated in section 1 of this act, such legislative body shall adopt a resolution declaring the intention of such legislative body so to do, which said resolution of intention shall contain a description of the boundaries of an assessment district to be created hereunder and which is to be assessed to pay the cost of acquisition of such bonds including all costs and incidental expenses of the proceedings under this act for the issuance of assessment readjustment bonds as herein contemplated. In the event any such resolution of intention declares or contemplates that the outstanding bonds of only one acquisition and improvement district are sought to be acquired and canceled hereunder, then the exterior boundaries of such district to be created hereunder shall be coterminus with the exterior boundaries of the assessment district against which such bonds were issued as fixed in the proceedings under said "Acquisition and Improvement Act of 1925" pursuant to which the same were issued and the properties to be assessed therein under the proceedings taken pursuant to the provisions of this act shall be the same properties as were assessed in the proceedings pursuant to which such bonds so to be acquired and

Resolution of intention

Boundaries of district.

Stats 1925, p. 849.

canceled were issued. Outstanding bonds of more than one acquisition and improvement district may be acquired and canceled in a single proceeding under the provisions of this act, provided such acquisition and improvement districts are contiguous to or in any manner overlap each other. In the event any such resolution of intention declares or contemplates that outstanding bonds of more than one such acquisition and improvement district are sought to be acquired and canceled hereunder, then the exterior boundary line of the district to be created hereunder in such proceeding shall be an exterior boundary line which shall encompass and include all of the properties included within the composite area formed by the contiguous or overlapping or contiguous and overlapping districts the bonds of which are to be acquired and canceled hereunder and the properties to be assessed in such district created hereunder shall be the same properties as were assessed in the various proceedings pursuant to which such bonds so to be acquired and canceled hereunder were issued.

Original proceeding

Such resolution of intention shall also contain a reference to the proceeding or proceedings under which such bonds were issued with sufficient clarity to identify the same and shall indicate the amount of bonds and of each series of bonds, if more than one series, which were originally issued against each of the respective districts created under such proceeding or proceedings, and also the amount or respective amounts of such bonds, as the case may be, outstanding against such district or districts on the date of the adoption of such resolution of intention. Said resolution shall further state that it is proposed to issue bonds of the district to be created hereunder as contemplated in this act and shall specify the maximum amount for which such bonds are to be issued hereunder and the term for which such bonds are to be issued and the rate of interest to be paid thereon which shall not exceed seven per cent per annum. There shall also be stated in said resolution of intention the amount of any sum allocated, up to date of said resolution, from any source toward the payment and redemption of such outstanding bonds and a further statement to the effect that in the event any subsequent allocation is, or subsequent allocations are, made, that same will be used and applied toward the payment or redemption of such outstanding bonds and the reduction of the indebtedness of such district or districts. Said legislative body may also in said resolution of intention recite, in its discretion, the facts or circumstances upon which such body forms its finding or determination that the public interest, convenience or necessity require the acquisition and cancellation of such bonds and the creation of the district to be formed under this act for the purposes indicated. Said resolution shall contain also a notice of the day, hour and place when and where any and all persons having any objection or objections to the proposed acquisition and cancellation of such outstanding bonds or to

Objections and hearing.

the creation of such district, or to the issuance of bonds against the same, hereunder, may appear before such legislative body and show cause why said proposed district should not be created, or such assessment readjustment bonds issued for the purposes of the acquisition and cancellation of such existing bonds and the payment of the costs and incidental expenses of the proceedings under such resolution of intention; said time shall not be less than fifteen nor more than sixty days from the date of the adoption of said resolution.

Description of district.

SEC. 3. Any assessment district proposed to be created under the provisions of this act may be described in the resolution of intention by stating the exterior boundaries thereof, or by giving a description thereof according to any official or recorded map or maps, or by referring to a plat or map, approved by such legislative body, which shall be on file in the office of the city, county, or city and county, officer whose office has been designated by the legislative body of the city, county, or city and county, conducting the proceedings hereunder, as the office in which same is to be so filed, at the time of passing the resolution of intention, which shall indicate by a boundary line the extent of the territory included in the proposed district, which said plat or map shall govern for all details as to the extent of said assessment district. The said district need not be described in any of the notices or resolutions provided for herein other than the resolution of intention.

Notice, publication, etc

SEC. 4. Resolutions of intention adopted under the provisions of this act shall be published and notice of the passage and adoption thereof shall be given and posted in the same time, form and manner as is provided in that certain act of the Legislature of the State of California designated and referred to as the "Improvement Act of 1911," as amended, for resolutions of intention adopted under the provisions of said last mentioned act; provided, however, that the notices required to be posted under the provisions of said last mentioned act shall be headed "Notice of proposed acquisition and cancellation of certain outstanding bonds and of the creation of an assessment district in connection therewith to pay the costs and expenses thereof and of the proceedings incidental thereto." Said notices shall, in legible characters, state the fact of the passage of the resolution of intention, its date and briefly the purpose of the proceeding as indicated in such resolution of intention and may refer to the resolution of intention on file in the office of the clerk of such legislative body for further particulars. Said notices shall contain also a statement of the day, hour and place when and where any and all persons having any objections to the proposed acquisition and cancellation of such issued bonds, or to the creation of such district, or to the issuance of bonds against the same, hereunder, may appear before such legislative body and show cause why said proposed district should not be created, or such assessment readjustment bonds issued for the purpose of

Stats 1911, p. 730.

acquisition and cancellation of such existing bonds and the payment of the costs and incidental expenses of the proceedings under such resolution of intention.

Protests.

SEC. 5. Written protests against the proposed acquisition and cancellation of such issued bonds, or against the creation of such proposed district, or against the issuance of bonds of such district, hereunder, for the purpose proposed, may be made and filed in the same manner and subject to the same terms and conditions as is provided for in the case of protests under said "Improvement Act of 1911" above referred to; provided, however, that any such protest or protests made by the owners of more than one-half of the area of the property to be assessed for the purposes recited in the resolution of intention, may not be overruled by any action of such legislative body, but such a protest or protests shall operate to bar any further proceedings under the resolution of intention referred to in such proceedings and no other proceedings under this act relating to such district or districts, shall be commenced within a period of three months after the date of the determination by the legislative body of the fact that such a majority protest has been made. The legislative body may adjourn such hearings from time to time. If no protests or objections, in writing, as contemplated in this act, have been delivered to the clerk of such legislative body up to the hour set for hearing, provided in section 2 hereof, or when a protest, other than a protest which is a bar hereunder, shall have been heard and denied, immediately thereupon the legislative body shall be deemed to have acquired, subject to the further provisions of this act, jurisdiction to order the issuance of bonds of such district up to but not exceeding the principal amount specified in the resolution of intention for the purpose of the acquisition and cancellation of such issued bonds and the payment of the costs and expenses incidental to the proceedings hereunder.

Stats 1911, p 730.

Majority protest.

Jurisdiction acquired.

Notice to bondholders.

SEC. 6. After such legislative body shall have acquired jurisdiction to proceed further under the provisions of this act, as hereinabove provided, said legislative body shall cause a notice to be published in the same newspaper in which the resolution of intention was published, if same still exists, otherwise in such newspaper as such legislative body may designate and which is located in the county, or city and county, in which such legislative body has jurisdiction, which said notice shall be headed (with blanks appropriately filled in) substantially as follows: "Notice to holders of bonds of acquisition and improvement district_____ No._____ and_____ of the _____ (political subdivision) California." Said notice shall briefly set forth the fact of the adoption of the resolution of intention hereunder, its date, and the purpose of the proceeding indicated in such resolution of intention and shall refer to said resolution for further particulars. Said notice shall further briefly state the maximum amount and the character of bonds which it is proposed to issue hereunder against the

district described in such resolution and the rate of interest to be paid thereon. In said notice, such legislative body shall invite the holders of the issued bonds proposed to be acquired and canceled in such proceedings, to submit, in writing, to such legislative body, in the event such bondholders desire so to do, a proposal or proposals setting forth the terms and conditions upon which such bondholders will deliver to such legislative body or to such official as may be designated by such legislative body their respective bonds proposed to be acquired and canceled hereunder for cancellation in consideration of the delivery to such bondholders of assessment readjustment bonds to be issued against the district described in said resolution of intention, or in consideration of the payment to such bondholders of a sum or sums, in cash, to be specified in such proposal or proposals, or in consideration of the delivery and payment to such bondholders of any combination of such assessment readjustment bonds and cash as may be stated in such proposal or proposals. If, pursuant to such notice, there shall be filed with such legislative body, in writing, a proposal or proposals which provide for the surrender and cancellation, or redemption as herein provided, of not less than seventy-five per cent of the principal amount of all of the outstanding bonds referred to in the resolution of intention, such legislative body shall have authority to order such person as said legislative body may designate to make a diagram of the property within said assessment district created hereunder, affected or benefited by the proposed acquisition and cancellation of such outstanding bonds and to be assessed to pay the cost thereof and the expenses incidental thereto. Such diagram shall show each separate lot, piece or parcel of land, and the dimensions of each such lot, piece or parcel of land, within the limits of such assessment district. Such person, so designated by such legislative body to make such diagram, or such other person as said legislative body may designate, shall, upon the completion thereof, proceed to estimate upon the lands, lots or portions of lots within said assessment district as shown by said diagram, the benefits arising from the acquisition and cancellation of such issued bonds, and to be received by each such lot, portion of such lot, piece or subdivision of land, and shall thereupon assess upon and against said lands in said assessment district the total net amount of the cost of the acquisition and cancellation of such issued bonds and the costs and expenses incidental to the proceedings hereunder to be assessed against the lands within said district hereunder, and in so doing shall assess said total sum upon the several pieces, parcels, lots or portions of lots, and subdivisions of lands in said assessment district, benefited thereby, to wit: upon each, respectively, in proportion to the estimated benefits to be received by each of said several lots, portions of lots, or subdivisions of land. The terms, "lot," "lots," "lands," "piece" or "parcel" of land, wherever mentioned in this act, shall be deemed to have the same meaning as such terms have

Terms and proceedings on cancellation, reassessment, etc.

Diagram.

Assessment.

Definitions.

assigned to them respectively in said "Improvement Act of 1911" above referred to. At the time of the making of the assessment hereunder and in estimating the benefits to be received by each such lot, portion of such lot, piece or subdivision of land, among other things, there shall be taken into consideration the following:

Stats 19 1, p 730.

(a) The principal amount of all such bonds originally issued;

(b) The amount of special assessment levies theretofore made on account of such bonds;

(c) The amount of outstanding bonds proposed to be acquired and canceled;

(d) The number of issues of such bonds if more than one;

(e) The amount or amounts which have been collected or paid into the interest and sinking fund of any such district or districts, the bonds of which are to be acquired and canceled hereunder, for, or on account of, any lot, piece or parcel of land upon assessments theretofore levied to pay the principal and interest of such bonds;

(f) The delinquency in the payment of any such assessments so levied which may exist against any such lot, piece or subdivision of land;

(g) The allocation, if any, referred to in the resolution of intention and any subsequent allocations or additional amounts which may have been subsequently added to such allocated amount;

(h) Any costs and expenses incidental to the proceedings hereunder; and

(i) The amount of any discount or discounts or other concession or concessions referred to in the proposal or proposals of the bondholders hereinabove referred to.

Assessment notice

When such diagram and such assessment shall have been made, the same shall then be filed with the clerk of such legislative body. Such clerk shall then give notice of the filing of the same and of a time to be therein fixed by said clerk when all persons interested in the acquisition and cancellation of such issued bonds, or in the diagram or assessment, will be heard by such legislative body. Such notice shall also recite the fact of the filing of such proposal or proposals by such bondholders and shall briefly indicate the terms, conditions and basis thereof and shall refer to such resolution of intention and to such proposal or proposals of such bondholders and to such diagram and assessment so on file for further particulars with reference thereto. Such notice shall be posted for not less than five days on or near the door of the chamber in which such legislative body conducts its regular public meetings and in addition, shall be published twice, before the date designated for such hearing, in the newspaper in which the resolution of intention was published, if same still exists, otherwise in such newspaper as such legislative body may designate and which is published and circulated in the territory in which such legislative body has jurisdiction.

Such notice shall also be given by such clerk by mailing a copy of the same at least fifteen days prior to the time fixed for such hearing, to the owner of each lot, parcel or subdivision of land listed according to the name and address appearing on the last equalized assessment roll for city, county, or city and county taxes prior thereto, or as known to such clerk. Such notice so to be mailed shall also designate the property within the assessment district belonging to said owner by a description sufficient to enable the property owner to identify the property and a statement of the amount proposed to be assessed against such property. Such clerk shall upon the completion of such mailing, file with such legislative body an affidavit setting forth the time and manner of the compliance with the above requirement for such mailing. The failure of such clerk to give such notice by mailing or of the person addressed to receive same shall not affect the jurisdiction of the legislative body to proceed with the hearing noticed. The owners and all other persons interested in the proposed acquisition and cancellation of such issued bonds, or in the diagram or assessment, feeling aggrieved by any act or determination of the person or persons who prepared such diagram and assessment in relation thereto, or having or making any objection to the correctness of the assessment or diagram, or other act, determination or proceedings of the person or persons who prepared the same, shall, prior to the day fixed for the hearing upon such assessment, appeal to such legislative body by briefly stating in writing the grounds of such appeal. Upon such appeal, such legislative body may remedy and correct any error or informality in the proceedings, and revise and correct any of the acts or determinations of the person or persons who made such diagram and assessment relative to said diagram or assessment; may confirm, amend, alter, modify or correct the assessment or diagram in such manner as to such legislative body shall seem just; and may instruct and direct the person who made such assessment and diagram to correct such assessment or diagram in any particular. All the decisions and determinations of such legislative body, upon notice and hearing as aforesaid, shall be final and conclusive upon all persons entitled to appeal under the provisions of this section, as to all errors, informalities and irregularities which such legislative body might have avoided, or have remedied during the process of the proceedings or which it can at that time remedy. No assessment or diagram, and no proceedings prior to the assessment, shall be held invalid by any court for any error, informality or other defect in the same, where the resolution of intention of the legislative body adopted thereunder has been actually published as herein provided. When no appeal is taken or when the orders and determinations of the legislative body upon appeal have been complied with, and such legislative body is satisfied with the correctness of the assessment, thereupon such legislative body shall forthwith confirm the proceedings and the assessment and the

Objections

Appeal

clerk of such legislative body shall attach thereto a certified copy of the order of such legislative body confirming the same and shall state in such certificate the date upon which such order was so adopted. Provided, however, and notwithstanding anything contained in this act to the contrary, in the event any such appeal is or such appeals are made by the owners of more than one-half the area of the property to be assessed for the purposes recited in the resolution of intention and such appeal or appeals further contain an express protest against the issuance of such assessment readjustment bonds and the taking of any further proceedings under the resolution of intention in said matter, then, but only in such event, shall such legislative body be deprived of jurisdiction to proceed further hereunder in such proceedings and no new resolution of intention with reference to the same matter, under the provisions of this act, may be adopted by such legislative body for a period of three months from the date of the determination of such legislative body that such a majority appeal or protest, or appeals or protests have been filed.

Majority protest.

Jurisdiction to issue bonds.

SEC. 7. In the event no such majority protest or appeal constituting a bar to further proceedings under the provisions of this act has been filed and such legislative body shall have confirmed the assessment as originally filed, or as modified or corrected as herein provided, such legislative body shall be deemed to have acquired jurisdiction to proceed further in such proceedings under the provisions of this act and to issue assessment readjustment bonds in the manner, to the extent and form hereinafter provided, to represent assessments for the cost of the acquisition and cancellation of such outstanding bonds and of the costs and expenses incidental to the proceedings. Such assessment readjustment bonds so to be issued, shall be serial bonds; shall be substantially in the form as the street improvement bonds provided for in said "Improvement Act of 1911" hereinabove referred to, with such appropriate changes in the wording of such bonds as may be necessary in order to make the same conform to the provisions and purposes of this act and of the proceedings taken hereunder and shall be payable to the person to whom they issue, or order; shall be for the term and bear interest at the rate specified in the resolution of intention and shall have annual coupons attached thereto payable in annual order on the second day of January of every year after the fifteenth day of the next October following the date of such bonds, until all are paid and each coupon shall be for an even annual proportion of the principal of the bonds to which same is attached. They shall also have semiannual interest coupons thereto attached as contemplated in the case of bonds issued under the provisions of said "Improvement Act of 1911" and payable in the same manner as contemplated in said last mentioned act. Said bonds shall be enforced; paid; may be redeemed or canceled; shall be subject to the same penalties; and shall in all other particu-

Form of bonds.

Sta's 1911, p 730

Interest coupons

lars and respects, so far as possible, be issued and conform to the requirements as is provided in the case of bonds issued under the provisions of said "Improvement Act of 1911," as amended; provided, however, that said bonds may be issued for a period of not to exceed twenty-nine years from and after the second day of January next succeeding the next fifteenth day of October following their date. The determination of said legislative body as to the form and content of said bonds shall be final and conclusive.

Term of bonds.

SEC. 8. Such legislative body, having acquired jurisdiction as hereinabove set forth, shall thereupon notify the holders of the outstanding bonds to be acquired and canceled under such proceedings, whose proposal or proposals are on file, of the fact of the final confirmation of such assessment and that such legislative body is prepared to proceed further with the acquisition and cancellation of such outstanding bonds and with the issuance and exchange or sale, as the case may be, of such assessment readjustment bonds and the payment of any cash consideration or amounts to be paid under the terms, provisions and conditions of such proposal or proposals. Such legislative body shall thereupon proceed to consummate, and it is hereby empowered and authorized to consummate, the transaction of exchange, payment, or exchange and payment, as the case may be, as contemplated in such proposal or proposals of such bondholders; provided, that in addition to the bonds to be acquired and canceled under any such proposal or proposals, such legislative body is able to acquire for cancellation, or provide for the full redemption of, according to their terms and tenor, or as may be provided for in any decree or order of any court of competent jurisdiction under the bankruptcy laws of the United States of America, all of the remainder of such outstanding bonds proposed to be acquired and canceled under the resolution of intention. In the event it is impossible to acquire for cancellation all of such outstanding bonds, by reason of the loss of any of the same, or for any other reason whatsoever, such legislative body may, upon receipt of information to that effect, notify the holder or holders of outstanding bonds whose proposal or proposals were filed, of such fact whereupon it shall be permissible for such bondholders, at their option, or for such legislative body out of any funds available to it, or for any other person or persons desiring so to do, to deposit with such legislative body, or with such person or official as may be designated in any such decree or order, cash, lawful money of the United States of America, sufficient in amount to provide for the payment and redemption, of such lost or otherwise unobtainable bonds, both principal and interest, as same mature, according to their respective terms and tenor or under such arrangement as may be provided for in any decree or order of any court of competent jurisdiction under said bankruptcy laws. In the event such deposit be so made and the transaction of exchange, payment, or exchange and payment be con-

Cancellation or exchange of bonds

Federal bankruptcy laws.

Lost or unobtainable bonds.

summated as contemplated in such proceeding, such legislative body shall, and it is hereby authorized and empowered so to do, cause such deposit to be transmitted to and deposited with the treasurer of the political subdivision represented by such legislative body or with the person or official designated in any such decree or order. In the event such deposit be made with the treasurer of the political subdivision over which such legislative body has jurisdiction, such treasurer shall, and he is hereby empowered, authorized and required so to do, make all payments of principal and interest thereafter maturing on any such outstanding, lost or otherwise unobtainable bonds for the payment and redemption of which such deposit was made, such payments to be made as such bonds mature and installments of interest thereon become payable according to the terms and tenor thereof; provided, however, in the event any holder or owner of any bond or bonds payable out of such fund on deposit with such treasurer at any time desires so to do, he may surrender any of such bond or bonds for cancellation, in which case he shall receive, out of such fund, the full amount of the principal sum of such bond or bonds, plus accrued interest to and including the date of such surrender and cancellation.

Acquired bonds to be canceled.

SEC. 9. Such legislative body, upon the acquisition of such outstanding bonds for cancellation, and the making of the deposit or arrangement hereinabove provided for in the case of lost or otherwise unobtainable bonds, shall, and it is hereby authorized and empowered so to do, make an order for the cancellation of, and shall cause to be canceled, all such outstanding bonds so acquired and at the same time shall make a further order for the cancellation of all unpaid special assessment taxes levied to pay principal and interest of the bonds referred to in the resolution of intention and all penalties and interest thereon. Upon the making of such order, all such outstanding bonds, referred to in the resolution of intention, (excepting only such thereof for the payment of which a deposit or arrangement for the redemption or payment of which shall have been made as herein provided) and all unpaid special assessment taxes levied to pay principal and interest on such issued bonds and all penalties and interest thereon shall be deemed to be, and shall be, canceled and annulled and the clerk of such legislative body shall notify the proper officials of the city, or of the county, or of the city and county, or any or all of such proper officials, as the case may be, that such outstanding bonds and all unpaid special assessment taxes levied to pay principal and interest of the same and all penalties and interest thereon have been canceled and annulled and such proper officials shall thereupon proceed to make the necessary entries showing the cancellation thereof and thereafter no further taxes or assessments shall be levied for the purposes of paying or redeeming such bonds and the districts against which same were issued shall thereupon be deemed dissolved and any payments made thereon, or on

Unpaid special assessments

Duty of certain officers.

account thereof, subsequent to such dissolution shall be refunded to the person or persons who paid the same. Upon such dissolution of such district or districts any lien or liens then existing against the lands within the same by virtue of proceedings taken or assessments levied and pursuant to which such bonds were issued shall be canceled, satisfied and discharged and the then uncanceled bonds above excepted, if any, shall be payable only out of the deposit with such treasurer hereinabove referred to according to their terms and tenor or as may be provided in any such decree or order under the said bankruptcy laws. Said diagram and assessment shall thereupon be recorded in the office of such official of the political subdivision over which such legislative body has jurisdiction as such legislative body may, by resolution, so designate, which said official so designated shall endorse thereon the date of such recording. When so recorded the several amounts assessed shall be a lien upon the lands, lots, or portions of lots assessed, respectively, and such lien shall so continue until it be discharged of record. From and after the date of said recording of any assessment and diagram, all persons shall be deemed to have notice of the contents thereof. It shall be the duty of the officer in whose office such assessment and diagram is recorded, to perform the same duties and acts with reference to such assessment and diagram and the respective assessments set forth therein, as are required of the superintendent of streets with reference to assessments and diagrams and the respective assessments set forth therein in similar cases under the provisions of said "Improvement Act of 1911," and the tax collector and the treasurer of the city, county, or city and county, as the case may be, of the political subdivision over which such legislative body has jurisdiction, shall perform respectively the same respective acts and functions with reference to diagrams and assessments made under the provisions of this act and with reference to assessment readjustment bonds issued hereunder as are required of tax collectors and treasurers, respectively, under the provisions of said "Improvement Act of 1911" with reference to assessments and diagrams made and bonds issued under the provisions of said last mentioned act.

Dissolution of old districts.

Lien

Stats. 1911, p. 730.

SEC. 10. The officer in whose office the assessment and diagram hereunder has been recorded, is authorized at any time to receive the amount due upon any assessment recorded in his office and to give a good and sufficient discharge therefor; provided, an assessment readjustment bond has not issued to represent said assessment; and provided further that in order to allow a period within which any such assessment may be paid by any person or persons desiring so to do, no assessment readjustment bond shall be issued until thirty days have elapsed after the date upon which the assessment and diagram hereunder was recorded in the office of such officer. Said bonds shall bear date as contemplated in the case of bonds issued under said "Improvement Act of 1911."

Payment and discharge of assessments.

Contributions prior to final confirmation.

SEC. 11. At any time prior to the final confirmation of the assessment hereunder by such legislative body, such legislative body may receive and accept from any source whatsoever and from any person or persons, contributions of any sum or sums or amount or amounts of money in cash, to be applied on the total amount of the cost of the acquisition and cancellation of such outstanding bonds and the costs and expenses incidental to the proceedings hereunder, thereby reducing to that extent the total sum to be assessed upon the several pieces, parcels, lots, or portions of lots and subdivisions of land in the assessment district; provided, however, that in the event, for any reason assessment readjustment bonds are not thereafter issued under the proceedings in connection with which any such contribution is, or such contributions are, made, such legislative body shall have the right, and it is hereby authorized and empowered, to refund any such contribution or contributions to the person or persons who made the same. Such legislative body shall further have the right, and it is hereby authorized and empowered, to likewise receive contributions of any sum or sums or amount or amounts of money in cash, to be applied on and used and expended in connection with the costs and expenses of any proceedings and of the preparation of any assessment and diagram thereunder. Such last mentioned contributions shall be used for the payment of such costs and expenses exclusively and the balance, if any, of any such contribution or contributions, remaining, after the payment of such costs and expenses, may be refunded pro rata by such legislative body to the person or persons who contributed the same. Nothing herein contained however, shall be construed as preventing such legislative body from paying the costs and expenses of any proceedings hereunder, in whole or in part, from any fund, funds or money over which such legislative body has jurisdiction and control and which are legally applicable to the payment of costs and expenses of proceedings under the laws of the State of California.

Said legislative body may appropriate funds from the general fund, or from any funds available to such legislative body for any or all of the purposes contemplated in this act.

Publication generally.

SEC. 12. Whenever, under the provisions of this act, any resolution, notice or other document is required to be published (and no specific designation is made herein to the contrary) same shall be published in a newspaper published and circulated within the boundaries of the assessment district proposed to be created hereunder; provided, however, that if there be no such newspaper, or in the event any newspaper designated herein for the purpose of such publication has suspended publication, then and in any such event, such publication may be made in any newspaper published and circulated within the county in which the political subdivision over which the legislative body conducting such proceedings has jurisdiction is located and which, in the opinion of such legislative body,

will best give notice of the contents of such resolution, notice or other document, so to be published.

Definitions.

SEC. 13. Whenever the words "acquisition and improvement district" are used in this act, the same shall be construed to relate and refer to an assessment district created under the provisions of said above mentioned "Acquisition and Improvement Act of 1925." In the event the legislative body conducting the proceedings under this act is the legislative body of a city or town, then and in that event the various words, expressions, clauses and phrases defined in said "Improvement Act of 1911," above referred to, shall be construed to have the same meaning wherever the same appear in this act, as is ascribed to, or as is indicated for, the same in said "Improvement Act of 1911" so far as same may be properly applicable; and, in the event the legislative body conducting the proceedings under this act is the legislative body of a county, or city and county, then and in that event the various words, expressions, clauses and phrases defined in that certain act of the Legislature of the State of California designated and referred to as the "County Improvement Act of 1921" shall be construed to have the same meaning wherever the same appear in this act, as is ascribed to, or as is indicated for, the same in said "County Improvement Act of 1921" so far as same may be properly applicable.

Stats. 1925, p. 849.

Stats. 1911, p. 730

Stats. 1921, p. 1658.

Stats 1931, p 1372, not applicable.

SEC. 14. The provisions of that certain act of the Legislature designated and known, and which is cited and referred to as the "Special Assessment Investigation, Limitation and Majority Protest Act of 1931," shall not be applicable to proceedings under this act.

Consent of other legislative bodies.

SEC. 15. In the event the legislative body conducting the proceedings hereunder was required under the provisions of said "Acquisition and Improvement Act of 1925" to procure the consent of any other legislative body or bodies in order to conduct the proceedings under which such bonds to be acquired and canceled hereunder were issued, then and in that event the consent of such other legislative body or bodies shall be secured to the taking of proceedings hereunder by the legislative body conducting the proceedings under this act. In the event any changes in jurisdiction of any legislative body or bodies over any territory included in any district to be created hereunder has taken place since the issuance of such issued bonds, then any legislative body having jurisdiction over any part of the territory included within the boundaries of any district proposed to be created hereunder shall have jurisdiction, notwithstanding any other provision or provisions of this act, to initiate and conduct proceedings under this act upon obtaining the consent of the other legislative body or bodies having jurisdiction over any other portion or portions of such territory, so to do.

Bankruptcy.

SEC. 16. Any legislative body having jurisdiction to conduct a proceeding under this act is authorized to file a petition and take all proceedings required under any bankruptcy law

or laws of the United States of America now or hereafter enacted, for a district or districts formed under that certain act of the Legislature of the State of California and known as the "Acquisition and Improvement Act of 1925."

Effect of act.

SEC. 17. This act shall be liberally construed to the end that its purposes may be effective. No error, irregularity, informality, and no neglect or omission of any officer of a city, county, or city and county, in any procedure taken hereunder, which does not directly affect the jurisdiction of the legislative body to order the issuance of "assessment readjustment bonds" hereunder, shall void or invalidate such proceeding or any assessment for the cost of acquisition and cancellation of such issued bonds and of the costs and expenses incidental to proceedings under this act. The exclusive remedy of any person affected or aggrieved thereby shall be by appeal to the legislative body as herein provided.

Constitutionality.

SEC. 18. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof be declared to be unconstitutional.

Limitation of actions.

SEC. 19. No action to test the validity of, or to set aside, or to attack or annul any petition or proceeding hereunder up to and including the resolution of intention herein provided for shall be commenced in any court unless the same be so commenced within ninety days after the date of the adoption of such resolution, excluding the date of such adoption; nor shall any action to test the validity of or to set aside, or to attack or annul any proceeding hereunder subsequent to said date of the adoption of said resolution of intention, be commenced or be prosecuted unless same be commenced within ninety days after the date of recordation of the assessment or diagram as hereinabove provided; and any action commenced subsequent to the periods of limitation hereinabove provided for shall be forever barred and the court upon being advised of such fact shall immediately dismiss any such barred action. Reassessments may be ordered and made under this act for the same reasons and for the same purposes and when made shall have the same force and effect as reassessments made, or authorized to be made, under the provisions of said "Improvement Act of 1911."

Reassessments

Disposition of balance in funds created.

SEC. 20. In the event that any balance remains in any fund or funds created under any proceeding or proceedings taken pursuant to the provisions of this act, after the purposes of such proceeding or proceedings have been accomplished and the legislative body which conducted such proceeding or proceedings shall by resolution so find, the same shall belong to, and, on order of such legislative body, be paid into, the general fund of the political subdivision over which such legislative body has jurisdiction.

SEC. 21. This act may be designated and referred to as the "Assessment Readjustment Act of 1935." Short title.

SEC 22. That certain act of the Legislature of the State of California approved June 5, 1933, which is commonly known, designated and referred to as the "Assessment Readjustment Act of 1933" is hereby repealed. Stats 1933, p. 1948, repealed.

SEC. 23. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1, Article IV of the Constitution of the State of California, and shall take effect immediately. Urgency

The facts constituting such urgency are as follows: Numerous acquisition and improvement districts have been created in the State of California under the provisions of said Acquisition and Improvement Act of 1925 and landowners owning properties located therein are in dire distress financially. The lands therein have become greatly in arrears in the payment of taxes and assessments and consequently the bonds of such districts are and have been delinquent for a considerable period of time. The great bulk of the property within such districts is subject to tax and assessment liens of various kinds for delinquent taxes and assessments. Previous refunding acts adopted by the Legislature have been declared invalid by the Supreme Court of the State of California and unless extraordinary means are provided for the returning of such lands and properties to the tax rolls, on a tax paying basis, it will be impossible for the landowners to pay their taxes and assessments and save their respective properties in such districts. The collection of taxes for general city and county governmental purposes within such districts has been, and is being, seriously and adversely affected and governmental agencies have been, are being, and will continue to be, deprived of necessary revenues which are urgently and immediately required in order to perform governmental services and functions. The great bulk of the property owned by said owners within such districts will shortly be deeded to the State and lost to the owners thereof, and danger to life, health and property now exists and will continue to increase.

This act is also necessary to accomplish the clearing of the titles to lands and properties located within such districts, to secure the payment of taxes, tolls and charges, to permit the landowners to retain possession of their lands and to continue to occupy, use and develop the same, and thereby to prevent the destruction of life, health and property.

CHAPTER 394.

An act to add a new section to the Insurance Code of the State of California to be numbered 12629, relating to mortgage insurers, including but not being limited to the rehabilitation, readjustment or reorganization of mortgage insurers or of all or of any part of the business, properties and assets of such insurers, and to the revision, modification or termination of mortgage participation trusts, mortgage participation certificates and policies of mortgage insurance and to the readjustment, modification or reorganization of the rights or interests of any or all of the investors and creditors of, and persons interested in, such insurers or trusts; to provision for the kinds of securities issuable in connection therewith and exempting such securities from the provisions of the Corporate Securities Act, and authorizing executors, administrators, guardians, receivers, trustees, insurers, banks, banking institutions and trust companies and officers of the State of California to consent to a plan, as defined in said section, to exchange mortgage participation certificates, shares of stock, bonds, notes, debentures or other rights or claims for securities issued pursuant to such plan and to continue to hold as legal investment any securities so received.

[Approved by the Governor July 6, 1935. In effect September 15, 1935.]

NOTE—See Stats. 1935, Ch. 145.

SEC. 2. Legislative Declaration of Emergency. * * *.

Constitutionality.

SEC. 3. If any section, subsection, paragraph, sentence, clause, phrase or other part of this act is for any reason held to be unconstitutional, or to be invalid as applied to any person, company or circumstance, such decision shall not affect the validity of the remaining portions of this act or the application to other persons, companies or circumstances of the part held to be invalid as aforesaid. The Legislature hereby declares that it would have passed this act and each section, subsection, paragraph, sentence, clause, phrase or other part thereof, irrespective of the fact that any one or more of the sections, subsections, paragraphs, sentences, clauses or phrases be declared unconstitutional or be invalid as applied to any person, company or circumstance.

Emergency.

SEC. 4. The Legislature hereby declares that this act is enacted in the exercise of the police powers of this State in view of the existing emergency affecting mortgage insurance companies arising from the circumstances set forth in section 2 of this act.

Construction.

SEC. 5 For the purpose of construing other acts or existing contracts this act shall be deemed to be an amendment to Chapter VIII of Title II of Part IV of Division First of the Civil Code of the State of California.

CHAPTER 395.

An act confirming the formation, organization and existence of municipal utility districts.

[Approved by the Governor July 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. In all cases where the board of supervisors of any county in this State has purported to form or organize a municipal utility district under the provisions of an act of the Legislature of the State of California entitled "An act to provide for the organization, incorporation, and government of municipal utility districts, authorizing such districts to incur bonded indebtedness for the acquisition and construction of works and property, and to levy and collect taxes to pay the principal and interest thereon," approved May 23, 1921, and such purported formation or organization has been completed for a period of six months previous to the taking effect of this act, and such municipal utility district has acted or functioned as a municipal utility district for a period of six months previous to the taking effect of this act, all acts and proceedings taken for the purpose of forming or organizing such district are hereby legalized, validated and declared to be sufficient, and such municipal utility district is hereby declared to be duly formed and organized under its appropriate name as of the time of its purported formation, and shall have all the rights and privileges, and be subject to all the duties and obligations of a duly formed or organized municipal utility district.

Municipal utility districts validated.

Stats 1921, p 245.

CHAPTER 396.

An act amending sections 3897 and 3898 and repealing section 3774 of the Political Code, relating to the procedure for the sale of property deeded to the State in payment of delinquent taxes, if not otherwise disposed of under section 3897a or section 3897b of the Political Code, declaring the urgency thereof, and providing that this act shall take effect immediately.

[Approved by the Governor July 6, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 3897 of the Political Code is hereby amended to read as follows:

3897. (1) Except when otherwise disposed of as provided in sections 3897a and 3897b of this code, whenever the State shall have become the owner of any property sold for taxes

Stats 1935, Ex Sess 1934, Ch. 6 Stats. 1935 p. 12

Sale of tax deeded lands.

and the deed to the State has been filed with the Controller as provided in section 3785, the tax collector of the county, or city and county, in which said land is located, shall whenever directed by the board of supervisors of his county, and upon the written authorization of the State Controller sell at private sale or public auction to the highest bidder for cash in lawful money of the United States, or by contract of sale upon the following terms, to wit: one-tenth (1/10) of the purchase price in cash at time of sale, and the balance in nine (9) annual installments thereafter, with interest upon unpaid balance of the purchase price at five per cent (5%) per annum, payable annually, and subject to the condition that all current taxes and assessments thereafter levied and assessed during the term of such contract should be paid within the time allowed by law therefor, the property or any part thereof in the manner hereinafter provided; provided that the tax collector shall not proceed with the sale of any land within any political subdivision or taxing agency, including reclamation, irrigation, drainage or levee district, county, or city which has taken title to said land, if the governing body of said subdivision or agency shall file with the tax collector and the board of supervisors certified copies of a resolution adopted by such governing body objecting to such sale.

Private sale

(2) In case it is sought to sell such property at private sale under the provisions hereof, after the State Controller has authorized such sale, the tax collector shall, as a condition to the authority to sell at private sale, either for cash or by contract, first obtain the consent of the board of supervisors of the county, or city and county, in which the lands, or any part thereof, are located, to the proposed sale, and to that end the tax collector shall transmit to such board a notice in writing, of his intention to make such sale, which notice shall contain a description of the property to be sold, and the price in lawful money of the United States, at which it is proposed to sell the same, and also whether such price is to be paid in full at time of purchase or in annual installments as herein provided.

Resolution of board of supervisors

Upon the receipt of said notice by said board, it shall be its duty, by resolution either to consent to the proposed sale of the property as set forth in said notice, or withhold its consent thereto. In either event the said board shall, within five days after its action in the premises, transmit to said tax collector, a certified copy of its said resolution. Failure of the board to adopt such resolution or to transmit the same within the time prescribed, however, shall not make either void or voidable, a sale made pursuant to such consent.

Notice.

If said board of supervisors shall approve said proposed sale as aforesaid, and upon receipt of the copy of said resolution by the tax collector, it shall be the duty of the tax collector to give written notice to the party to whom the land was last assessed nearest before the sale, of such intended sale, by mailing said notice to him, postage thereon prepaid and

registered, at his last known post-office address, at least twenty-one days before the date of said intended sale. The board of supervisors may, in their discretion, direct the tax collector to publish the notice of the intended sale once in a newspaper published in the county, or if there be no such newspaper then in a newspaper of general circulation in the county. Said notice shall contain the time and place of said intended sale, a description of the property to be sold, sufficient for identification, together with a statement that if redemption of said property is not effected according to law, prior to said date of sale, that all right of redemption shall cease.

Sale.

At the time and place fixed for said intended sale, if no redemption of said property to be sold has been effected according to law, prior to said date so fixed for said intended sale, the tax collector shall sell and convey said property at private sale on the day and hour fixed therefor, or at any time not more than three months thereafter, for the price and the terms fixed in said notice to the board of supervisors, in lawful money of the United States.

Public auction.

(3) In case it is sought to sell such property at public auction under the provisions hereof, the tax collector must give notice of such sale by publication once in some newspaper published in the county or city and county, or if there be no newspaper published therein, then by posting a notice in three conspicuous places in the county or city and county, one of which shall be in the United States post office nearest the land. Such publication must be completed not less than three weeks prior to the sale. Such notices must state specifically the place and the day and hour of sale and shall contain a description of the property to be sold and shall also contain the name of the person to whom the property was assessed, on the county assessment roll for each year on which there may be delinquent taxes against said property or any part thereof. It shall be the duty of the tax collector to mail within five days, after the publication of said notice of sale a copy of said notice, postage thereon prepaid to the party to whom the land was last assessed nearest before the sale, at his last known post-office address, and shall also mail a copy of said notice, postage prepaid, to the State Controller and clerk or secretary of the governing board of each political subdivision or taxing agency, or reclamation, irrigation, drainage or levee district having the right to levy taxes or assessments on the land involved and any such subdivision or agency, including reclamation, irrigation, drainage or levee district, or county or city having taxes or assessments levied on any parcel may bid on such parcel.

Contents of notice.

Disposition of moneys.

(4) All moneys received on account of any such sales shall be immediately transmitted by the tax collector to the county treasurer together with a report showing the amount of costs which the county has expended on account of the making of such sale, showing the total sums received for individual parcels, which parcels shall be identified in said report by year, page and number of delinquency roll, and a duplicate

thereof shall be filed with the county auditor. The amount of expenses so reported shall be deposited in the county general fund and the balance shall be deposited in the delinquent tax sale trust fund.

Notice to other taxing agencies

(5) Upon the receipt of said duplicate report, the auditor shall mail a copy thereof to the State Controller and to the secretary or clerk of the governing board of each political subdivision or taxing agency, or reclamation, irrigation, drainage or levee district capable under the law of levying taxes or assessments upon the land covered by such sale, and shall enclose therewith a notice describing such land, and that claims on the amount received from the sale thereof must be made within a period of six months from the date of the mailing of such notices.

Claim for delinquencies.

(6) Upon the receipt of such notices it shall be the duty of the State Controller and the governing board of any political subdivision or taxing agency, including reclamation, irrigation, drainage or levee district or county, or city, having taxes or assessments levied upon the land described in said notices to forward a claim thereon to the county auditor setting forth the amount of the tax or assessment delinquent levied on such land, by, and still unpaid to, the political subdivision or district for which said claim is being made. On the first meeting day of the board of supervisors following the expiration of six months from the date of mailing such notices, as aforesaid, by said county auditor, the county auditor shall present all such claims received by him to the said board of supervisors and the board of supervisors, if said claims be correct, shall order the money received from the sale of each parcel of land, and also the paid or subsequent installments of the purchase price of any contract of sale, to be divided pro rata among the taxing or assessing agencies having filed claims in accordance with the proportion which such delinquent tax or assessment bears to the total of all such taxes or assessments first delinquent in each district or political subdivision involved, and the auditor shall draw and mail warrants on said delinquent tax sale trust fund in accordance with said order. If the board of supervisors dispute the correctness of any such claim, the money received from the sale of the individual parcel or parcels involved in such disputed claim shall remain in said trust fund until the settlement of said claim by agreement of the governing boards or officers of the various taxing or assessing agencies or by judgment of a court of competent jurisdiction.

Effect of deed.

(7) A deed given by the tax collector upon a sale made as in this section provided shall convey title to the purchaser free and clear of all liens, taxes, assessments or encumbrances of any kind or character whatsoever levied or assessed or liened on the property which are due at the time of such sale so conveyed prior to the date of such sale, and, except as against actual fraud, such deed duly acknowledged shall be prima facie evidence of the regularity of all proceedings from

the assessment of the assessor to and including the execution of such deed.

Nothing in this section contained shall be deemed to nullify or amend the provisions of section 12 of "Improvement Bond Act of 1915" or of any provisions amendatory thereof or supplemental thereto with reference to the title acquired by a purchaser at a tax collector's sale or at a resale by the city. Stats 1923, p 304

(8) No action, suit or proceeding to set aside, cancel, or question the validity of any proceedings instituted under the provisions of this section shall be instituted or maintained unless the same shall have been commenced within six months after the date of the execution of the deed of the tax collector and thereafter all persons shall be barred from commencing or prosecuting any such action or maintaining any defense in any action based upon the alleged invalidity or alleged irregularity in such proceeding. The burden of proof in any such action or proceeding shall be upon the plaintiff to show invalidity of taxes, assessments, or sales of which he complains. Limitation of actions. Burden of proof.

(9) Any deed given under this section shall be subject to any lease theretofore given under the provisions of section 3466a. Lease under Stats 1935, Ch 746

SEC. 2. Section 3898 of the Political Code is hereby amended to read as follows: Stats 1921, p. 477.

3898. 1. The moneys received from sales made under the provisions of section 3897 of this code shall be distributed as follows: The tax collector, in case of a sale at public auction, shall deduct the penalties, costs and other amounts received as expenses of such sale in such cases as the property so sold shall have been sold for a sum not less than the amount of all taxes levied thereon and all interest, costs, penalties and expenses up to the date of such sale, but where the property so sold shall have been sold for a sum less than said amount, the tax collector shall deduct only the amounts received as expenses attending such sale, and the balance shall be distributed among the State, county, city, and other taxing agencies including reclamation, irrigation, drainage or levee districts to which taxes or assessments may be due, in the proportion that the amount of taxes and penalties due the State bears to the amount of taxes and penalties due to each of the other taxing agencies. The tax collector shall pay all amounts into the county treasury, and the treasurer shall account to the State for its portion in the settlement required by section 3865, and section 3866. In cases of private sales by the tax collector the amounts paid to the county treasurer shall be disposed of as in this section provided. The State's portion from such sales shall be paid into the State treasury to the credit of the general fund. The tax land fund is hereby abolished and the funds therein are hereby transferred to the general fund. Distribution of moneys

2. On receiving the purchase price at sales under the provisions of section 3897 of the Political Code, the tax collector Deed.

must execute a deed to the purchaser at such sale, which deed shall be in substance, and may be in form as follows:

"This indenture made the ------ day of ------, 19----, between ------ tax collector of the county of ------, State of California, first party, and ------, of the county of ------, State of California, second party,

WITNESSETH:

That whereas the real property hereinafter described was duly sold and conveyed to the State of California for the non-payment of taxes which had been legally levied and which were a lien upon said property under and in accordance with law, and

Whereas in conformity with law, the State of California, acting by and through ------, tax collector as aforesaid, did sell said property, hereinafter described, at a private sale to the said second party, for ------ dollars, (or in case of a sale at public auction) did offer said property hereinafter described, for sale at public auction to the highest bidder at which sale second party became the purchaser of the whole thereof for the sum of ------ dollars.

Now, therefore, the said first party in consideration of the premises and in pursuance of the statute in such cases made and provided, does hereby grant to the second party, his heirs and assigns, that certain real property hereinbefore referred to and situate in the county of ------, State of California, more particularly described as follows, to wit:

In witness whereof, said first party has hereunto set his hand the day and year first above written.

Tax Collector of the County of
------, State of California."

No other matters need be recited in the said deed than those provided for in the above form. No charge shall be made by the tax collector for the making of any such deed, and the acknowledgment of all such deeds when executed by the tax collector shall be taken by the county clerk free of charge.

Report to assessor and recorder

3. Within ten days after each sale, as provided in section 3897 of the Political Code, the tax collector shall report to the assessor and recorder of the county in which the lands sold are situated, giving the name or names of all persons to whom deeds have been issued under the provisions of this section, and said section 3897, together with the dates of such deeds, the amount for which the property was sold, the description of the property conveyed, together with the numbers and dates of the certificates of sale and of the tax deeds by which title to such property so granted was conveyed to the State.

Duties of recorder and assessor.

4. The recorder shall note on the margin of each certificate of sale and of each tax deed involved in the sale, and transfer of such property, the name of the purchaser, the date of the deed to the purchaser, and the consideration named therein.

The assessor shall use such report in his determination of the ownership of such property for assessment purposes.

5. Upon the completion of the sale, the tax collector shall report to the State Controller the date of sale, the description of the property, the name of the purchaser, and the amount of money received for the property sold. Report to Controller.

6. (a) Whenever in any action at law it has been, or shall be determined by a court that the sale and conveyance provided for in this section and section 3897 of the Political Code, or in section 3771 of the Political Code, heretofore or hereafter made, are void for any reason, and that the purchaser from the State may not be finally awarded the property so purchased, no decree of the court shall be given declaring a forfeiture of the property until the former owner or other party in interest shall have repaid to the purchaser the full amount of taxes, penalties, and costs, paid out and expended by him, to be determined by the court, in pursuit of the State's title to the property so sold. The said purchaser may, within one year after such decree becomes final, also present a claim against the county in the manner provided by law for a refund of the amount paid into the county treasury as the purchase price of such property in excess of the amount for which he may have been reimbursed for taxes, penalties and costs, as herein provided, and such excess shall be refunded in accordance with section 3804 of this code. Void sales.

(b) Whenever it shall be determined to the satisfaction of the board of supervisors of the county in which the land is situated that any land belonging to the United States government or to this State, a municipality or other political subdivision of this State has been erroneously sold and conveyed under the provisions of this section or section 3897, or section 3771 of this code, and the said land should not have been so sold, the purchaser at said sale may present a claim against the county in the manner provided by law for a refund of the amount so paid into the county treasury by reason of such sale and such claim shall be paid by the county treasurer as provided in section 3804 of the Political Code of the State of California. Land erroneously sold

SEC. 3. Section 3774 of the Political Code is hereby repealed. Stats 1933, p. 2588, repealed.

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Article IV of the Constitution, and shall therefore go into effect immediately. Urgency.

The facts constituting such necessity are as follows:

Due to the depression which has existed in the past several years many landowners have been unable to meet the taxes and assessments levied by the State, political subdivisions, agencies, reclamation, irrigation, drainage and levee districts, with the result that their lands have been sold to the State and such taxing and assessing agencies. The heavy penalties assessed by law have made it impossible for the landowners

to redeem their lands, hence thousands of acres of land have been sold for the nonpayment of such taxes and assessments, and deeds have been executed thereon to the State and such taxing and assessing agencies. That as long as such lands remain State lands the same are nonassessable for tax or assessment purposes, and the tax and assessment burden becomes heavy upon the paying lands, causing more delinquencies and losses and threatening the insolvency of many political subdivisions and agencies, and reclamation, irrigation, drainage and levee districts. The Legislature hereby declares that the welfare of the State requires that such land be placed in private ownership as promptly as possible so that such land henceforth bear its just proportion of current taxation and assessments.

CHAPTER 397.

An act to add section 2.391 to the School Code, relating to severance of joint schools.

[Approved by the Governor July 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2.391 is hereby added to the School Code to read as follows:

Validity of district not affected by severance.

2.391. Whenever, by reason of any action taken in accordance with law, territory is, or has been heretofore, removed from a high school district, and the high school district is or has been thereby separated into two or more noncontiguous parts, the validity of such high school district shall not be deemed to be, or have been, affected by the withdrawal of such territory, and the rights, powers, duties, responsibilities and jurisdiction of the high school district shall be deemed not to be, or have been affected by reason of the separation of the high school district into two or more noncontiguous parts.

CHAPTER 398.

An act to amend section 3820 of the Political Code, relating to assessor to collect taxes not secured by real property.

[Approved by the Governor July 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1929, p. 1579

SECTION 1. Section 3820 of the Political Code is hereby amended to read as follows:

3820. The assessor shall have power to collect the taxes on all property when, in his opinion, said taxes are not a lien upon real property sufficient to secure payment of the taxes. The taxes on all assessments of possession of, claim to, or right to the possession of land, and the taxes on taxable improvements located upon land exempt from taxation, shall be immediately due and payable upon assessment and when collected by the assessor shall be collected by the assessor as provided in Part III, Title IX, Chapter VIII of this code, unless, in the same county, the owner or claimant of such possession of, claim to or right to the possession of land, or of such improvements shall also own taxable real property in fee, in which event the taxes due upon such possession of, claim to or right to the possession of land, or upon such improvements, are respectively a lien upon such taxable real property so owned in fee, which lien attaches as of the first Monday of March in each year, and such taxes need not be collected by the assessor if in his opinion such taxable real property so owned in fee is sufficient to secure the payment thereof; provided, however, that the taxes on all property assessed pursuant to the provisions of section 14 of Article XIII of the Constitution of this State may be paid by the person or corporation to whom such property is assessed in the same manner and at the same time as if such property were secured by real property.

Collection of taxes by assessor and lien thereof upon real property.

CHAPTER 399.

An act to amend section 865 of the Fish and Game Code, relating to fish, declaring the urgency thereof to take effect immediately.

Stats 1933, p. 394.

[Approved by the Governor July 6, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. Section 865 of the Fish and Game Code is hereby amended to read as follows:

Stats 1935, Ch. 399.

865. It is unlawful to use any net except a gill net or a trammel net to take shad. Such nets may be used to take shad only as follows:

Use of nets to take shad.

(1) They may be used in district 12B, excluding all sloughs except Broad Slough, between February 15 and May 15.

(2) They may be used in district 12C, excluding all sloughs, between February 15 and May 15.

(3) They may not be used between sunrise Saturday and sunset of the following Sunday.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1

Urgency.

of Article IV of the Constitution and shall therefore take effect immediately.

The facts constituting such necessity are as follows: there are many destitute fishermen who will be enabled to relieve their condition through the use of the nets herein permitted. Since the season on shad will soon close, it is necessary that this take immediate effect in order that it may benefit such destitute fishermen.

CHAPTER 400.

An act to postpone proceedings to enforce any guaranty of any special assessment or special assessment tax, or arising out of the issuance of any special assessment bond, or ad valorem district bonds or direct assessment district bonds, levied or issued to pay the cost of the improvement or acquisition of property for public purposes, in cases in which proceedings to enforce such assessments, bonds, or taxes are postponed by law, declaring the urgency thereof, and providing that it shall take effect immediately.

[Approved by the Governor July 3, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Actions to enforce guaranty of payment of special assessments, etc., postponed.

SECTION 1. No suit, action or other proceeding shall be begun or prosecuted upon or to enforce any guaranty of the payment of all or any portion of any special assessment, special assessment tax, special assessment bond, or other assessment or tax, levied to pay the cost of the construction of any public improvement or the acquisition of any property for public use, during the time that any proceeding, act, or other remedy provided for the enforcement of any such assessment, tax or bond is postponed, delayed or prohibited by any statute or other provision of law; and, no suit, action or other proceeding shall be begun or prosecuted upon or to enforce any guaranty of the payment of any instrument or bond issued to represent any such assessment, tax or bond during the time that any proceeding, act or other remedy provided for the enforcement of any such assessment, tax or bond is postponed, delayed or prohibited by any statute or other provision of law.

Time for commencement of actions extended.

SEC. 2. The periods of time prescribed by sections 581, 581a, 581b and 583 of the Code of Civil Procedure or prescribed by any other provision of law for the commencement of any action or proceeding to foreclose or enforce any special assessment, special assessment tax, special assessment bond or other assessment or tax levied or issued to pay the cost of the construction of any public improvement or the acquisition of any property for public use and the periods of time prescribed by any of said sections of the Code of Civil Procedure or other provisions of law for the commencement of any

action to enforce any guaranty of the payment of any such special assessment, special assessment tax, special assessment bond or other assessment or tax of any bond or other instrument issued to represent any such assessment or tax, is hereby extended for such period of time as any proceeding, action, or other remedy provided for the enforcement of any such assessment tax or bond is postponed, delayed or prohibited by any statute or other provision of law.

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1, of Article IV of the Constitution, and shall therefore take effect immediately. The following is a statement of the facts constituting such urgency: Urgency.

The peace, safety and welfare of citizens of this State are dependent upon immediate relief from the payment of principal or installments thereof due upon such assessments, taxes, and bonds, by reason of the fact that the present economic crisis has made the owners of property upon which such lien falls unable to pay the principal due thereon. The property, as a result of the depression, has neither a reasonable existing sale value, nor does it at present furnish satisfactory or realizable security for raising funds for the payment of these bonds. If these persons lose their homes as a result of proceedings arising out of the nonpayment of these sums, the burden of their support and maintenance will have to be assumed by the State or by local taxation, to the great injury of the State or local government of this State. When a moratorium is declared upon such payments, it would be grossly inequitable and would cause financial ruin to guarantors not to extend to them similar relief. It is therefore necessary that the temporary relief given by this act be immediately extended and this act should therefore take effect immediately.

CHAPTER 401.

An act to add Chapter 8 to Division VI of the Agricultural Code, relating to the marketing of milk and other dairy products. Stats 1933, p. 60.

[Approved by the Governor July 6, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. A new chapter is hereby added to Division VI of the Agricultural Code to be numbered 8 and to read as follows: New chapter

CHAPTER 8. MARKETING OF MILK AND OTHER DAIRY PRODUCTS.

Article 1. General Provisions.

Definitions.

1299. As used in this chapter the terms "milk," "market milk," "market cream," "manufacturing milk," "manufacturing cream," shall be the meaning of those terms as defined in Division IV of this code. "Dairy products" means buttermilk, ice cream, ice-milk, bottled milk drinks sold under a trade name, modified milk, acidophilus milk and skim milk for human consumption.

"Dairy products."

"Distributor

"Distributor" means any person, other than a retail store, irrespective of whether he is also a producer who sells market milk or dairy products at wholesale or retail.

"Manufacturer."

"Manufacturer" means any person engaged in the business of manufacturing dairy products as said products are herein defined.

"Producer."

"Producer" means any person who operates a dairy herd or herds producing milk or cream commercially.

"Retail store."

"Retail store" means any place where milk and/or dairy products are sold for consumption off the premises.

"Wholesale customer."

"Wholesale customer" means any person who buys milk, cream or dairy products from a distributor or manufacturer for resale to consumers.

"Consumer."

"Consumer" means any person who buys milk, cream or dairy products for consumption by himself or his household.

Exemptions.

Nothing in this chapter contained shall control or otherwise affect any self-help cooperative association marketing market milk, cream or dairy products to its members or any educational or other agency of the State engaged in teaching or research relating to agriculture, provided when engaged in the commercial selling or distribution of milk, cream or dairy products said educational or other agency of the State shall conform to the provisions of this chapter.

Unlawful practices

1299.1. In the marketing of market milk, cream and dairy products the following methods of doing business or trade practices are hereby declared unlawful.

(a) The payment or allowance of rebates, refunds, commissions or unearned discounts to any customer whether in the form of money or otherwise.

(b) The giving of any milk, cream or dairy products for the purpose of securing business provided the giving of milk, cream or dairy products to bona fide charities is not prohibited.

(c) The extension to any purchasers of milk, cream or dairy products of special prices, services or privileges not extended to all purchasers upon like terms and conditions.

(d) Any false or misleading advertising of milk, cream or dairy products as defined in section 654a of the Penal Code.

(e) Any discriminations between wholesale customers or between consumers who purchase milk, cream or dairy products under like conditions of service as to prices at which milk,

cream or dairy products are sold thereto or any discrimination between different sections, communities or cities, in the same sales or marketing area, or portions thereof or between different localities in such sections, communities or cities or portions thereof by selling milk, cream or dairy products at a lower price in one section, community or city or any portion thereof or in one location in such section, community or city or any portion thereof than in another after making allowance for difference, if any, in the cost of such milk, cream or dairy products and the actual cost of transportation of such milk, cream or dairy products from the point of processing or manufacture. Unlawful practices

(f) The solicitation of the business of any wholesale customer or consumer at lower prices for milk, cream or dairy products of like quality or grade sold under like conditions of service than such wholesale customer or consumer is then paying a competitor.

(g) The sale or offer to sell or giving of any article at less than the prevailing market price thereof to secure the milk, cream or dairy products business of any wholesale customer or any person who buys as a consumer.

(h) The payment by distributors or manufacturers of different prices for milk purchased from producers of the same grade and quality used for similar purposes in the same marketing or sales area provided that differences in actual cost of transportation from point of production to distributors' or manufacturers' plant shall not be construed as a violation of this section. The payment by distributors or manufacturers in any marketing or sales area of a lower price to any producer than is being paid by distributors or manufacturers for fifty-one per cent of all milk used in such marketing or sales area for similar purposes.

(i) Any payment by any distributor or manufacturer to any producer for milk purchased, in the same sales or marketing area, at a lower price than that at which all milk used by such distributor or manufacturer for similar purposes is paid for.

(j) The payment by a distributor or manufacturer to any producer at a price less than the average prevailing cost of production of milk of like quality to the producer in the area as determined by the director.

(k) The sale by any distributor who produces his own milk or who produces his own milk and acquires other milk for distribution at a price less than the average prevailing cost of production and distribution in the area as determined by the director.

(l) Sale of milk, cream or dairy products at less than cost as defined in this subsection, provided that nothing in this subsection shall prohibit the meeting of any legal price made by any competitor. For the purposes of this subsection the term "cost" is hereby defined as the price paid for such milk, cream

or dairy products at seller's place of business plus cost, if any, of processing, handling and delivery.

(m) The buying by any distributor of any market milk, excluding cream, from producers unless a written contract is executed by buyer and seller specifying the price and terms upon which said milk is purchased by the distributor and sold by the producer, and unless said contracts or any amendments thereof are recorded with the director within five days of their execution.

(n) The engaging in business as a distributor, manufacturer or producer, as said terms are defined in this chapter, by any person who does not hold a license or who is not registered as herein provided.

Article 2.

Enforcement.

1299.2. The director shall enforce the provisions of this chapter and for that purpose may make such rules and regulations as he deems necessary. The provisions of this chapter shall be liberally construed.

Licenses.

1299.3. After thirty days after the effective date of this act no person shall deal in milk, cream or dairy products as a distributor or manufacturer as herein defined, without first having obtained a license from the director, and no producer, as herein defined, shall sell any market milk, market cream, manufacturing milk or manufacturing cream to any distributor or manufacturer, as herein defined, without first having registered with the director. Provided, however, the licensing and registration provisions of this act shall have no application to a producer who produces and sells manufacturing milk solely for manufacturing purposes or who is a party to a marketing agreement entered into between producers or between producers and processors under existing Federal or State law which permit such agreements. The special licenses and registration provided in this section are in addition to any and all licenses required by any other section of Division IV, Agricultural Code, or any other law or ordinance of any county or municipality of this State. Applications for the licenses and registrations herein provided shall be made on forms furnished by the director and shall state the name and address of the applicant and such details as to the nature of applicant's business as the director may require.

Fees.

1299.4. The fee for all licenses and registrations provided for in section 1299.3 shall be three dollars annually and said fee shall accompany the application and shall be payable to the director; provided that no registration fee shall be paid by producers milking less than ten cows daily. The director, at least once each month, shall report to the State Controller the total amount of moneys collected for fees under this chapter and shall at the same time pay into the State treasury the entire amount of such receipts which shall be credited to the Department of Agriculture fund and expended in carrying out

Exemption.

Disposition of funds.

the provisions of this chapter. The director shall, within thirty days prior to the regular session of the Legislature, submit to the Governor a full and true report of the transactions under this law during the preceding biennium, including a complete statement of receipts and expenditures during the period. All of the licenses and registrations required by this chapter expire on the thirty-first day of each December and may be renewed within thirty days of the expiration thereof upon payment of the annual fee of three dollars if the licensee or producer has complied with all the requirements of this chapter and the rules and regulations applicable thereto.

Report to Governor.

Expiration of licenses.

1299.5. The director may refuse to grant any license herein provided and may, after due hearing, revoke or suspend any such license as the case may require, when he is satisfied that any applicant or licensee has violated any provision of this chapter or when he is satisfied that any distributor or manufacturer has failed to make payment to any producer for milk purchased at the price, upon the terms, and on the date agreed to between such distributor or manufacturer and such producer; provided that in the event of an appeal from a decision or order of the director revoking a license such order shall not be effective until final judgment on the appeal.

Suspension of licenses.

1299.6. Every distributor or manufacturer of milk, cream or dairy products who buys milk or cream from producers shall keep the following records:

Records

(a) A record of all milk, cream or dairy products received, detailed as to location, names and addresses of suppliers, prices paid, and deductions or charges made, and the use to which such milk or cream was put.

(b) A record of the quantity of each kind of milk or dairy product manufactured and the quantity and price of milk or dairy products sold.

(c) A record of the wastage or loss of milk or dairy products.

(d) A record of the items of handling expense.

(e) Such other records as the director may deem necessary for the proper enforcement of this chapter.

1299.7. All distributors shall keep a full and complete record of all milk, cream or dairy products sold, classified as to kind and grade, showing where sold, and the amount received therefor.

1299.8. All distributors or manufacturers shall make and file with the director at least once each month such reports as the director may require to enable him to enforce the provisions of this chapter.

Reports

1299.9. Any record or report made to the director pursuant to the provisions of this article shall be confidential and shall not be divulged except when necessary for the proper determination of any court proceedings or hearing before the director.

Complaints for violation.

1299.10. The director, upon his motion or upon the receipt of any verified complaint shall investigate any transaction or transactions involving the violation of any provision of this chapter by any person, the director shall cause a copy of such complaint together with a notice of time and place of hearing of such complaint to be served personally or by mail upon such person. Such service shall be made at least ten days before the hearing, which shall be held in the city or town in which is situated the business location of the person complained of, or in which the transaction complained of is said to have occurred. The person complained of shall, at least three days prior to the date fixed for said hearing, serve upon the complaining party and file with the director a verified answer to all the allegations contained in said complaint. At the time and place appointed for such hearing the director, or his agents, shall hear the parties to such complaint, and shall enter in the office of the director at Sacramento a decision dismissing such complaint or specifying the facts established on such hearing. A copy of such decision shall be furnished to each, every and all the respective parties thereto. The director shall have full authority to administer oaths and take testimony thereunder, to issue subpenas requiring the attendance of witnesses before him, together with all books, memoranda, papers, and other documents, articles or instruments; to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation, and all parties disobeying the orders or subpenas of said director shall be guilty of contempt and shall be certified to the superior court of the State, in and for the county wherein such contempt occurs, for punishment for such contempt in accordance with section 353 Political Code.

Review by court.

1299.11. Any act of the director pursuant to the provisions of this chapter may be reviewed by any court of competent jurisdiction.

Violation.

1299.12. The violation of any provision of this chapter is a misdemeanor punishable by a fine not exceeding five hundred dollars or by imprisonment in a county jail not exceeding six months or by both such fine and imprisonment.

Constitutionality.

SEC. 2. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter, or the application of such provision to any other person or circumstance shall not be affected thereby.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and shall therefore go into immediate effect. The statement of the facts constituting such necessity is as follows:

The economic conditions of fluid milk producers throughout the State are such as to require immediate relief if their purchasing power and taxpaying ability are to continue and their

morale and standard of living are not to be undermined. Such relief can be afforded only by the orderly production and marketing of fluid milk and fluid cream. The provisions herein contained are necessary in order to prevent the further demoralization of the fluid milk and fluid cream industries.

CHAPTER 402.

An act to regulate the caravaning of motor vehicles upon the public highways of this State, defining the term "caravaning" and providing for the licensing of motor vehicles in caravan and imposing penalties for violation thereof.

[Approved by the Governor July 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

"Caravaning" defined

SECTION 1. The term "caravaning" as used in this act shall mean the transportation from without the State of any motor vehicle operated on its own wheels, or in tow of another motor vehicle, for the purpose of selling or offering the same for sale to or by any agent, dealer, manufacturers' representative, purchaser or prospective purchaser, whether such agent, dealer, manufacturers' representative, purchaser or prospective purchaser may be located within or without this State. The caravaning of motor vehicles as herein defined shall be considered as the transportation of property for hire by motor vehicle and shall be subject to all the laws of this State relative to the transportation of property for hire by motor vehicle upon the public highways of this State.

Permits for "caravaning."

SEC. 2. No person, firm or corporation shall use any highway in this State for caravaning motor vehicles unless and until there shall first have been secured from the Motor Vehicle Department of the State of California a special permit as to each vehicle so caravaned, for use of the highways of this State in caravaning such vehicle, which permit shall be displayed by posting the same upon the windshield of such vehicle or in other prominent place thereon where it may be readily legible. It shall be unlawful to operate three or more vehicles or groups of vehicles in caravan unless a space of at least one hundred fifty feet shall at all times be maintained between each vehicle or group of vehicles being so caravaned.

Spacing vehicles.

Fees.

SEC. 3. As a condition precedent to the issuance of any special permit provided for in the previous section of this act the Motor Vehicle Department of the State of California shall charge and collect a fee of fifteen dollars for each motor vehicle for which a caravan permit may be issued, whether such vehicle be operated under its own power or in tow of another motor vehicle; provided, however, that no such permit shall be issued by said Motor Vehicle Department unless and until

the applicant therefor shall have produced evidence to the satisfaction of said Motor Vehicle Department that all of the laws of this State relating to the transportation of property upon the public highways therefor for hire shall have been complied with.

Transfer of permits.

SEC. 4. No permit issued under this act for caravaning motor vehicles or vehicles shall be transferable either as between persons or as to the vehicle for which it is issued, and shall only be valid for the trip or trips to be specified in said permit, and in no event shall such permit be valid for a period of more than ninety days after it shall have been issued. Such permit shall contain such information and be in such form and shall be issued under such rules and regulations as may be prescribed by said Motor Vehicle Department. Such permit shall be conditioned upon the permittee complying with all laws of the State of California and the United States.

Fee in lieu of other fees.

SEC. 5. The fee paid for any caravaning permit issued under this act shall be in lieu of all other registration fees and license fees for the use of public highways in this State by motor vehicle during the period that such motor vehicle may be operated under and in accordance with such permit upon the public highways in this State; provided, however, that nothing in this section shall exempt the owner or operator of such vehicle from compliance, except with respect to fees or license charges, with all laws of this State now or hereafter adopted, relating to the transportation of property for hire.

Disposition of funds

SEC. 6. All fees from the issuance of permits collected by the Motor Vehicle Department under this act shall be paid into the general fund in the State treasury.

Said department shall file with the Controller on or before February first and August first of each year a detailed account of the receipts of said Department from this source for the six months next preceding. The moneys so derived by the State are intended to reimburse the State treasury for the added expense which the State may incur in the administration and enforcement of this act and the added expense of policing the highways over which such caravaning may be conducted, so as to provide for the safety of traffic on such highways where caravaning is being conducted.

Penalties.

SEC. 7. Violation of the provisions of section 2 or of section 4 of this act is a misdemeanor punishable by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

CHAPTER 403.

An act authorizing any county, city and county, city, town, district, or any political subdivision of the State, or any public or municipal corporation of the State, in the letting of contracts for public work, or the doing of such work,

to comply with requirements of Federal laws and of regulations and orders issued under authority thereof with respect to the awarding of contracts, hours of labor, employment preferences, and other matters covered thereby, and imposed as a condition or prerequisite to the loan or grant of Federal funds or the funds of any Federal corporation or agency in aid of such public work, and declaring this act to be an urgency measure, and providing that it take effect immediately.

[Approved by the Governor July 6, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Conformity with Federal rules relating to use of Federal money.

SECTION 1. Any county, city and county, city, town, district, or any political subdivision of the State, or any public or municipal corporation of the State, is hereby authorized in the letting of contracts for public work or in the doing of such public work to comply with and conform to all applicable requirements of Federal laws, and of regulations and orders issued under the authority thereof with respect to the awarding of contracts for such public work, the hours of labor, employment preferences and other matters covered thereby, and which said Federal laws or regulations are imposed as a condition or prerequisite to the loan or grant of Federal funds or of the funds of any Federal corporation or agency in aid of such public work.

Urgency.

SEC. 2. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1, Article IV, of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such necessity:

Many of the public corporations and districts of the State have been the recipients of or are now applicants for loans or grants of money from the United States of America, or from the duly constituted corporations or agencies thereof, to be used for the purpose of financing in whole or in part public works on behalf of such public corporations or districts. The immediate emergency produced by unemployment within the State cannot be met excepting by encouraging and carrying on a program of public works within the State by which considerable numbers of the unemployed may find gainful employment.

The lending of funds or the grants of moneys and credit to the public corporations of this State by the Federal government, or by the duly constituted agencies or public corporations of the Federal government, is now conditioned and may hereafter be conditioned upon certain Federal laws and regulations imposed as a condition or prerequisite to the making of such loan or granting of such aid to the public corporations of the State.

It is necessary that every encouragement be accorded by the State to the public corporations and districts of the State whereby such Federal loans may be effected, or grants of aid made to them so that they may engage in public works which otherwise could not be financed. The general condition of unemployment throughout the State which now exists and for a long period of time prior hereto has existed, is resulting in distress to the people and is making necessary the granting of relief to them by the public agencies of the State. To decrease the said condition of unemployment of the people of the State will result in lessening the burden upon government of providing relief for them.

Unless the public corporations and districts of the State are immediately permitted by the State to comply with the regulations imposed by the Federal government, the moneys which otherwise would be available for the doing of public work upon which the people may be employed, will not be available.

CHAPTER 404.

An act to amend section 3818 of the Political Code, relating to segregation of property on the assessment rolls.

[Approved by the Governor July 3, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1927, p 499.

SECTION 1. Section 3818 of the Political Code is hereby amended to read as follows:

See Stats 1935, Ch 799.

3818. In all cases where a lot, piece, or parcel of land contained in any assessment has been sold or may hereafter be sold for delinquent taxes to the State, and the State has not disposed of the same, a partial redemption may be made, separately from the whole assessment, of any such lot, piece or parcel of land as follows:

Partial redemption

Separate valuation

If such lot, piece or parcel of land has a separate valuation on the assessment roll, such partial redemption shall be made in the manner following: In the estimate provided for in the preceding section, the auditor shall estimate the amount of State and county taxes due on such lot, piece or parcel of land, together with a proper proportion of the taxes due on personal property under such assessment, and of the taxes due each school, road, lesser or other taxation district; and such redemption shall be made in the manner provided for in the preceding section.

When no separate valuation.

If such lot, piece or parcel of land does not have a separate valuation on the assessment roll, the auditor shall submit the description of the fractional part of the lot, piece or parcel of real property upon which redemption is requested, to the county assessor, who must place a valuation thereon. The

auditor shall then estimate the amount of such taxes due on such lot, piece or parcel of land according to such relative or proportionate value and the taxes due on any improvements on the portion sought to be so redeemed, together with a relative proportion of the taxes due on personal property under such assessment, and of the taxes due each school, road, lesser or other taxation district; whereupon such redemption shall be made in the manner provided for in the preceding section; provided, that no lot, piece or parcel of land shall be segregated unless such piece or parcel of land has been transferred to a new owner by deed and such deed has been actually executed and delivered. A trust deed shall be considered a deed for the purposes outlined in this section. A partial redemption may be made, in like manner, separately from the whole assessment, of an undivided interest in any real property, if such property has a separate valuation on the assessment roll; the auditor estimating the amount of taxes due on such undivided interest according to the proportion which such interest in said property bears to the whole assessment. The recorder shall note, on the margin of the record of the certificate of sale, a description of the property or undivided interest redeemed under this section, and shall specifically set forth the several amounts of taxes paid upon such redemption.

Undivided interest.

All requests for segregation, as provided in this section, shall be made to the county auditor, who shall transmit such requests to the county assessor and a copy of such requests to the county tax collector. A charge of one dollar shall be made for each such request and the money so received placed in the general fund of the county.

Requests for segregation

Upon receipt of the request from the county auditor, the county assessor shall immediately furnish a valuation to the county auditor and shall, as a part of the same transaction, make the segregation on the current assessment roll and also on the records in his office; provided, however, that the personal property attached to the account on the current assessment roll shall first be paid and also provided that no assessment on the current assessment roll shall be segregated after April 20 and prior to June 30.

CHAPTER 405.

An act to add a new article to Chapter II of Part I of Division II of the School Code, to be known as Article X, relating to the inclusion of Indian reservations of the United States government in elementary school districts.

[Approved by the Governor July 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New article.

SECTION 1. A new article is hereby added to Chapter II of Part I of Division II of the School Code to be known as Article X and to read as follows:

Article X—Inclusion of Territory in Indian Reservations in Elementary School Districts.

Indian reservations in elementary school districts.

2.195. The territory in any Indian reservation of the United States government may be formed into an elementary school district in the manner provided by law for the formation of new elementary school districts, or may be included in whole or in part as a part of any new elementary school district hereafter formed in the same manner as other territory may be included in a new elementary school district.

Annexation to contiguous districts.

2.196. The board of supervisors of any county in which is located any territory of an Indian reservation of the United States government, which on July 1, 1936, is not a part of any elementary school district, or is not an elementary school district, shall at its first meeting following July 1, 1936, annex such territory to such contiguous elementary school district or districts in the county as the county superintendent of schools of such county shall recommend.

CHAPTER 406.

An act to amend section 1111 of the Code of Civil Procedure, relating to contest of elections.

[Approved by the Governor July 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Code amendments, 1875-6, p. 100.

SECTION 1. Section 1111 of the Code of Civil Procedure is hereby amended to read as follows:

Grounds for election contest.

1111. Any elector of a county, city and county, city, or of any political subdivision of either, may contest the right of any person declared elected to an office to be exercised therein, for any of the following causes: 1. For malconduct on the part of the board of judges, or any member thereof. 2. When the person whose right to the office is contested was not, at the

time of the election, eligible to such office. 3. When the person whose right is contested has given to any elector or inspector, judge, or clerk of the election, any bribe or reward, or has offered any such bribe or reward for the purpose of procuring his election, or has committed any other offense against the elective franchise defined in Title IV, Part I, of the Penal Code. 4. On account of illegal votes. 5. On account of errors of the election board in conducting the election or in canvassing the returns, sufficient to change the result of the election as to such person.

CHAPTER 407.

An act to add section 133 to the Civil Code, relating to entry of final judgment in divorce cases.

[Approved by the Governor July 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 133 is hereby added to the Civil Code to read as follows: New section.

133. Whenever either of the parties in a divorce action is, under the law, entitled to a final judgment, but by mistake, negligence or inadvertence the same has not been signed, filed or entered, if no appeal has been taken from the interlocutory judgment or motion for a new trial made, the court, on the motion of either party thereto or upon its own motion, may cause a final judgment to be signed, dated, filed and entered therein granting the divorce as of the date when the same could have been given or made by the court if applied for. Upon the filing of such final judgment, the parties to such action shall be deemed to have been restored to the status of single persons as of the date affixed to such judgment, and any marriage of either of such parties subsequent to one year after the granting of the interlocutory judgment as shown by the minutes of the court, and after the final judgment could have been entered under the law if applied for, shall be valid for all purposes as of the date affixed to such final judgment, upon the filing thereof. Filing final judgment of divorce.

CHAPTER 408.

An act to amend section 859 of the Civil Code, relating to trusts.

[Approved by the Governor July 6, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 859 of the Civil Code is hereby amended to read as follows: 1872 Code.

Rents and profits.

859. Where a trust is created to receive the rents and profits of real or personal property, and no valid direction for accumulation is given, the surplus of such rents and profits, beyond the sum that may be necessary for the education and support of the person for whose benefit the trust is created, is liable to the claims of the creditors of such person, in the same manner as personal property which can not be reached by execution.

CHAPTER 409.

An act making an appropriation to pay the claim of Arthur A. Ohnimus against the State of California, and declaring the urgency thereof.

[Approved by the Governor July 9, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Special appropriation.

SECTION 1. The sum of seven hundred fifty dollars ($750 00) is hereby appropriated out of any money in the State treasury not otherwise appropriated to pay the claim of Arthur A. Ohnimus against the State of California, and declaring the urgency thereof.

Urgency.

This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution and shall therefore take effect immediately.

CHAPTER 410.

An act to amend section 6.750 of the School Code, relating to the use of school buildings for activities of a seditious nature.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Sch. C., 1929, p. 302.

SECTION 1. Section 6.750 of the School Code is hereby amended to read as follows:

Civic center.

6.750. There is hereby established a civic center at each and every public schoolhouse within the State of California, where the citizens, parent-teachers' association, camp fire girls, boy scout troops, clubs and associations formed for recreational, educational, political, economic, artistic and/or moral activities, or the respective public school districts within the State of California may engage in supervised recreational activities and where they may meet and discuss, from time to

time, as they may desire, any and all subjects and questions which in their judgment may appertain to the educational, political, economic, artistic and moral interests of the citizens of the respective communities in which they may reside.

Use not permitted to certain groups.

Such use, however, by any individual, society, group or organization which has as its object or as one of its objects, or is affiliated with any group, society, or organization which has as its object or one of its objects the overthrow or the advocacy of the overthrow of the present form of government of the United States or of the State of California by force or violence or other unlawful means shall not be granted, permitted or suffered.

CHAPTER 411.

An act to amend section 4307 of the Political Code, relating to county charges.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1979.

SECTION 1. Section 4307 of the Political Code is hereby amended to read as follows:

4307. The following are county charges:

County charges. General.

1. Charges incurred against the county by virtue of any of the provisions of this act.

District attorney and sheriff.

2. The traveling and other personal expenses of the district attorney and the sheriff incurred in criminal cases arising in the county, and in civil actions and proceedings in which the county is interested, and all other expenses necessarily incurred by either of them in the detection of crime, and in the prosecution of criminal cases, and in civil actions and proceedings and all other matters in which the county is interested, other than those crimes declared to be misdemeanors by the Vehicle Code.

County jail

3. The expenses necessarily incurred in the support of persons charged with or convicted of crime and committed therefor to the county jail, and for other services in relation to criminal proceedings for which no specific compensation is prescribed by law.

Jurors and witnesses.

4. The sums required by law to be paid to the grand and trial jurors and witnesses in criminal cases where such cases are tried in a superior court, in a municipal court or in a township court; provided, however, anything herein to the contrary notwithstanding, that, in any criminal case in an inferior court in which any fine or forfeiture which would accrue would be payable to the treasurer of the county in which such court is located, then the sums required by law to be paid to the trial jurors, if any, and witnesses in said case, shall be county charges.

Coroner

5. The accounts of the coroner of the county for such services as are not provided to be paid otherwise.

Justices of the peace.

6. All charges and accounts for services rendered by any justice of the peace in the examination or trial of persons charged with crime, not otherwise provided for and allowed by law.

Dependent poor and indigent sick.

7. The necessary expenses incurred in the support of the county hospitals, almshouses, and the indigent sick and otherwise dependent poor, whose support is chargeable to the county. The board of supervisors may, in its discretion, authorize the payment of expenses incurred, by county authorities, for temporary, emergency, or extended care or treatment of indigent patients of such county, by local hospitals, or by any hospital maintained and operated by any county or by the State, or by any State college, university, or other institution supported in whole or in part by taxation, or exempted in whole or in part from taxation.

Contingent expenses.

8. The contingent expenses necessarily incurred for the use and benefit of the county.

Official bonds

Stats 1923, p 134.

9. The premiums on official bonds of county officers as required by the provisions of section 4022 of the Political Code.

Constables.

10. The fees of constables in criminal cases allowed by law.

Traveling expenses.

11. The actual and necessary expenses of county auditors, clerks, registrar of voters, district attorneys, assessors, sheriffs, coroners, recorders, tax collectors, probation officers, surveyors and treasurers, incurred while traveling to and from and while attending the annual convention of their respective associations; provided, that in no event shall such expenses exceed the sum of fifty dollars for each of said officers in any one year.

Court actions

12. The necessary expenses other than attorney's fees incurred by county auditors and treasurers in the defense and prosecution of any action brought by, or against said officers, for the purpose of testing the validity or constitutionality of any act of the Legislature providing for the payment of county funds or funds held in trust by the county.

General.

13. Every other sum directed by law to be raised for any county purpose under the direction of the board of supervisors, or declared to be a county charge.

Catastrophes.

14. The expenses necessarily incurred in searching for and rescuing persons who are lost or in danger of their lives because of storms, floods, fires, accidents or other catastrophes.

CHAPTER 412.

An act to add section 791.6 to the Fish and Game Code, relating to crabs. Stats. 1933, p. 394.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 791.6 is hereby added to the Fish and Game Code, to read as follows: New section.

791.6. It is unlawful to sell any crab taken in Bodega Lagoon, in district 2. Crabs in Bodega Lagoon.

CHAPTER 413.

An act to establish a board to be known as the Rector Dam Authority; to prescribe its duties, powers, functions and jurisdiction; to authorize the authority to construct a dam in Rector Canyon to impound the waters of Rector Creek and to sell and distribute said waters; to authorize the authority to issue and sell revenue bonds to provide funds for the acquisition and construction of said dam and to provide for the redemption thereof from the revenues received from the sale and distribution of such waters; authorizing the department of public works of the State of California to operate and maintain such dam and all property appurtenant thereto; authorizing the board to acquire and hold real property necessary for its purposes, and to enter into agreements with State, Federal, and local officers and agencies, and political subdivisions, municipalities, and public districts.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. There is hereby created the Rector Dam Authority, to consist of the Director of Public Works, the Director of Finance, the State Controller, and two other persons to be appointed by and hold office at the pleasure of the Governor. Members of said authority shall serve without compensation. Rector Dam Authority

SEC. 2. The authority shall investigate and determine the best method of impounding the waters of Rector Creek in Rector Canyon and the feasibility of erecting a dam and constructing a system for the distribution of the waters of Rector Creek to the public or to municipalities, or to public districts, or to State institutions or agencies. Impounding waters

SEC. 3. The authority is hereby empowered to make any necessary surveys, borings, analyses, or other investigations Surveys.

and to acquire from any source any information relative to the program of building such dam and other necessary works and selling or distributing such waters.

SEC. 4. The construction of such dam and the sale and distribution of such waters is hereby declared to be a matter of public interest, welfare, and necessity.

Construction of dam, pipe lines.

SEC. 5. Upon the determination of the method of construction and distribution, the authority is hereby empowered to construct such a dam and other works, including pipe lines, flumes, conduits, necessary for the purpose of impounding and distributing such waters.

Powers.

SEC. 6. The authority is hereby empowered to acquire any real property by gift, purchase or condemnation and may acquire any personal property, franchises, rights, privileges, or easements necessary for the construction of such dam and other works. The authority shall have full jurisdiction and control over that portion of the Napa State Farm which lies east or easterly from that certain public road or highway known as Silverado Trail, together with any and all rights of way, pipe lines, flumes and ditches belonging to the State and used or useful to conduct water to or from Napa State Hospital, Napa State Farm or Veterans' Home of California. Napa State Farm, formerly known as the "Fry Ranch," is a tract of land situated near the town of Rutherford, in the county of Napa, State of California, acquired by the State under the provisions of the act entitled "An act to establish the California State Reformatory; to provide for the purchase of land therefor, and the construction of buildings and other improvements in connection therewith; to provide for the commitment and transfer of prisoners thereto and therefrom; to provide for the equipment, conduct and management thereof; and to make an appropriation therefor," approved April 24, 1911.

Stats 1911, p 1088

Revenue bonds

SEC. 7. The authority is hereby empowered to issue revenue bonds to the Federal Government in such amount as it determines to be necessary properly to construct the dam and the distribution system and to maintain it in operation until such time as it may be maintained from the revenue derived from the sale and distribution of the waters or to accept gifts, grants or donations to assist in the construction of said dam.

Fixing of rates.

SEC. 8. The authority is hereby empowered to fix the prices, rates and charges for water sold and distributed so that at all times sufficient revenue will be afforded to pay all costs of operation and maintenance and to meet all payments for the redemption of any or all bonds and interest thereon which may be issued under the provisions of this act.

Collection of charges

SEC. 9. The authority may provide for the collection of moneys due for the furnishing or delivery of water and may cease to furnish or deliver water upon the nonpayment of any sum due, and such action shall not prejudice the right of the authority to exercise any other remedy for the collection of such sums provided by law.

SEC. 10. If the authority shall enter into a contract for the delivery or furnishing of water to any State institution or other agency supported in whole or in part by public funds, it is hereby declared that all of the moneys of the State now or hereafter to be appropriated for the support of such institution or agency shall be first applied to the payment of the obligation incurred by such contract, and no claim against any moneys so appropriated shall be paid until all sums due under such contract have been allowed and paid to the authority. Application of funds

SEC. 11. The revenue bonds issued under the provisions of this act shall be a lien upon all of the property, real or personal, acquired by the authority pursuant to the terms hereof or placed under the jurisdiction and control of the authority by the provisions hereof, and in the event default shall be made in the payment of said bonds or the interest thereon, the holder of such bonds may bring an action for recovery thereon in the same manner as if the authority were an individual; and in the event a recovery is had in such action, execution may be levied in the manner prescribed by law upon any property acquired by the authority pursuant to the terms of this act. Lien of bonds

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CHAPTER 414.

An act to establish the Southern California Prison under the management and control of the State Board of Prison Directors; to provide for purchase or acquirement of farm lands by unconditional gift or use of lands owned by the State therefor; and the construction of buildings and other improvements in connection therewith; to provide for the commitment and transfer of prisoners thereto and therefrom; to provide for the equipment, conduct and management thereof; and to make an appropriation therefor.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. There is hereby established a prison for the confinement, discipline and instruction of prisoners committed thereto as hereinafter provided, to be known as the Southern California Prison. Southern California Prison

SEC. 2. Any male person, convicted of felony may be sentenced to confinement in said prison, when in the judgment of the court said person is capable of reformation and said sentence is compatible with the general welfare. Male prisoners

SEC. 3. The State Board of Prison Directors shall manage and maintain said prison when ready for occupancy as hereinafter provided; and all laws applying to the existing State prison and the prisoners therein confined, are hereby made State Board of Prison Directors.

Superintendent.

applicable to the prison provided for in this act. Said board shall employ a superintendent, who shall be the executive head of said prison, and shall establish such other positions as the needs of the service may from time to time require. Such positions shall be filled by the superintendent in the manner provided by law. The board may consolidate or abolish such positions and may fix and change the salaries to be paid.

Regulations.

SEC. 4. The Board of Prison Directors shall establish the rules under which the prison shall be conducted for the purpose of reformation or confinement of those committed to it; and shall adopt such methods as the board may deem expedient to restore them to freedom as self-supporting and self-respecting members of the State. Such rules shall include provision for keeping records of the facts known of each prisoner on entrance and of his conduct and progress at such intervals as the board may fix. Each prisoner on entrance shall be thoroughly examined by a competent physician for physical or mental defects or abnormalities and shall be provided such physical and surgical treatment as may be necessary to overcome such defects, so far as practicable.

Work by prisoners.

SEC. 5. The Board of Prison Directors shall cause to be included in the original plans and specifications of the prison adequate provision for the employment and useful occupation of the maximum number of men capable of being confined in the institution, as planned. Such employment shall be designed to reduce the cost of maintaining the institution to the lowest figure consistent with good management and with the beneficial training, education and discipline of the prisoners therein confined.

Removal of prisoners.

SEC. 6. The Board of Prison Directors may establish rules by which any prisoner appearing to be incorrigible may be removed to any of the other State prisons. Such prisoner shall serve the maximum term established by law for the offense of which he was convicted, including the time served in the prison, with such deductions for good conduct during his incarceration in such prison as the law and the rules of the prison may allow.

Transfer of prisoners.

SEC. 7. The Board of Prison Directors may transfer from the other State prisons to the Southern California Prison any prisoner serving a term for felony who in their judgment can be reformed and restored to a life of honest industry.

Use of prison products.

SEC. 8. Products of said prison shall so far as possible be supplied for State, county, municipal, school or other public use, and the prison shall collect or be credited with the fair market price therefor. No manufactured product shall be supplied, sold, exchanged or given away for private use or profit.

Compensation

SEC. 9. The Board of Prison Directors may allow to prisoners such proportion of their earnings above the cost of their maintenance as the board may deem proper.

Site commission.

SEC. 10. A commission consisting of the Governor, or representative designated by him, Lieutenant Governor, the

Speaker of the Assembly, president of the State Board of Prison Directors and one other person appointed by the Governor is hereby created for the purpose of selecting and acquiring a suitable farm site for a prison. The commission shall have full power to select a site in southern California where said prison shall be situated and negotiate for purchase of the same or to obtain such farm site by unconditional gift or by the use of land owned by the State.

Use of Federal funds.

SEC. 11. The Governor may negotiate with the proper agencies of the Federal government to obtain funds from the Federal unemployment relief budget to build such prison.

Acquisition of site

SEC. 12. The title to the land shall be taken in the name of the State of California. The commission shall select such farm site and acquire the same by unconditional gift or purchase or if the same can not be so acquired, may institute condemnation proceedings for the acquisition of the site.

Construction.

SEC. 13. Upon the site thus selected and acquired by said commission, the Board of Prison Directors shall construct and equip, in accordance with law, suitable buildings, structures, and facilities for a prison.

Proclamation.

SEC. 14. As soon as the prison hereby provided for is ready for occupancy and use the said Board of Prison Directors shall certify that fact to the Governor who shall make proclamation thereof.

Appropriation.

SEC. 15. Out of any moneys in the State treasury not otherwise appropriated, the sum of four hundred thousand dollars, or such part thereof as may be needed, is hereby appropriated to be expended in accordance with law in carrying out the provisions of this act.

Purpose of act

SEC. 16. It is the purpose of this act to provide for segregation from hardened criminals of offenders of a mild type, without regard to their age, who, in the opinion of the Board of Prison Directors, seem capable of moral rehabilitation and restoration to good citizenship. Should the prison provided for in this act be established in connection with or in close proximity to any other prison of the State, the prison provided for in this act shall be sufficiently isolated so that its prisoners shall not contact or mingle with criminals of hardened type.

Isolation of prison.

CHAPTER 415.

An act to amend section 1382 of the Penal Code relating to the dismissal of prosecutions.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1931, p. 2479.

SECTION 1. Section 1382 of the Penal Code is hereby amended to read as follows:

When prosecution may be dismissed.

1382. The court, unless good cause to the contrary is shown, must order the prosecution to be dismissed in the following cases:

1. When a person has been held to answer for a public offense and an information is not fled against him, within fifteen days thereafter.

2. If a defendant, whose trial has not been postponed upon his application, is not brought to trial within sixty days after the finding of the indictment, or filing of the information.

3. If a defendant in a misdemeanor case in a justice's court, whose trial has not been postponed upon his application, is not brought to trial within thirty days after the defendant is arrested and brought within the jurisdiction of the court.

CHAPTER 416.

Stats 1935, Ch. 307. amended.

An act to add sections 3a, 15a and 20a to "The California Agricultural Adjustment Act of 1935," relating to ways, means, and moneys, and providing and appropriating moneys, for the administration and enforcement thereof and of regulation of producers, packers, distributors, shippers, marketers, handlers, processors, and others dealing in agricultural, viticultural, horticultural, animal, and poultry products and of any competing commodity or product thereof thereunder, and under the legislative standards in relating to the rehabilitation of agriculture therein specified, and declaring the existence of a State and National agricultural emergency and the urgency of this act and that this act shall take effect immediately.

[Approved by the Governor July 9, 1935. In effect immediately.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 3a is hereby added to the California Agricultural Adjustment Act of 1935, to read as follows:

"Federal license."

Sec. 3a. When used in this act the term or words "Federal license" shall mean a license, order or other method of regulation issued to or imposed upon processors, associations of producers or others engaged in the handling or marketing of any agricultural commodity or product thereof by the Secretary of Agriculture of the United States under the provisions of the National Agricultural Adjustment Act specifiying the terms and conditions under which such handling or marketing may be engaged in.

New section.

SEC. 2. Section 15a is hereby added to the California Agricultural Adjustment Act of 1935, to read as follows:

Disposal of receipts.

Sec. 15a. (1) All moneys received by the State Director of Agriculture hereunder shall be by him at the end of each month reported to the State Controller and at the same time

deposited in the State treasury to the credit of the Department of Agriculture fund.

All moneys paid into said fund hereunder are hereby appropriated for the use of said director to be expended in accordance with law and in like manner as other moneys in said fund solely in carrying out the provisions hereof.

(2) The provisions of this section shall apply only to moneys paid, transmitted, and turned over to the State Director of Agriculture under sections 6a or the last two preceding sections hereof, and shall have no application whatsoever to moneys or assessments levied, collected, paid, received, or used under any marketing agreement or license for the maintenance, support, and expenses of any board, commission, committee, officer, or employee thereunder and which are not paid, transmitted, and turned over to said director for his expenses in administering this act. Application of section.

SEC. 3. Section 20a is hereby added to the act cited in the title hereof, to read as follows: New section.

Sec. 20a. (a) Notwithstanding any provision of this act heretofore enacted, all provisions of this act, save as hereinafter provided, shall continue, be and remain in full force, effect and operation when and while there exists any Federal regulation of any agricultural business, trade or industry as to matters and transactions in the current of interstate or foreign commerce, subject to the following limitations: Effect of act.

1. Such Federal regulation must be within, under or to accomplish the same or similar, even though more specific, standards and purposes as heretofore existed under the National Agricultural Adjustment Act herein mentioned; and

2. In all cases and at all times corresponding State regulation of such agricultural business, trade or industry as to matters or transactions in the current of intrastate commerce within this State must be within, under and pursuant to the State legislative standards and purposes in sections 1 and 2 of this act mentioned and declared.

(b) Subject to said limitations, the term "Federal regulation" as used in subdivision (a) of this section is hereby defined to embrace all such Federal regulation now or hereafter to be enacted of whatever kind, type or form, including: "Federal regulation"

1. Specific Federal legislative provisions and regulations;

2. All orders, rules, licenses as that term was heretofore used in this act, licenses as defined in section 3a hereof, marketing agreements or regulations duly made, issued or approved by the Secretary of Agriculture under the National Agricultural Adjustment Act or any amendment thereof or any other Federal Act; and

3. All orders, rules or regulations duly made or promulgated by any officer, board, commission or committee under the terms or authority of any order, rule, license, marketing agreement or regulation in paragraph 2 of this subdivision mentioned.

No enumeration in this subdivision contained shall be construed to exclude any other ways, means or methods of imposing, effecting or administering such Federal regulation.

(c) Whenever in any other sections of this act mention or reference is made of or to Federal laws or regulations, or of or to Federal licenses as defined in section 3a hereof, or of or to Federal licenses as that term was heretofore used in this act or amendments thereof or orders, rules and regulations thereunder, the same shall be construed to refer to, include, mean and relate to any Federal regulation as that term is defined in this section.

Intent of section.

(d) It is the true intent and purpose of this section that, subject to said limitations:

1. All Federal regulation as defined in this section now or when hereafter enacted, shall be or by the State Director of Agriculture shall be made correspondingly hereunder applicable to, regulatory of, and violations thereof unfair competition in all dealings in, such agricultural business, trade or industry as to matters and transactions in the current of intrastate commerce within this State.

2. This act within the standards and purposes herein mentioned shall be given its utmost possible scope and operation with respect to any such Federal regulation in this section defined.

Effect of change in Federal law.

(e) To further accomplish the intent and purpose of this section, no change in administrative provisions, features or details of the Federal law shall render this act or any provision thereof inoperative but the provisions hereof shall continue as aforesaid with like corresponding change so far as possible in administrative provisions, features or details hereof.

(f) Section 20 hereof shall be subject to the provisions of this section but corresponding State regulation of any given agricultural business, trade or industry shall cease when and while all Federal regulation in this section defined of said given agricultural business, trade or industry ceases to be in effect.

Constitutionality.

(g) However, this section 20a is separate and distinct from all other portions of this act or of this amendatory act and is not a consideration or inducement for the enactment or retention of the whole or any other portion of this act or of this amendatory act. If any of the provisions of this section be for any reason declared invalid, the remainder of this act and of this amendatory act shall be in full force and effect and as completely operative as if this section had not been included herein.

Urgency.

Sec. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

(a) The economic conditions of agricultural producers throughout the State are such as to require immediate relief if their purchasing power and taxpaying ability are to continue

and their morale and standard of living are not to be undermined. Such relief can be afforded only by the orderly production and marketing of agricultural products and the coordination of State control of production and marketing with Federal control, each of which supplements the other and makes the same effective.

(b) The California Agricultural Adjustment Act of 1935 adopted, passed, approved, and enacted at this fifty-first session of the Legislature of this State is an urgency measure and contains a statement of facts constituting such necessity, as specified in subdivision (a) of this section, and by reason thereof and of said necessity goes into immediate effect.

(c) Recent court decisions may after the adjournment of this Legislature result in changes in the administrative features or other details of the now existing National Agricultural Adjustment Act while continuing Federal regulation within the general purposes and standards and to accomplish like objects as are now specified in said act. To meet the now existing emergency upon an emergency resulting from such court decisions the provisions of section 20a of this act are indispensable to provide for a corresponding State regulation of intrastate business as to agricultural products and commodities as may exist with respect to interstate transactions thereof.

(d) The enforcement, administration, and operation of said California Agricultural Adjustment Act of 1935, so in immediate effect by reason of said necessity, will be retarded or delayed until this act, providing, making available, and appropriating ways, means, and moneys for the administration and enforcement thereof, goes into effect, and hence, like necessity, as specified in subdivision (a) of this section, exists for the immediate effect of this act as of said California Agricultural Adjustment Act of 1935.

CHAPTER 417.

An act to amend section 12 of an act entitled "An act regulating the practice of civil engineering," approved June 14, 1929, relating to civil engineers. Stats. 1929, p. 1645, amended.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 12 of the act cited in the title hereof is amended to read as follows: Stats 1933, p. 2279

Sec. 12. (a) It shall be the duty of the board to inquire into the identity of any persons not registered as provided in this act and practicing as, or claiming to be a civil engineer. The board shall have the power to receive and investigate complaints against registered civil engineers, and to make find- Suspension or revocation of certificate

ings, and shall have the power by a two-thirds (2/3) vote to reprove, privately or publicly, or to suspend for a period not to exceed two (2) years, or to revoke the certificate of any civil engineer registered hereunder who has been convicted of a felony, or who has not a good character, or who has been found guilty by the board of any deceit, misrepresentation, violation of contract, fraud, or gross incompetency in his practice, or guilty of any fraud or deceit in obtaining his certificate or violation of any provision of this act.

(b) Proceedings for the reproval, suspension or revocation of certificate of registration shall be begun by filing with the secretary of the board written charges against the accused, such charges shall be in detail, and sworn to under oath by the complainant or such proceedings may be initiated by the board on its own motion. The board shall designate a time and place for a hearing and shall notify the accused of this action and furnish him a copy of all charges, either by personal service or by registered United States mail, at least thirty (30) days prior to the date of hearing. The accused shall have the right to appear personally or by counsel, to cross-examine witnesses or to produce witnesses in his defense. The board shall have the power to compel the attendance of witnesses, and the production of necessary papers and documents.

The board may reissue a certificate of registration to any person whose certificate has been revoked; provided, two (2) or more members of the board vote in favor of such reissue for reasons the board may deem sufficient.

CHAPTER 418.

Stats 1915, p. 698, amended

An act to amend section 11 of an act entitled "An act to insure the better education of dental surgeons and to regulate the practice of dentistry in the State of California, providing penalties for the violation hereof," approved May 21, 1915, as amended, relating to the definition of dentistry.

[Approved by the Governor July 9 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

Stats 1933, p. 527.

SECTION 1. Section 11 of the act cited in the title hereof is hereby amended to read as follows:

Practice of dentistry defined

Sec. 11. A person practices dentistry within the meaning of this act who (1) by card, circular, pamphlet, newspaper or in any other way advertises himself or represents himself to be a dentist, or (2) performs, or offers to perform, an operation or diagnosis of any kind, or treats diseases or lesions of the human teeth, alveolar process, gums or jaws, or corrects malimposed positions thereof, or (3) in any way indicates that he will perform by himself or his agents or servants any opera-

tion upon the human teeth, alveolar process, gums or jaws, or in any way indicates that he will construct, alter, repair, or sell any bridge, crown, denture or other prosthetic appliance or orthodontic appliance, or (4) makes, or offers to make, an examination of, with the intent to perform or cause to be performed any operation on, the human teeth, alveolar process, gums or jaws, or (5) manages or conducts as manager, proprietor, conductor, lessor, or otherwise a place where dental operations are performed. The following practices, acts and operations, however, are exempt from the operation of this act: (a) The practice of oral surgery by a licensed physician; (b) the operations by bona fide students of dentistry or dental hygiene in the clinical departments or the laboratory of a reputable dental college; (c) the construction, making, alteration or repairing of bridges, crowns, dentures, or other prosthetic appliances or orthodontic appliances when the casts or impressions for such work have been made or taken by a licensed dentist, but a written authorization signed by a licensed dentist must accompany the order for such work or such work must be performed in the office of a licensed dentist under his supervision, and the burden of proving such written authorization or direct supervision shall be upon the person charged with the violation of this act; (d) the manufacture or sale of wholesale dental supplies.

CHAPTER 419.

An act to add section 17 to an act entitled "An act to insure the better education of dental surgeons and to regulate the practice of dentistry in the State of California, providing penalties for the violation hereof," approved May 21, 1915. Stats 1915, p. 698, amended.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 17 is hereby added to the act cited in the title hereof, to read as follows: New section

Sec. 17. This act may be known and cited as the "Dental Practice Act." Short title.

CHAPTER 420.

An act to validate the formation, organization and existence of county water districts, and to validate the acts of the board of directors of such districts in the inclusion of land therein or exclusion of land therefrom, and to validate the proceedings of such directors taken for the creation of a bonded indebtedness.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

County water districts validated.

SECTION 1. Whenever the board of supervisors of any county has heretofore declared any portion of such county therein situated to be a county water district under the provisions of that certain act of the Legislature of the State of California entitled "An act to provide for the incorporation and organization and management of county water districts and to provide for the acquisition of water rights or construction thereby of water works and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts," approved June 10, 1913, and amendments thereto, or under the provisions of such act as amended, and such district has existed as such for a period of six months prior to the taking of effect of this act, all acts and proceedings of such board of supervisors and all acts of all public officers leading up to and including the formation of such district, are hereby legalized, ratified and declared valid for all intents and purposes, and every such district so organized is hereby declared to be a legal, valid and existing county water district as of the time of their purported formation and organization.

Stats 1913, p. 1049

Acts of directors validated

SEC. 2. In case the board of supervisors of any county in this State has heretofore declared any territory to be organized as a county water district and has designated a name for such district, and has declared certain persons elected as directors thereof, and the persons declared elected as directors of said district have organized as a board and said board has acted as a board of directors of such district for at least six months before this act takes effect, all acts and proceedings of said board of directors of such district in including or excluding land therefrom are hereby validated, confirmed and declared sufficient and the order of said board of directors for the inclusion or exclusion of any such lands is hereby declared valid for all purposes.

Bonded indebtedness validated

SEC. 3. In case the board of supervisors of any county in this State has heretofore declared any territory to be organized as a county water district and has designated a name for such district, and has declared certain persons elected as directors thereof, and the persons declared elected as directors of said district have organized as a board and said board has acted as a board of directors of such district for at least six

months before this act takes effect, all acts and proceedings of said board of directors of such district looking toward the creation of a bonded indebtedness, are hereby legalized, confirmed and validated to all intents and purposes.

CHAPTER 421.

An act to amend the title and sections 2 and 3e and to amend and to renumber section 20k of, and to add sections 19a, and 20l to the California Real Estate Act, relating to the regulation and licensing of real estate brokers and salesmen, and to the inspection and regulation of subdivisions, to provide for the enforcement of said act and penalties for the violation thereof.

Stats. 1919, p 1252, amended

[Approved by the Governor July 9, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows: An act to define real estate brokers and salesmen; to provide for the regulation, supervision and licensing thereof; to create a State Real Estate Division, the office of Real Estate Commissioner, and the Real Estate Board and prescribing the powers and duties thereof, and to provide for the inspection and regulation of subdivisions thereby; to provide for the enforcement of said act and penalties for the violation thereof.

Title amended.

SEC. 2. Section 2 of said act is hereby amended to read as follows:

Stats 1933, p 1771

Sec. 2. A real estate broker within the meaning of this act is a person, copartnership or corporation who, for a compensation, sells or offers for sale, buys, or offers to buy, lists, or solicits for prospective purchasers, or negotiates the purchase or sale or exchange of real estate, or who, for compensation, negotiates loans on real estate, leases, or offers to lease, or negotiates the sale, purchase, or exchange of leases, rents, or places for rent, or collects rent from real estate, or improvements thereon, for another or others. A real estate salesman within the meaning of this act is one who for a compensation is employed by a licensed broker to sell, or offer for sale, or to list, or to buy, or to offer to buy, or to negotiate the purchase or sale or exchange of real estate, or to solicit for prospective purchasers of real estate, or to negotiate a loan on real estate, or to lease, or to negotiate the sale, purchase or exchange of leases, or offer to lease, rent or place for rent, any real estate, or improvements thereon. The provisions of this act, except as to sections 19a and 20a to 20l inclusive, shall not apply to anyone who shall directly perform any of the acts aforesaid with reference to his own property or, in case of corporations, through their regular officers receiving no special compensa-

Definitions Real estate broker

Real estate salesman.

Application of act.

tion therefor perform any of the acts aforesaid with reference to their, to wit, said corporations, own property; nor shall the provisions of this act apply to persons holding a duly executed power of attorney from the owner, nor shall this act be construed to include in any way the services rendered by an attorney at law in performing his duties as such attorney at law; nor shall it be held to include any receiver, trustee in bankruptcy, or any person acting under order of any court, nor to a trustee selling under a deed of trust. One act, for a compensation of buying or selling real estate of or for another, or offering for another to buy or sell or exchange real estate, or negotiating the purchase or sale or exchange of, or listing or soliciting prospective purchasers of real estate, or negotiating a loan on or leasing or renting or placing for rent real estate, or collecting rent therefrom shall constitute the person, copartnership or corporation making such offer, sale or purchase, exchange or lease, or negotiating said loan, or so renting or placing for rent or collecting said rent or listing or soliciting, a real estate broker or salesman within the meaning of this act.

Act constituting person, etc., broker or salesman

Lease defined.

When a lease or leasing is referred to in this section, it shall be held to include any lease, whether such lease be the sole transaction involved, or the principal or an incidental part of the transaction involved.

Stats 1935, Ch 44

SEC. 3. Section 3e of said act is hereby amended to read as follows:

Employees

Sec. 3e. After qualifying as such, neither the Real Estate Commissioner nor any of the deputies, clerks or employees of the division shall be interested in any real estate company or any real estate brokerage firm, as director, stockholder, officer, member, agent or employee, or act as a broker or salesman within the meaning of this statute, or act as a copartner or agent for any other such broker or brokers, salesman or salesmen.

New section.

SEC. 4. A new section is hereby added to said act, to be numbered 19a, and to read as follows:

Actions for violation of act.

Sec. 19a. Whenever the commissioner shall believe from evidence satisfactory to him that any person, partnership, corporation or company has violated or is about to violate any of the provisions of this act, or any order, license, permit, decision, demand or requirement, or any part or provision thereof, he may bring an action in the name of the people of the State of California in the superior court of the State of California against such person, partnership, corporation or company to enjoin such person, partnership, corporation or company from continuing such violation or engaging therein or doing any act or acts in furtherance thereof In said action an order or judgment may be entered awarding such preliminary or final injunction as may be proper, but no preliminary injunction or temporary restraining order shall be granted without at least five days' notice to the opposite party.

New section

SEC. 5. A new section is hereby added to said act, to be known as 20k, and to read as follows:

Sec. 20k. The Real Estate Commissioner may from time to time promulgate rules and regulations for the administration and enforcement of the provisions of this act pertaining to subdivided lands and is hereby authorized to issue any order, permit, decision, demand, or requirement to effect this purpose. Rules and regulations.

SEC. 6. Section 20k of said act is hereby renumbered to be section 20*l*, and amended to read as follows: Stats 1935, Ch. 44.

Sec. 20*l*. Every officer, agent or employee of any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution or circularization of any false statement or representation concerning any land, or subdivision thereof offered for sale or lease, and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any said land or subdivision contains any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same, or shall cause the same to be issued, circulated, published or distributed, or who, in any other respect, wilfully violates or fails to comply with any of the provisions of this section or sections 20a, 20b, 20c, 20d, 20e, 20g, 20h or 20k of this act, or who in any other respect wilfully violates or fails, omits or neglects to obey, observe or comply with any order, permit, decision, demand or requirement of the commissioner under this section or sections 20a, 20b, 20c, 20d, 20e, 20g, 20h or 20k of this act, is guilty of a public offense, and shall be punished by imprisonment in the county jail for a term not to exceed two years, or by a fine of not to exceed two thousand dollars, and, if a licensee of this division, he shall be held to trial by the State Real Estate Commissioner for a suspension or revocation of his license, as in sections 12a and 13 of this act provided. It shall be the duty of the district attorney of each county in this State to prosecute all violations of the provisions of this section and of sections 20a, 20b, 20c, 20d, 20e, 20g, 20h and 20k of this act in respective counties in which said violations occur. Penalties

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CHAPTER 422.

An act validating the purchase of bonds by municipalities under the Improvement Act of 1911 and the Improvement Act of 1915 from the proceeds of the delinquent street assessment fund provided for in said act.

[Approved by the Governor July 9, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. All purchases heretofore made by municipalities or towns of bonds issued under the Improvement Act of 1911 or the Improvement Act of 1915 out of the levy provided by those acts from the delinquent street assessment fund are hereby legalized, ratified, confirmed and validated. Bond purchases validated. Stats 1911, p. 730. Stats 1915, p 1441

CHAPTER 423.

Stats 1917, p 831, amended.

An act to add section 3a to the Workmen's Compensation, Insurance and Safety Act of 1917, relating to definitions.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the act cited in the title hereof, to be numbered section 3a and to read as follows:

Term "injury" includes hernia in certain cases

Sec. 3a. In the case of members of police or fire departments of cities, counties, cities and counties, districts or other public or municipal corporations or political subdivisions, whether such members are volunteer, partly paid, or fully paid, and in the case of active fire fighting members of the Division of Forestry of the State Department of Natural Resources, or of any county forestry or fire fighting department or unit, whether voluntary, fully paid, or partly paid, the term "injury" as used in this act includes hernia when any part of the hernia develops or manifests itself during a period while such member is in active service in such division, department or unit. In the case of regular salaried county or city and county peace officers, the term "injury" also includes any hernia which manifests itself or develops during a period while the officer is in active service. The compensation which is awarded for such hernia shall include full hospital, surgical, medical treatment, disability, indemnity, and death benefits as provided by the workmen's compensation laws of this State.

Such hernia so developing or manifesting itself in such cases shall be presumed to arise out of and in the course of the employment unless there is evidence to the contrary.

CHAPTER 424.

An act making an appropriation to pay the claim of the chief accounting officer of the Department of Finance against the State of California.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Special appropriation.

SECTION 1. The sum of one hundred thirty-eight thousand five hundred thirty-three and 62/100 dollars ($138,533.62) is hereby appropriated to be paid as hereinafter described to pay the claim of the chief accounting officer of the Department of Finance against the State of California.

SEC. 2. The sum of one hundred thirty-eight thousand five hundred thirty-three and 62/100 dollars ($138,533.62) shall be paid as follows: one hundred eight thousand seven hundred thirty-one and 77/100 dollars ($108,731.77) out of any money in the State treasury not otherwise appropriated; one thousand fifty-one and 32/100 dollars ($1,051.32) out of any money in that fund, or portion of such fund, in the State treasury, out of which the Department of Motor Vehicles is supported; one hundred forty-three and 50/100 dollars ($143.50) out of any money in the motor vehicle fuel fund in the State treasury; one thousand five hundred sixteen and 76/100 dollars ($1,516 76) out of any money in the fish and game preservation fund in the State treasury; seven thousand eighty-five and 76/100 dollars ($7,085.76) out of any money in the State highway fund in the State treasury; fifteen thousand eight hundred seventy-one and 86/100 dollars ($15,871.86) out of the Corporation Commission fund in the State treasury; one thousand seven hundred fifty-four dollars ($1,754) out of any money in the retail sales tax fund in the State treasury; seven hundred fifty-five and 75/100 dollars ($755.75) out of any money in the San Francisco harbor improvement fund in the State treasury; five hundred twenty-five dollars ($525) out of any money in the license tax fund in the State treasury; one thousand ninety-seven and 90/100 dollars ($1,097.90) out of any money in the estates of deceased persons fund in the State treasury. Apportionment.

CHAPTER 425.

An act relating to employment contracts and applications for employment.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. As used in this act "applicant" means an applicant for employment. "Applicant" defined.

SEC. 2. If an employee or applicant is required to sign an application for employment, the employer shall file in the office of the Division of Labor Statistics and Law Enforcement a copy of the form of such application. Application for employment.

SEC. 3. If an employee or applicant signs any instrument relating to the obtaining or holding of employment he shall be given a copy of the instrument. Copy.

SEC. 4. Any person violating this act is guilty of a misdemeanor. Penalties

SEC. 5. The provisions of this act shall not apply to applications for employment filed with common carriers by railroad subject to the act of Congress known as the Railway Labor Act Application of act.

CHAPTER 426.

An act to add section 642 to, and to repeal section 486 of, the Streets and Highways Code, relating to secondary State highways.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 427.

An act to amend section 407 of the Streets and Highways Code, relating to State highways.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 428.

An act to add section 331 to the Political Code, relating to the construction of statutes fixing or authorizing the fixing of salaries.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the Political Code, to be numbered 331, and to read as follows:

Fixing of salary not appropriation.

331. The fixing or authorizing the fixing of the salary of a State officer or employee by statute is not intended to and does not constitute an appropriation of money for the payment of the salary. Such salary shall be paid only in the event that moneys are made available therefor by another provision of law.

CHAPTER 429.

An act to add section 641 to, and to amend section 493 of, the Streets and Highways Code, relating to State highways.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 430.

An act making an appropriation to pay the claim of Modoc County Fair Association against the State of California.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The sum of four hundred dollars is hereby appropriated out of any money in the fair and exposition fund, in the State treasury, to pay the claim of Modoc County Fair Association against the State of California. Special appropriation

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CHAPTER 431.

An act to add section 10112 to the Insurance Code, relating to contract of minors for life insurance and disability insurance and annuity contracts.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 432.

An act to add a new section to the Penal Code to be numbered 597h, relating to cruelty to animals.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 597h is hereby added to the Penal Code, to read as follows: New section.

597h. It shall be unlawful for any person to tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing such animal to be pursued by a dog or dogs. Tying animals to machines to be chased by dogs

Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

CHAPTER 433.

An act to add a new section to the School Code to be numbered 1.91, relating to the construction, design, operation, equipment and color of school buses.

[Approved by the Governor July 9, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the School Code to be numbered 1.91 and to read as follows:

Regulation of operation, design, etc., of school buses

1.91. The State Board of Education shall have the power to adopt reasonable regulations relating to the construction, design, operation, equipment and color of school buses. No regulation relating to the construction, design or color of school buses shall apply to buses purchased prior to the effective date of this section, except that any school bus repainted after the effective date of this section shall, regardless of the date when purchased be painted to conform to all the regulations relating to the color of school buses. Such regulations, if approved by the Chief of the California Highway Patrol, shall be enforced by the California Highway Patrol. The State Board of Education shall have the authority to issue an order prohibiting the operation on public streets and highways of any school bus which does not comply with such regulations, and any such order shall be enforced by the California Highway Patrol.

School bus defined

For the purposes of this section a school bus is defined as a motor vehicle regularly used for the transportation of pupils of the public schools to and from school or to and from school activities and owned and/or operated by any school district or owned and/or operated by any person, firm, association, partnership or corporation, excepting motor vehicles of the type commonly called pleasure cars and carrying seven pupils or less; and excepting motor vehicles subject to and meeting all requirements of the State Railroad Commission operated by carriers operating under the jurisdiction of the State Railroad Commission but not used exclusively for the transportation of public school pupils except that when such vehicles are being used for the transportation of public school pupils the operators thereof must possess the qualifications required by such regulations of school bus operators.

Penalties

Any officer, agent or employee of a school district, or any other person knowingly operating, or permitting or directing the operation of, a school bus, the operation of which is in violation of any order of the State Board of Education, and any person knowingly operating a school bus without possessing the qualifications required by the regulations of the State Board of Education of school bus operators, shall be guilty of a misdemeanor.

CHAPTER 434.

An act to add a new section to the Penal Code to be numbered 496bb, relating to buying, receiving, concealing or withholding stolen property, and prescribing penalties for violation of the provisions thereof.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Penal Code, to be numbered 496bb, and to read as follows: New section

496bb. 1. Every person who buys or receives any property which has been stolen or which has been obtained in any manner constituting theft or extortion, knowing the same to be so stolen or obtained, or who conceals, withholds or aids in concealing or withholding any such property from the owner, is guilty of a felony. Receiving stolen property.

2. Every person whose principal business is dealing in or collecting used or second hand merchandise or personal property, and every agent, employee or representative of such person, who buys or receives any property which has been stolen or obtained in any manner constituting theft or extortion, under such circumstances as should cause such person, agent, employee or representative to make reasonable inquiry to ascertain that the person from whom such property was bought or received had the legal right to so sell or deliver it, without making such reasonable inquiry, shall be presumed to have bought or received such property knowing it to have been so stolen or obtained. This presumption may, however, be rebutted by proof. Presumption as to second hand dealers

3. When in a prosecution under this section it shall appear from the evidence that the defendant's principal business was as set forth in the preceding paragraph, that the defendant bought, received, or otherwise obtained, or concealed, withheld or aided in concealing or withholding from the owner, any property which had been stolen or obtained in any manner constituting theft or extortion, and that the defendant bought, received, obtained, concealed or withheld such property under such circumstances as should have caused him to make reasonable inquiry to ascertain that the person from whom he bought, received, or obtained such property had the legal right to sell or deliver it to him, then the burden shall be upon the defendant to show that before so buying, receiving, or otherwise obtaining such property, he made such reasonable inquiry to ascertain that the person so selling or delivering the same to him had the legal right to so sell or deliver it. Reasonable inquiry.

CHAPTER 435.

An act to add section 488a to the Penal Code, relating to the punishment for theft in certain cases.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section to be numbered 488a is hereby added to the Penal Code to read as follows:

Theft of avocados, citrus or deciduous fruit

488a. Every person who is guilty of the theft of one hundred pounds or more of avocados or citrus or deciduous fruit is punishable by a fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding two years, or both.

CHAPTER 436.

An act to amend section 32 of the Penal Code, relating to the definition of an accessory.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

1872 code.

SECTION 1. Section 32 of the Penal Code is hereby amended to read as follows:

Accessories defined

32. Every person who, after a felony has been committed, harbors, conceals or aids a principal in such felony, with the intent that said principal may avoid or escape from arrest, trial, conviction or punishment, having knowledge that said principal has committed such felony or has been charged with such felony or convicted thereof, is an accessory to such felony.

CHAPTER 437.

An act granting to the City and County of San Francisco certain lands of the State of California located in the City and County of San Francisco upon certain trusts and conditions.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Lands granted to San Francisco.

SECTION 1. There is hereby granted to the City and County of San Francisco, a municipal corporation of the State of California, all the right, title and interest of the State of California,

held by said State by reason of its sovereign power, in and to the following described parcel of land situate in the City and County of San Francisco, State of California, and described as follows, to wit:

Beginning at a point on the westerly line of Lyon Street, if produced in a northerly direction, said line being the easterly boundary of the Presidio U. S. Military Reservation, distant thereon 609.62 feet northerly from the northerly line of Marina Boulevard and running thence easterly in a straight line, and parallel with the northerly line of Marina Boulevard, 3648 feet 9 inches, more or less, to the westerly line of Webster Street if produced northerly; thence northerly along said line of Webster Street produced 1000 feet; thence at a right angle westerly 3648 feet 9 inches, more or less, to the westerly line of Lyon Street produced, and thence southerly along said line of Lyon Street produced 1000 feet, more or less, to the point of beginning. Description

Reserving, however, unto the State of California all rents due or to become due under the terms and conditions of any existing lease or leases of all, or any part of the hereinabove described real property heretofore entered into by the State of California, or by any board or commission of the State of California, and which said rent is payable to the State of California or to any board or commission of the State of California. Reservation of rents to State.

All of the above described real property hereby granted shall be forever held by said City and County of San Francisco and by its successors in trust for the uses and purposes and upon the express conditions following, to wit: said real property shall be used solely for aquatic, recreational, boulevard, park and playground purposes. Uses and purposes.

Provided, however, that said City and County of San Francisco shall have power to set apart and assign, or lease, any of said property hereinbefore described for a period not to exceed ten years, to any corporation, club or association organized for the purpose of developing and promoting aquatic sport; provided, that no part of said property shall be set apart and assigned, or leased to any corporation, club or association the object of which is pecuniary profit.

CHAPTER 438.

An act to amend School Code section 4.928, relating to the apportionment of funds to high school districts.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4.928 of the School Code is hereby amended to read as follows: Sch. C., 1929, p. 198.

Apportionments for high school courses.

4.928. A high school course maintained by a high school district in an elementary school located in an elementary school district within the high school district shall be considered as a high school and apportionments shall be made on account of such high school course on the same basis as are apportionments for other high schools.

CHAPTER 439.

An act to add a new section to the School Code to be numbered 6.492, relating to the payment by school districts of subscriptions to periodicals.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SEC. 1. A new section is hereby added to the School Code to be numbered 6.492, and to read as follows:

Payments for periodicals

6.492. The governing board of a school district may pay in advance for subscriptions to newspapers, magazines and other periodicals for the district and the schools thereof when such action will result in a decrease in the cost to the district of such periodicals.

CHAPTER 440.

Stats 1933, p. 60.

An act to add sections 285, 285.1, 285.2, 285.3, and 285.4 to the Agricultural Code, relating to brands to be used on apiary equipment.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 285 is hereby added to the Agricultural Code to read as follows:

Brands for apiary equipment.

285. Any owner of apiary equipment may apply to the Director of Agriculture for a serial number brand to be used on apiary equipment owned by him. The application shall contain the name and address of the applicant and a statement of the county in which the greatest number of colonies registered by him is registered, and shall be accompanied by a fee of fifty cents.

New section.

SEC. 2. Section 285.1 is hereby added to the Agricultural Code to read as follows:

Registering brands.

285.1. Upon receipt of such application and fee the director shall register a serial number brand to such applicant. The serial number shall comprise a county number and an individ-

ual number. The county number shall be and remain the same as the number of the class of the county in the classification adopted by the Legislature in 1931. As to counties with classification numbers 1 to 9 inclusive the county number shall be preceded by a dash (—). The county number shall be followed by a dash (—) and the individual number.

SEC. 3. Section 285.2 is hereby added to the Agricultural Code to read as follows: New section

285.2. When used on wooden equipment the serial number brand shall be burned into the wood in numbers one-half inch in height. Hive bodies shall be branded on the upper left-hand corner. Frames shall be branded on top bars. Other wooden equipment may be branded in any place desired, and equipment other than wooden may be branded in any manner desired. Manner of branding

SEC. 4. Section 285.3 is hereby added to the Agricultural Code to read as follows: New section

285.3. Serial number brands are nontransferable except in case the buyer does not have a registered brand number. In the case of transfer of ownership of branded equipment, a bill of sale specifying the equipment shall be forwarded by registered mail to the Director of Agriculture. In case of such transfer the original brand shall not be defaced or obliterated. The brand, if any, of the new owner shall be placed below the original brand and as near thereto as possible. Sale of branded equipment

SEC. 5. Section 285.4 is hereby added to the Agricultural Code to read as follows: New section

285.4 It is unlawful to use any serial number brand unless the same is registered as required by this act or to alter, deface, remove or obliterate the brand on any apiary equipment with the intent to steal the same or prevent the identification thereof. It is unlawful for any person to have in his possession any apiary equipment branded with any serial number brand other than his own unless a bill of sale for such equipment has been forwarded to the Director of Agriculture, or to have in his possession any apiary equipment upon which the brand has been altered, defaced, obliterated or removed. Penalties.

CHAPTER 441.

An act to add a new section to the Political Code, to be numbered 4052d, authorizing boards of supervisors to grant temporary use, possession, management and control of public parks for exposition and fair purposes.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Political Code, to be numbered 4052d, to read as follows: New section

Use of public parks fo fair purposes.

4052d. The board of supervisors shall have power to grant the use, possession, management and control of any public park to any person, firm or corporation operating, managing and controlling any exposition or fair in aid of which the granting of public moneys or other things of value has been authorized by the Constitution or laws of this State upon such terms and conditions and for such periods of time as the board of supervisors may determine, such use, possession, management and control to terminate not later than one year after the closing of such exposition or fair.

CHAPTER 442.

Stats. 1897, p. 254, amended.

An act to amend section 15b of the California Irrigation District Act, relating to the duties and powers of boards of directors and providing for the use of water for any beneficial purposes.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1917, p. 758.

SECTION 1. Section 15b of the California Irrigation District Act is hereby amended to read as follows:

Works.

Sec. 15b. The board of directors of any irrigation district may also construct the necessary dams, reservoirs, and works for the collection of water for said district, and do any and every lawful act necessary to be done, that sufficient water may be furnished in said district for irrigation and domestic purposes, including the delivery of water for fire protection or any other beneficial use, and said board of directors may do and perform any and all acts and make any and all contracts in order to put to any beneficial use any water or waters under the control of the said district, and by contract may acquire, maintain, and operate any needed or desirable equipment to put such water to such beneficial use or uses and to fix and collect reasonable charges therefor; provided, that where, within irrigation districts mutual water companies have been organized to furnish water to certain specified lands within said districts, the board of directors of such districts are hereby authorized and empowered to contract for the delivery of water for such lands as lie within the boundary of said water companies, through said mutual water companies only; provided further, that districts required by law or provisions of agreements under which the water supply of the district, or any part thereof, was acquired, to furnish water outside the boundaries of the district to consumers whose rights to service were, at the time any such supply of water was acquired by the district, enforceable by reason of their status as persons of the class for whose benefit such water was appropriated or dedicated, may, acting by and through its board of directors,

Beneficial uses.

regulate the use of water so furnished and fix and collect reasonable rates and charges for such water and the service thereof. The said board is hereby authorized and empowered to take conveyances, leases, contracts or other assurances for all property acquired by it under the provisions of this act, in the name of such irrigation district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits or proceedings, the said board may sue, appear and defend in person or by attorneys, and in the name of such irrigation district.

Conveyances

Suits.

CHAPTER 443.

An act requiring the compilation and publication of reports relative to the financial condition of the municipal corporations within the State.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Within ninety days after the close of each fiscal year the officers of each city or city and county shall prepare a full and true report setting forth the aggregate amount of taxes levied and assessed against the taxable real and personal property in such city or city and county, which became due and payable during the fiscal year next preceding the date of such report, together with the aggregate amount of taxes levied and assessed against such real and personal property collected by, or on behalf of, such city or city and county during the fiscal year. Such statement shall likewise set forth the following:

Financial reports.

Taxes levied

Taxes collected.

1. The aggregate income of such city or city and county during such preceding fiscal year with a general statement as to the sources of such income and the amount received from each such source;

Income.

2. The aggregate amount of all expenditures made by such city or city and county during such preceding fiscal year, together with a general statement as to the purposes for which such expenditures were made by administrative departments and the amount expended by each such department;

Expenditures

3. The assessed valuation of all of the taxable real and personal property in such municipal corporation as set forth on the assessment roll of such city or city and county equalized for such fiscal year, or if the officers of the county in which the city is situated has collected on behalf of such city the general

Assessed valuation.

taxes levied by the city for the fiscal year, then the assessed valuation of all taxable real and personal property in such city as set forth on the assessment rolls of such county equalized for the fiscal year;

Bonded indebtedness.

4. The aggregate amount of the bonded indebtedness of such city or city and county payable from a general tax levy outstanding and unpaid at the end of such fiscal year;

5. The aggregate amount of principal of all bonded indebtedness of the city or city and county payable from a general tax levy which shall have matured in or prior to such fiscal year and which remains outstanding and unpaid at the end of such fiscal year;

Population.

6. The approximate population of such city or city and county as of the close of such fiscal year;

7. Such other matter as the State Controller may require the officers of such city or city and county to furnish to him under and pursuant to the provisions of an act of the Legislature of the State of California entitled, "An act requiring the compilation and publication of reports of the financial transactions of the several counties and municipalities of the State, and making an appropriation therefor," approved April 21, 1911.

Stats 1911, p. 1071.

SEC. 2. Forthwith upon the completion of such report the legislative body of the city or city and county shall cause copies of such report to be prepared and the clerk of such legislative body shall furnish a copy thereof to any person requesting the same. The legislative body of the city or city and county may impose a charge not to exceed twenty-five cents for each copy of the report so furnished.

Penalties.

SEC. 3. Any officer of a city or city and county who wilfully and knowingly renders a false report shall be guilty of a misdemeanor. Any officer of any city or city and county having charge of the financial records thereof, who shall wilfully refuse to make such report as hereinabove provided is guilty of a misdemeanor.

CHAPTER 444.

An act to amend section 1238 of the Civil Code, relating to homesteads.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1929, p. 339.

SECTION 1. Section 1238 of the Civil Code is hereby amended to read as follows:

Selection of homestead.

1238. If the claimant be married, the homestead may be selected from the community property, or the separate property of the husband, or, with the consent of the wife, from her separate property. When the claimant is not married, but is the head of a family, within the meaning of section 1261, the

homestead may be selected from any of his or her property. If the claimant be an unmarried person, other than the head of a family, the homestead may be selected from any of his or her property. Property, within the meaning of this title, includes any freehold title, interest, or estate which vests in the claimant the immediate right of possession, even though such right of possession is not exclusive.

CHAPTER 445.

An act to amend section 10½ of an act entitled "An act to regulate the practice of optometry; to provide for the appointment of a Board of Optometry, define its duties and powers and prescribing a penalty for the violation of this act," approved June 16, 1913, relating to the regulation of the practice of optometry.

Stats. 1913, p. 1097, amended.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 10½ of the act cited in the title hereof is hereby amended to read as follows:

Stats 1925, p 574

Sec. 10½. It shall be unlawful for any person:

Offenses relating to optometry

1. To sell or barter, or offer to sell or barter any certificate of registration issued by the State Board of Optometry.

2. To purchase or procure by barter any such certificate of registration with intent to use the same as evidence of the holder's qualification to practice optometry.

3. To alter with fraudulent intent in any material regard such certificate of registration.

4. To use or attempt to use any such certificate of registration which has been purchased, fraudulently issued, counterfeited or materially altered, as a valid certificate of registration.

5. To practice optometry under a false or assumed name.

6. To wilfully make any false statement in a material regard in an application for an examination before the State Board of Optometry or for a certificate of registration.

7. To practice optometry in the State of California without having at the time of so doing a valid unrevoked certificate of registration as an optometrist.

8. To advertise by displaying a sign or otherwise or hold himself out to be an optometrist or optician without having at the time of so doing a valid unrevoked certificate of registration from the said State Board of Optometry. For the purposes of this act the term advertising shall be deemed to include the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio announcement, or any other means or methods now or here-

after employed to bring to the attention of the public the practice of optometry or the prescribing, fitting or sale, in connection therewith, of lenses, frames, or other accessories or appurtenances.

9. To dispense, replace or duplicate an ophthalmic lens or ophthalmic lenses without a prescription or order from a duly licensed physician and surgeon, oculist or optometrist; provided, that this act shall not be construed so as to prevent a duly licensed physician and surgeon, oculist or optometrist from filling a prescription, prescriptions, order or orders under the provisions of this act; provided, further, that this act shall not be construed so as to prevent the replacing, duplicating or repairing of an ophthalmic lens or ophthalmic lenses, or the replacing, duplicating or repairing of the frames or fittings thereof by the person or persons qualified to write or fill prescriptions or orders under the provisions of this act; and, provided, further, that the provisions hereof shall not be construed so as to prevent an optical mechanic from doing the merely mechanical work upon such lenses, or upon the frames or fittings thereof. An ophthalmic lens, within the meaning of this act shall be any lens which has a spherical or cylindrical or prismatic power or value.

CHAPTER 446.

Stats 1933, p. 60. *An act to amend section 818 of the Agricultural Code, relating to potatoes.*

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 194.

SECTION 1. Section 818 of the Agricultural Code is hereby amended to read as follows:

Potatoes: Standards.

818. Potatoes shall be free from mold, decay, soft and wet rots, black heart, and hollow heart; and free from serious damage due to insect injury, freezing, sun scald, dry rots, scab, growth cracks, sunburn, second growth, cuts, bruises, grass roots, nematodes, or other causes. Damage to any one potato is not serious unless it causes a waste of twenty per cent, by weight, of the individual potato.

Not more than five per cent, by weight, of the potatoes in any one container or bulk lot may be below these requirements.

Containers.

Containers of potatoes shall not bear any marking, brand or designation of quality such as "extra selected," "selected," "select," "extra fancy," "fancy," "choice," "No. 1," or other similar superlative designations which imply a reasonably high quality, unless the contents of the container conform at least to the requirements of the U. S. No. 1 grade established for potatoes by the United States Department of Agriculture.

CHAPTER 447.

An act authorizing and empowering any county, city and county, or city in the State of California to donate, convey, and grant to the State of California, or to district agricultural associations thereof, any real property owned, held and used by it for fair ground and exposition purposes, or which it may hereafter acquire, hold and use for such purposes.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Any county, city and county, or city in the State of California is hereby authorized and empowered, by a four-fifths vote of the board of supervisors or other legislative body thereof, to donate, convey, and grant to the State of California, or to the district agricultural association of the agricultural district in which such county, city and county, or city is situate, any land and buildings owned, held and used by such county, city and county, or city for fair ground or exposition purposes, or which it may hereafter acquire, hold and use for such purposes, upon such terms and conditions as such county, city and county, or city, and such district agricultural association or the State, as the case may be, may agree.

Grant of lands to State or district agricultural association.

CHAPTER 448.

An act authorizing suit against the State of California to quiet title against it to certain real property in the city of Newport Beach, California.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Any person or corporation, municipal or private, owning or claiming any interest in or to the real property hereinafter described is hereby authorized to bring suit against the State of California, in any court of competent jurisdiction of the State of California, to quiet title to the hereinafter described real property, and to prosecute said action to final judgment. All rules of practice in civil cases relative to suits to quiet title shall apply to any suit brought under this authorization. If judgment be given against the State in any such suit, no costs shall be recovered from the State.

Suit against State to quiet title authorized.

Said real property is situated in the city of Newport Beach, Orange County, California, described as follows:

Description.

Description. Beginning at the intersection of the easterly line of Tenth Street and a line 110 feet northerly of and parallel with the northerly line of Central Avenue (North Drive) as said Tenth Street and Central Avenue (North Drive) are shown on the map of section "B," Newport Beach, recorded in Book 4, page 27 of Miscellaneous Maps, Records of Orange County, California; thence easterly along a line which is 110 feet northerly of and parallel with the northerly line of said Central Avenue (North Drive), said line being the center line of the alley in block 109 of said section "B," Newport Beach, 324.89 feet, more or less, to an intersection with the northerly prolongation of the westerly line of lot five (5) in block 109 of said section "B", Newport Beach; thence northerly along said northerly prolongation of the westerly line of said lot five (5) 259.12 feet, more or less, to an intersection with the United States bulkhead line extending from U. S. Bulkhead Station No. 116 to U. S. Bulkhead Station No. 117, as said bulkhead line and bulkhead stations are shown on the map of Newport Bay showing harbor lines, approved by the War Department of the United States January 18, 1917; thence westerly along said bulkhead line to its intersection with the northerly prolongation of the westerly line of said Tenth Street; thence southerly along the northerly prolongation of the westerly line of said Tenth Street to its intersection with a line 120 feet northerly of and parallel with the northerly line of said Central Avenue (North Drive); and thence easterly and parallel with the northerly line of said Central Avenue (North Drive) 40 feet to the easterly line of said Tenth Street; and thence southerly in a direct line 10 feet to the point of beginning.

Limitation. SEC. 2. Any suit brought under this authorization shall be commenced within one year after this act takes effect. Service of summons in any such suit shall be upon the Governor and Attorney General and it shall be the duty of the Attorney General to represent the State in any such suit.

CHAPTER 449.

Stats 1917, p 831 amended *An act to add sections 9a to 9d, inclusive, to the Workmen's Compensation, Insurance and Safety Act of 1917, relating to disability of members of the California Highway Patrol.*

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section. SECTION 1. Section 9a is hereby added to the Workmen's Compensation, Insurance and Safety Act of 1917 to read as follows:

California Highway Patrol. Sec. 9a. Whenever any member of the California Highway Patrol is disabled by injury or illness arising out of and in the

course of his duties, such member shall become entitled, regardless of his period of service with the patrol to leave of absence while so disabled without loss of salary, in lieu of disability payments under section 9 of this act, for a period of not exceeding one year. This section shall apply only to members of the California Highway Patrol whose principal duties consist of active law enforcement and shall not apply to persons employed in the Department of Motor Vehicles whose principal duties are telephone operator, clerk, stenographer, machinist, mechanic or otherwise clearly not falling within the scope of active law enforcement service, even though such person is subject to occasional call or is occasionally called upon to perform duties within the scope of active law enforcement service.

SEC. 2. A new section is hereby added to said act to be numbered 9b and to read as follows: New section

Sec. 9b. It shall be the duty of the Industrial Accident Commission to determine in any case, upon request of the Department of Motor Vehicles whether or not the disability referred to in section 9a of this act arose out of and in the course of the duties of a member of the California Highway Patrol. The commission shall, also, in any disputed case, determine when such disability ceases. Determination of disability.

SEC. 3. A new section is hereby added to said act to be numbered 9c and to read as follows: New section

Sec. 9c. Any such member of the California Highway Patrol so disabled is entitled to the medical, surgical and hospital benefits set forth as part of the compensation prescribed for persons injured in the course and arising out of their employment by the provisions of this act, at the expense of the Department of Motor Vehicles, and such expense shall be charged upon the fund out of which the compensation of the member is paid. Medical, surgical and hospital benefits.

SEC. 4. A new section is hereby added to said act to be numbered 9d and to read as follows: New section.

Sec. 9d. Whenever such disability of such member of the California Highway Patrol continues for a period beyond one year from and after the date when the illness or injury causing the disability occurs, such member shall thereafter be subject, as to the amount of compensation and treatment to the provisions of this act other than section 9a, until restored to service or retired, except that such compensation shall be paid out of funds available for the support of the Department of Motor Vehicles, and the leave of absence shall continue. Disability beyond one year.

CHAPTER 450.

"Chattel mortgage moratorium of 1935."

An act to prohibit under certain conditions, sales under certain chattel mortgages, to extend the statute of limitations upon such obligations, to make voidable at the instance of the owner any sale made in violation of the act, to prescribe the time within which an action to avoid such a sale may be brought, and to declare the urgency thereof, and to provide that this act take effect immediately.

[Approved by the Governor July 11, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Moratorium on sales under certain chattel mortgages.

SECTION 1. No sale shall be made under any decree of foreclosure of, or under any power of sale contained in, any chattel mortgage heretofore executed (a) upon any personal property located in and used in connection with the operation of any building located upon real property, or (b) upon any personal property (excluding personal property under lease contract and excluding live stock) which is used in connection with the customary operation of agricultural real property, sale of which real property under any mortgage or deed of trust is postponed by the filing of a petition and the recording of notice thereof under the "Mortgage and Trust Deed Moratorium of 1935," until on or after such date as a sale of such real property is lawfully held under such mortgage or deed of trust, when such chattel mortgage was given as additional security for an obligation also secured by a deed of trust or mortgage on such real property.

Stats. 1935, Ch. 348.

Limitations of actions extended.

SEC. 2. In all cases in which the time within which an action upon an obligation founded upon a written instrument secured by a chattel mortgage may be commenced would expire by virtue of section 337 of the Code of Civil Procedure during the period when any sale under a decree of foreclosure or under any power of sale contained in such chattel mortgage is postponed by virtue of the provisions of this act, such time is hereby extended to and including July 1, 1937.

Stats 1935, Ch 614.

Sales voidable.

SEC. 3. Any sale of property under a chattel mortgage made in violation of this act shall be voidable, at the instance of the owner of such property at the time of sale provided that any action to avoid such sale must be brought within one year of the date of such sale.

Expiration of act.

SEC. 4. This act shall remain in effect only until February 1, 1937.

Constitutionality.

SEC. 5. If any section, subsection, sentence, clause, word or part of this act, or the application thereof to any person or circumstance, is finally determined by the courts to be unconstitutional, such section, subsection, sentence, clause, word or part shall no longer be effective or such application shall no longer control, but all other sections, subsections, sentences, clauses, words or parts or the application thereof to other persons and circumstances shall continue in full force and effect.

It is the intent of the Legislature to make this act as effective as possible to relieve debtors in the manner herein provided.

SEC. 6. This act shall be known and may be cited as the "Chattel Mortgage Moratorium of 1935." Short title

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into immediate effect. Urgency.

The facts constituting the necessity are as follows: A severe economic depression exists throughout the State, rendering many of its citizens unable to pay the principal sum of their debts or to otherwise finance their loans. As a result thereof, through foreclosure actions, they are being deprived of their property. The provisions of the real property mortgage moratorium statute are being evaded by persons who in addition to the security afforded by real estate mortgages and deeds of trust on real estate, also take chattel mortgages to secure the same obligation. Consequently the evil sought to be corrected by statutes relating to moratoria on mortgages and deeds of trusts on real estate can not be completely effective unless the situation covered by this act is remedied.

CHAPTER 451.

An act to amend the act entitled "An act to define building and loan associations and to regulate them and their organization, business, operation, merger, consolidation and liquidation, and (without limiting the generality of the foregoing) also to do the following: to define and regulate the agents, salesmen and collectors of such associations, and to regulate their officers, directors and employees; to define, authorize, and regulate the issuance of, shares, stock and investment certificates of such associations, and to prescribe the rights, remedies and liabilities of holders thereof, and to make such investment certificates legal investments for certain purposes; to prescribe the rights, powers, remedies, duties and liabilities of such associations and the rights and remedies of their creditors; to regulate the investments, loans and borrowings of such associations, and their accounts, reports, audits, statements and advertising; to create and continue the office of Building and Loan Commissioner, provide for and define the rights, powers, remedies and duties of the commissioner and his assistants and employees; to provide penalties for offenses by such associations, their directors, officers, agents, salesmen, collectors and employees and by other persons and corporations; and to repeal Title XVI of Part IV of Division I of the Civil Code, Chapter 354 of the Statutes of 1911 and acts amendatory thereof and supplemental Stats. 1931, p. 483, amended.

thereto; Chapter 133 of the Statutes of 1927, and all other acts and parts of acts inconsistent herewith," approved May 5, 1931, as amended, by amending sections numbered 1.01 relating to definitions, 12.07 relating to bonds of officers and employees, 13.16 relating to liquidation by the Building and Loan Commissioner, 13.17 relating to assessments for salaries and expenses, 6.06 relating to payments entitled to preference, 12.04 relating to foreign associations, 13.13 relating to the commissioner's powers upon taking possession and 13.15 relating to schedules of property; and adding to said act new sections to be numbered 8.09a relating to dividends, 12.04a relating to foreign building and loan associations and 14.09 relating to liability for acts done or omitted in conformity with any rule, regulation, approval, consent, order, direction or other act of the Building and Loan Commissioner.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1089.

SECTION 1. Section 1.01 of the act cited in the title hereof, as amended, is hereby amended to read as follows:

Definitions.

Sec. 1.01. In General. The following terms, wherever used in this act, shall have the following meanings, except in cases where the context otherwise requires:

"Association" means a building and loan association, as defined in section 1.02 of this act, and except where otherwise indicated includes both domestic and foreign associations. "Domestic association" means an association incorporated under the laws of this State, and "Foreign association" means any other association. "Association on notice" and "Association on a pro rata basis" are defined in section 6.01 of this act.

"Commissioner" means the Building and Loan Commissioner. "Shares" means withdrawable shares of an association; which shares shall constitute and may be designated membership shares. "Pledged shares" means shares pledged as security for the payment of a loan from the association issuing such shares. "Free shares" means all other shares. "Full paid shares," "Installment shares" (including "serial" and "nonserial" installment shares), "Accumulative shares" and "Prepaid shares" are defined in section 3.02 of this act.

"Stock" means guarantee stock of an association.

"Investment certificates" means instruments issued by an association, pursuant to section 5.01 of this act, which expressly state that the right of the holder thereof to withdraw funds evidenced thereby is subject to the provisions of Article VI of this act, and which otherwise conform to the provisions of this act applicable thereto. "Full paid investment certificate," "Installment investment certificate," "Accumulative investment certificate," "Definite term investment certificate," "Prepaid investment certificate" and "Minimum term

investment certificate" are defined in section 5.01 of this act. The term "investment certificates," wherever used in this act, shall be deemed to include all unsecured notes heretofore issued by an association to savers or members of the public generally.

"Shareholder" and "member" are synonymous and mean the holder of one or more shares or of a fraction thereof. "Stockholder" means the holder of stock. "Certificate holder" means the holder of one or more investment certificates. "Investor" includes shareholder, stockholder and certificate holder.

The "value" of shares or investment certificates means the amount paid in upon such shares or investment certificates, plus the accumulated earnings or interest accrued thereon, less any withdrawals therefrom and charges there against. The "matured value" of a share shall be equal to the par value thereof.

"Redemption price" is defined in section 5.06 of this act, and "withdrawal value" in section 6.01 thereof.

The term "issuing" wherever used in this act with reference to an association issuing or not issuing shares, stock and investment certificates or any thereof, shall not be limited to issuance thereof at the particular time, but shall include prior issuance if such stock, shares and investment certificates or any thereof (as the case may be) are still outstanding.

"Advertisement" includes advertisement, circular, pamphlet, prospectus, circular letter, newspaper, and also oral statements broadcast by radio.

Words used in this act in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter, and in the neuter gender include the masculine and feminine; the singular number includes the plural, and the plural includes the singular; "writing" includes also printing and typewriting; "oath" includes also affirmation; and "county" includes also city and county.

SEC. 2. A new section is hereby added to said act, as amended, to be numbered 12.04a and to read as follows: New section

Sec. 12.04a. Foreign Associations, Continued. Every foreign association transacting business in this State, which issues investments certificates, shares or stock, shall conduct all of its business in accordance with the statutes governing domestic associations. The capital of any such foreign association assigned to its business in this State, and all funds and investments of money received by any such foreign association in this State or for or in connection with its business in this State, and all accounts and transactions of said business transacted by any such foreign association in this State, shall be kept separate and apart from the general business, assets and accounts of such foreign association in the same manner as if the business of such foreign association conducted within this State were that of a separate and independent domestic association, and all of the provisions of this act affecting invest-

Foreign associations

Funds, etc., in State to be kept separate

ments, loans of money, issuance of certificates and conducting business in any respect shall be deemed to apply to such assigned capital, investments, loans, deposits, assets, funds and business, in the same manner as if such assigned capital, investments, loans, deposits, assets, funds and business were that of such separate and independent association.

All books, records and papers pertaining to the assets and liabilities situate in this State and the business transacted in this State shall be kept in an office or offices of the association in this State.

Stats. 1931, p. 534.

SEC. 3. Section 12.07 of said act, as amended, is hereby amended to read as follows:

Bonds of officers and employees.

Sec. 12.07. Bonds of Officers and Employees. All officers and employees of each association, having access to moneys or negotiable securities of such association in the regular discharge of their duties, or issuing stock, shares or investment certificates of such association in the regular discharge of their duties, before entering upon their duties and throughout the entire term of their office and employment and any subsequent term thereof, shall furnish to the employing association a good and sufficient bond indemnifying such association against loss of money or securities by reason of any dishonesty on the part of such officers or employees and by reason of any loss arising from any dishonest issue of stock, shares or investment certificates on the part of such officers or employees. The commissioner shall prescribe the amount and form of said bond and the term during which it shall run, and the sufficiency of the surety or sureties thereon shall at all times be subject to the approval of the commissioner. Each of such officers and employees shall renew his bond upon the expiration of its term. The commissioner may at any time require an additional bond or surety when in his opinion any such bond then in force is insufficient. All such bonds shall be filed in the commissioner's office.

Stats. 1931, p. 541.

SEC. 4. Section 13.16 of said act, as amended, is hereby amended to read as follows:

Powers of commissioner on liquidation.

Sec. 13.16. Powers Upon Liquidation. In liquidating the affairs of an association, the commissioner shall have power to collect all moneys due to, and claims of, such association and to give full receipt therefor; to release or reconvey all real or personal property pledged, hypothecated or transferred in trust as security for loans; to approve and pay all just and equitable claims; provided, that shares shall participate ratably with investment certificates in the case of any association in which shareholders shall have heretofore been granted the right and option by the association to exchange their shares for investment certificates of equal value; to commence and prosecute all actions and proceedings necessary to enforce liquidation; and on the order of the superior court of the county in which the principal office in this State of such association is located, given and made after a hearing on such notice as the court shall prescribe, to compound bad or

doubtful debts or claims, or to borrow money, or to sell, convey or transfer real or personal property. If a purchaser for any property or any bad or doubtful debt or claim can not be obtained and it appears improbable in the case of any such bad or doubtful debt or claim that recovery thereon can be had, and that the cost of action to enforce collection of the same would probably be lost, the court may direct that suit thereon need not be brought, and if in the case of any such property it appears improbable that anything can be realized therefrom and that the cost of maintaining, preserving or protecting said property would probably be lost, the court may direct the commissioner to abandon the same. For the purpose of executing and performing any of the powers and duties hereby conferred upon him, the commissioner may in the name of such association or in his own name prosecute and defend any and all suits and other legal proceedings and may in the name of such association or in his own name as commissioner execute, acknowledge and deliver any and all deeds, assignments, releases, requests for reconveyance, and other instruments necessary and proper to effectuate any sale of real or personal property or other transaction in connection with the liquidation of such association; and any deed, assignment, release, request for reconveyance or other instrument executed pursuant to the authority hereby given shall be valid and effectual for all purposes as though the same had been executed by the officers of such association by authority of its board of directors. In case any of the real property so sold is located in a county other than the county in which the application to the court for leave to sell the same is made, the commissioner shall cause a certified copy of the order authorizing or ratifying such sale to be recorded in the office of the recorder of the county in which such real property is located.

Inventory of assets.

Upon determining to liquidate an association, the commissioner shall cause an inventory of all the assets of such association to be made in duplicate, the original to be filed with the court and the duplicate in the office of the commissioner. He shall cause notice to be given by publication once a week for four successive weeks in some newspaper of general circulation published at or near the principal place of business in this State of such association, to all persons having claims against it as creditors or investors or otherwise, to present and file same and make legal proof thereof at a place and within a time to be designated in such publication, which time shall be not less than six months after such first publication; and within ten days after such first publication he shall cause a copy of such notice to be mailed to all persons whose names appear of record upon its books as creditors or investors; and upon the expiration of the time fixed for the presentation of claims, the commissioner shall prepare or cause to be prepared in duplicate a full and complete schedule of all claims presented, specifying by classes those that have been approved and those that have been disapproved and shall

Claims.

file the original with the court and the duplicate in the office of the commissioner. Not later than five days after the time of filing such schedule with the court, written notice shall be mailed to all claimants whose claims have been rejected. Action to enforce the payment of or to establish any rejected claim must be brought and service had within four months from and after the date of filing of the schedule of claims with the proper court; otherwise all such actions shall be forever barred. All claims, demands or causes of action of whatever nature, and regardless of whether or not a suit shall be pending to enforce the same at the time of the taking possession of the assets of the association by the commissioner, of creditors, and persons other than investors against the association or against any property owned or held by it in trust or otherwise, must be presented to the commissioner in writing, verified by the claimant, or some one in his behalf, within the period limited in the above mentioned notice for the presentation of claims; and the commissioner shall have no power to approve any claim not so presented, and any such claim, demand or cause of action not so presented shall be forever barred. Any investor, without presenting a claim, shall be entitled, as to any dividends hereafter declared, to share in such dividends to the extent, and in the proper relative order of priority, of any claim shown by the books of the association to exist in his favor against the association.

Presentation of claims.

Deputies.

The commissioner may under his hand and official seal appoint one or more special deputies to assist in the duties of liquidation and distribution under his direction and may also employ such special legal counsel, accountants and assistants as may be needful and requisite and fix the salaries and compensation to be allowed and paid to each. All such salaries and compensation with such other reasonable and necessary expenses as may be incurred in the liquidation shall be paid by the commissioner from the funds of such association in his hands. Such expenses shall include, among other things, that part of the salary of the commissioner and of his deputies, examiners, accountants, appraisers and other assistants, and that part of the general expenses of the commissioner's office, as shall fairly represent, in the opinion of the commissioner, the proportion thereof properly attributable to such liquidation. From the net realization of assets in excess of such salaries, compensation and expenses, the commissioner shall first pay all claims heretofore or hereafter approved by him in the sum of less than ten dollars, other than the claims of shareholders or stockholders, and other than the claims of certificate holders or other creditors who shall object in writing to such payment. Such claims of less than ten dollars shall be paid at their surrender value as estimated by the commissioner and fixed and determined by the court on the same basis as claims are received in payment of real property as provided for by section 13.16a, and all such claims shall thereupon be canceled. The commissioner shall

Expenses of liquidation.

Claims less than $10.

then pay all claims approved in the sum of ten dollars or more, other than the claims of shareholders and stockholders, without distinction or preference as between the claims of certificate holders and other creditors; and thereafter he shall distribute and pay dividends in liquidation first to the shareholders until their claims are fully paid or such assets or funds are exhausted, and second, if any such assets or funds remain, to the stockholders until such assets or funds are exhausted; provided, however, notwithstanding anything to the contrary herein contained, in the case of any association in which shareholders shall have heretofore been granted the right and option by the association to exchange their shares for investment certificates of equal value he shall distribute and pay dividends in liquidation to such shareholders without distinction or preference as between the claims of such shareholders and the claims of certificate holders and other creditors. Such distributions shall be made as funds are available therefor to the extent of ten per cent or more of the approved claims of the class of claimants then entitled to distribution, and shall continue until all the assets have been realized upon and a final dividend in liquidation shall be declared and paid. Where the commissioner shall have taken possession of an association and commenced paying dividends in liquidation prior to the effective date of this section, as amended, he shall nevertheless pay the claims of certificate holders or other creditors approved in the original sum of less than ten dollars, as hereinabove provided for, before paying other dividends in liquidation to those claimants whose claims were originally approved in the sum of ten dollars or more. Upon the payment of a final dividend in liquidation, the commissioner shall prepare and file with the court a full and final statement of the liquidation, including a summary of the receipts and disbursements, and a duplicate thereof shall be filed in the office of the commissioner and after due hearing and approval by the court, the liquidation shall be deemed to be closed.

Dividends

Hearing upon final statement

The determination by the commissioner to liquidate any association, evidenced by filing written notice of such determination with the court, shall operate to stay or dissolve any or all actions or attachments instituted or levied within thirty days next preceding the taking of possession of such association by the commissioner, and pending the process of liquidation as herein provided no attachment or execution shall be levied or lien created upon any of the property of such association.

Stay of process, etc

Whenever in the case of any association which shall have issued stock, the commissioner shall have fully liquidated all claims other than claims of stockholders, and shall have made due provision for any and all known but unclaimed liabilities, excepting claims of stockholders, and shall have paid all expenses of liquidation, then upon the written request of the holders of a majority of the stock of such association any surplus that may then remain in his hands, together with

Disposition of balance

all the records and effects, shall be delivered to the association or its trustees, and thereafter such association or its trustees shall have title thereto free from any claim of the commissioner.

Stats 1931, p. 544.

SEC. 5. Section 13.17 of said act, as amended, is hereby amended to read as follows:

Expenses of commissioner: Assessments against associations.

Sec. 13.17. Assessments for Salaries and Expenses. To meet the salaries and expenses provided for by this act, for the payment of which no provision is otherwise made, the commissioner shall require every association licensed by him or coming under his supervision to pay in advance to him, prior to the issuance of any license, its pro rata amount of all such salaries and expenses as estimated by the commissioner for the ensuing year and it is hereby made the duty of every such association to pay the same. Such pro rata shall be the proportion which its assets bear to the aggregate assets of all such associations receiving licenses as shown by the latest annual reports of such associations to the commissioner. On or before the thirtieth day of December in each year, the commissioner shall notify each of such associations by mail of the amount assessed and levied against it and that the same must be paid within twenty days thereafter; and should payment not be made to him within said twenty days, he shall then assess and collect a penalty in addition thereto of five per cent for each month or part of a month that such payment may be delayed or withheld; provided, however, that in the levy and collection of such assessment, no association shall be assessed for nor be permitted to pay less than ten dollars per annum and any such domestic association hereafter formed shall be required to pay not less than one dollar per month for the unexpired term ending December thirty-first succeeding its initial application; and in like manner any such foreign association shall be required to pay not less than three dollars per month for such unexpired term after its first license.

Notice and payment.

Minimum.

New section.

SEC. 6. A new section is hereby added to said act, as amended, to be numbered 14.09 and to read as follows:

Conformity with commissioner's orders

Sec. 14.09. Conformity With Commissioner's Orders. No provision of this act imposing any liability, either civil or criminal, shall apply to any act done or omitted in good faith in conformity with any rule, regulation, approval, consent, order, direction or other act of the commissioner, notwithstanding that such rule, regulation, approval, consent, order, direction or other act of the commissioner may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

Stats 1933, p 313.

SEC. 7. Section 6.06 of said act, as amended, is hereby amended to read as follows:

Preferred payments.

Sec. 6.06. Payments Entitled to Preference. In the event of the liquidation or dissolution of any association, then notwithstanding anything to the contrary in section 13.16 of this act or elsewhere in this act, all sums heretofore or hereafter paid in to such association on investment certificates or shares

while such association shall have been on a pro rata basis and all sums which shall hereafter be paid in to such association on investment certificates or shares prior to the expiration of the emergency period as hereinafter in this section 6.06 defined, shall be repaid in full to all investors filing claims therefor regardless of whether such claims shall have been filed within the period provided for by section 13.16 of this act before any payments shall be made to other certificate holders or other creditors or other shareholders, or to stockholders, unless after the receipt of such money and prior to the liquidation or dissolution of such association, there shall have been a period of six consecutive months within which such association shall have had no matured withdrawal claims (except claims for the payment of which funds shall have been set aside by the association). An association which has issued and outstanding both shares and investment certificates shall not accept any money on account of free shares if such money might be entitled to a preference under the provisions of this section 6.06. No association shall accept any money on account of investment certificates or shares, except investment certificates and shares pledged to such association in connection with loans secured by real property, if such money might be entitled to preference pursuant to this section 6.06, if the commisisoner in writing shall have directed the association not to accept such money. The term "emergency period" as used in this section 6.06 shall mean the period commencing March 10, 1933, and ending September 1, 1935; provided, however, that said emergency period may be terminated at any time prior to September 1, 1935, by order of the commissioner.

Free shares

Investment certificates

Emergency period.

SEC. 8. Section 12.04 of said act, as amended, is hereby amended to read as follows:

Stats 1931, p 531.

Sec. 12.04. Foreign Associations. No foreign association formed for the purpose of conducting and carrying on a business similar to that authorized by this act, or whose by-laws, rules, prospectus, contracts or methods of business provide for the conducting or carrying on the business of accumulating the periodical payments or savings of its shareholders, stockholders, members or investors in the manner of associations, or as authorized and provided in this act, shall enter the State of California for the transaction of business or for selling its shares, stock, and investment certificates or shall sell any of its shares, stock, or investment certificates, or otherwise transact any of its business of a character similar to that authorized by this act unless it shall have first (a) complied with all the requirements of the laws of this State relative to associations as defined in this act and acts amendatory hereof and supplemental hereto, and (b) applied for and received from the commissioner a license to transact business in this State as required of a domestic association, and (c) deposited with the State Treasurer the money or securities hereinafter in this section required for the transaction of such business within this State.

Foreign associations: Conditions of entry into State.

Supervision by commissioner

Every such association transacting business in this State of a character similar to that authorized by this act or in such manner as might lead the public to believe that its business is that of a building and loan association shall become subject to the supervision of the commissioner and shall conduct all its business in accordance with the statutes governing domestic associations.

Deposit of guarantee fund.

Every foreign association mentioned or referred to in the preceding paragraph of this section desiring to enter the State of California for the transaction of business or for selling its shares, stock or investment certificates must first deposit with the State Treasurer not less than one hundred thousand dollars in lawful money of the United States, or in bonds or other securities referred to in subdivisions (3), (4) and (5) of section 9.02 of this act, or in lieu thereof promissory notes in such amount secured by first mortgages or first deeds of trust upon improved real property located in this State satisfactory to the commissioner, all duly assigned or endorsed in blank, to be held by him as a guarantee fund for the protection and indemnity of residents of this State who shall invest in any of its shares, stock or investment certificates, or with whom it shall do business. In the event mortgages or deeds of trust shall be deposited, the association shall be required to make all collections thereon, and to do such acts as may be necessary or proper to protect and preserve the security therefor, and shall make monthly reports to the commissioner of the status thereof.

Increase of deposit.

Whenever any foreign association shall have outstanding shares and investment certificates issued to residents of this State of an aggregate value in excess of two million dollars, the deposit above mentioned, in money or security of the character above mentioned, shall be increased and at all times maintained in a sum at least equal to five per cent of such aggregate value.

Substitution of securities

With the consent of the commissioner, any of the securities deposited as herein provided may be withdrawn at any time upon the substitution and deposit of others of the form and character herein specified and of like or greater net value, so long as the aggregate net value of all equals or exceeds the amount named herein.

Disposition of fund

The fund thus created is not to be foreclosed or realized upon when the association is not in the hands of the commissioner, except for the liquidation of a final judgment in favor of residents of California who were investors in such association or with whom it shall have done business, and then only after certified proof thereof has been filed with the State Treasurer. Where the association is in the hands of the commissioner for liquidation as provided for by this act, the fund may be withdrawn by the commissioner at any time for distribution by him in favor of residents of California who were investors of such association or with whom it shall have done business. Except as above provided, securities deposited as herein specified shall not be withdrawn until satisfactory proof of the liquidation of all liabilities to residents of this State, approved

by the commissioner, shall be filed with the State Treasurer, when all may then be withdrawn. Only those persons who have resided in the State of California continuously from the time of investing in or doing business with such association to the time of securing a final judgment or to the determination by the commissioner to liquidate such association, shall be entitled to participate in the fund provided for by this section.

Participation in liquidation

Any person who, as principal, agent, salesman, solicitor or in any other capacity, shall solicit or conduct in this State the business of selling, disposing of or taking or soliciting subscriptions for the sale of any of the shares, stock, or investment certificates of any foreign association which has not complied with all the requirements of this section and which is not at that time the lawful holder of a license to transact business in this State issued by the commissioner and then in force shall be guilty of a public offense and shall be punished by imprisonment in the State prison not exceeding five years, or in a county jail not exceeding two years, or by a fine not exceeding five thousand dollars, or by both such fine and imprisonment.

Penalty for selling stock of unlicensed association

No foreign association issuing any securities other than shares, stock and investment certificates shall be entitled to a license to transact business in this State and no foreign association transacting business in this State shall issue any securities except shares, stock and investment certificates. The term "securities," as used in this paragraph, shall not include borrowings permitted by sections 9.05 or 9.06 of this act or instruments executed in connection therewith.

Limit on issue of securities

SEC. 9. Section 13.13 of said act, as amended, is hereby amended to read as follows:

Stats 1931, p. 540.

Sec. 13.13. Powers Upon Taking Possession. Upon taking possession of the business, property and assets of any association, the commissioner may under his hand and official seal appoint a custodian, require from him a good and sufficient bond and place him in charge as his representative. Upon taking such possession, the commissioner shall have authority to collect all moneys due to such association and to give full receipt therefor, and to do such other acts as are necessary or expedient to collect, conserve or protect its business, property and assets. Unless the commissioner shall be enjoined from further proceedings and directed to surrender such business, property and assets or unless such association shall with the consent of the commissioner resume business, then the commissioner shall proceed to liquidate the affairs of such association as hereinafter provided. Whenever the commissioner shall be in possession of the business, property and assets of any association, and regardless of whether or not he shall be liquidating the affairs of such association, the commissioner may in his discretion (1) apply to the superior court of the county in which the principal office in this State of such association is located for an order confirming any action there-

Powers upon seizure Appointment of custodian.

Conduct of business.

Liquidation

Court orders.

tofore taken by the commissioner, or authorizing the commissioner to do any act or to execute any instrument not expressly authorized by this act, which order shall be given and made after a hearing on such notice as the court shall prescribe; (2) pay and discharge any secured claims against such association, whether or not such claims shall theretofore have been presented for payment or have become barred from presentation by the expiration of the time limit hereinafter specified; provided that no such claim shall be paid in an amount larger than the then value of the security therefor; (3) pay such administrative or current expenses incurred prior to the taking of possession by the commissioner as may be necessary or convenient to the orderly or economic liquidation or preservation of the assets, and pay all wages or salaries, not exceeding two hundred fifty dollars per month to any one person, earned within six months prior to the taking of possession by the commissioner, whether or not claims for such expenses, wages or salaries shall theretofore have been presented for payment, or shall have become barred from presentation by the expiration of the time limit hereinafter specified; or (4) within six months after obtaining knowledge of the existence thereof, disaffirm any executory contracts (including leases) to which such association is a party, and disaffirm any partially executed contracts (including leases) to the extent that they remain executory.

Payment of secured claims.

Payment of expenses incurred prior to possession.

Disaffirmance of contracts.

Stats. 1931, p. 541.

SEC. 10. Section 13.15 of said act, as amended, is hereby amended to read as follows:

Delivery to commissioner of schedule of property, etc.

Sec. 13.15. Officers Must Furnish Schedule of Property. Upon taking possession of the property, business and assets of any association, the commissioner shall require the president and secretary of such association to, and such officers shall, make a schedule of all its property and assets and of all collateral held by it as security for loans and make oath that such schedule sets forth all such property, assets and collateral and shall deliver such schedule, and the possession of any and all such property, assets and collateral as may not have been so previously delivered, to the commissioner, who may at any time examine under oath such president and secretary, or other officers of such association, or the directors, agents or employees thereof, to determine whether or not all such property, assets or collateral have been transferred and delivered into his possession. The power of the commissioner to issue subpoenas and to require attendance of parties for examination under this section shall be as provided for in section 13.08 of this act.

Power to require attendance of witnesses

New section.

SEC. 11. A new section is hereby added to said act as amended, to be numbered 8.09a and to read as follows:

Payment of dividends on stock.

Sec. 8.09a. Dividends Payable Subject to Approval of Commissioner. Notwithstanding anything to the contrary contained in section 8.09 of this act, an association may, with the prior approval of the commissioner in each case, pay dividends on stock from that part of its net profits after divi-

dends on shares, computed in accordance with accounting practices prescribed or approved by the commissioner, as shall not have resulted either (a) from the reduction, pursuant to the provisions of said section 8.09, of interest on its investment certificates or dividends on its shares, below the contractual rate or rates thereof or (b) from the acceptance, pursuant to the provisions of section 6.07 of this act, of its investment certificates or shares in payment for property sold by such association. In no case shall the commissioner approve the payment of dividends from such net profits unless he shall have caused a notice of such intended action to be published, at least five days before such intended action is taken, in a newspaper of general circulation published in the county or city and county in which such association's principal office in this State is located.

Constitutionality.

SEC. 12. If any section, subsection, paragraph, sentence, clause, phrase or other part of this act, or if any article, section, subsection, paragraph, sentence, clause, phrase or other part of the Building and Loan Association Act as amended by this act, is for any reason held to be unconstitutional, or to be invalid as applied to any person, association or circumstance, such decision shall not affect the validity of the remaining portions of this act or of said act as so amended, or the application to other persons, associations or circumstances of the part held to be invalid as aforesaid. The Legislature hereby declares that it would have passed this act and each section, subsection, paragraph, sentence, clause, phrase or other part thereof, and would have amended said act by adding thereto each article, section, subsection, paragraph, sentence, clause, phrase or other part added thereto by this act, irrespective of the fact that any one or more of the sections, subsections, paragraphs, sentences, clauses, phrases or other parts of this act be declared unconstitutional or be invalid as applied to any person, association or circumstance, and irrespective of the fact that any one or more of the articles, sections, subsections, paragraphs, sentences, clauses, phrases or other parts added to said act by this act be declared unconstitutional or be invalid as applied to any person, association or circumstance.

CHAPTER 452.

An act to amend section 652 of the Civil Code and to add four new sections thereto to be numbered sections 652.1, 652.2, 652.3 and 652.4, all relating to the consolidation and government of colleges and institutions of higher education.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1927, p. 498

SECTION 1. Section 652 of the Civil Code is hereby amended to read as follows:

Consolidation of colleges.

Sec. 652. Sectarian or Fraternal Schools—Whenever any benevolent, religious or fraternal organization or society, having a grand lodge, assembly, conference or other legislative or representative head in the State of California, having two or more colleges or institutions of higher education under its patronage, shall, for the purpose of greater efficiency and simplicity in the administration of its educational interests, desire to consolidate such institutions under one management, such organization or society shall be and is hereby authorized to consolidate such institution under one management, by complying with the following provisions:

Formation of new corporation

Such grand lodge, assembly, conference or other legislative or representative head having authorized a consolidation of its institutions, a new corporation shall be formed.

Board of trustees.

The board of trustees of the new corporation shall at first consist of the persons constituting the boards of trustees of the several institutions, respectively thus consolidating, and others; provided, the number of trustees shall not exceed forty-five. The board of trustees shall be so classified that the term of office of one-third of its numbers shall expire each year, and unless otherwise provided in the articles of incorporation or by-laws, the successors of such trustees, as their terms expire shall be elected by such grand lodge, assembly, conference or other legislative or representative head, at its annual meeting.

New section.

SEC. 2. A new section is hereby added to the Civil Code to be numbered section 652.1, and to read as follows:

Articles of incorporation

652.1. Provision may be made in such articles of incorporation in addition to any other matters required by law for not only the number of its trustees but also for the method of nominating and electing trustees and the special qualifications, if any, required of persons so to be elected or of any particular number of such persons. If not so made therein such methods and qualifications may be set forth in the by-laws.

New section

SEC. 3. A new section is hereby added to the Civil Code to be numbered section 652.2, and read as follows:

By-laws.

652.2. By-laws may be adopted and amended by the trustees except as otherwise provided in the articles or the by-laws. Such by-laws may set forth the particular officers or persons in the grand lodge, conference, assembly or other legislative or representative head entitled to vote as members of such corporation and also the manner and method by which such voting is had. Such by-laws may limit or restrict the power of the trustees to adopt, amend or repeal by-laws or any of such by-laws, and after such limitation or restriction is made the same shall be complied with unless the limitation or restriction be removed with the consent of the officers or persons so entitled to vote as members. Where applicable the provisions of section 598 of this code shall apply to such by-laws. Except as otherwise provided in this section or in the articles of incorporation or the by-laws, the board of

Stats 1927, p 1850

trustees of said new corporation shall have all of the powers granted to boards of trustees by and enumerated in sections 597, 650, 651a and 653ad of this Code.

SEC. 4. A new section is hereby added to the Civil Code to be numbered section 652.3, to read as follows: New section.

652.3. After the two or more colleges or institutions of higher education under the patronage of any benevolent, religious or fraternal organization or society, having a grand lodge, assembly, conference or other legislative or representative head in the State of California shall have become consolidated as hereinabove provided for, the board of trustees of the new corporation, consisting at first of the persons constituting the boards of trustees of the several institutions, respectively thus consolidated, may be reduced in number after said board of trustees shall have transacted the business of said corporation for a period of five years after such consolidation. Unless other provision be made in the articles of incorporation said number shall be reduced by the grand lodge, assembly, conference or other legislative or representative head of said colleges or institutions of higher education in the following manner, viz: At any annual session of such grand lodge, assembly, conference or other legislative or representative head, there shall be dropped from the number of trustees to be elected at that session of such grand lodge, assembly, conference or other legislative or representative head such a number of trustees as those present at such session shall determine, provided, however, that at no time shall the number of trustees composing such board be less than fifteen. Reduction of number of trustees. Not less than fifteen trustees.

SEC 5. A new section is hereby added to the Civil Code to be numbered section 652.4, to read as follows: New section.

652.4. The board of trustees of said new corporation shall report annually to the grand lodge, conference, assembly or other legislative or representative head controlling it, the condition of affairs of such corporation, and the amount and manner of its receipts and expenditures. Annual reports

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CHAPTER 453.

An act to amend the Code of Civil Procedure by adding a new section thereto to be numbered 954a, relating to abandonment and withdrawal of appeals.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Code of Civil Procedure to be numbered 954a, and to read as follows: New section

954a. At any time before the filing of the record or transcript in the court to which the appeal has been taken, an appellant may abandon the appeal by filing in the office of the Abandonment of appeal.

clerk of the trial court a written abandonment thereof; and the parties may effect a withdrawal of the appeal by filing in said office the stipulation of their counsel therefor. Upon filing of either such document, the jurisdiction of the trial court over the subject matter of the judgment or order designated in the notice of appeal, will be completely restored.

CHAPTER 454.

An act to amend section 2.802 of the School Code, relating to judgments against school districts.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Sch. C., 1929, p. 73

SECTION 1. Section 2.802 of the School Code is hereby amended to read as follows:

Payment of judgments

2.802. Boards of school trustees, high school boards, junior college boards and boards of education, must pay any judgment for debts, liabilities, or damages out of the school funds to the credit of the district, subject to the limitation on the use of such funds fixed in the Constitution of the State of California. If any judgment is not paid during the tax year in which it was recovered:

Inclusion in budget

(a) And if, in the opinion of the board, the amount is not too great to be paid out of taxes for the ensuing tax year, such board or boards shall include in their budget for the ensuing tax year a provision to pay the said judgment, and shall pay the same immediately upon the obtaining of sufficient funds therefor.

Payment in three annual installments.

(b) If, in the opinion of the board, the amount of the judgment is so great that undue hardship will arise if the entire amount is paid out of taxes for the next ensuing tax year, the board shall provide for the payment of the judgment in not exceeding three annual installments with interest thereon, at a rate not exceeding four per cent per annum, up to the date of each payment, and shall include provision for such payment in each budget for not exceeding three consecutive tax years next ensuing. In such case each payment shall be of an equal portion of the principal of the judgment.

CHAPTER 455.

An act to add section 21.4 to the Fish and Game Code, relating to damages for destruction of fish and game. Stats. 1933, p. 394.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 21.4 is hereby added to the Fish and Game Code to read as follows: New section.

21.4. It is the policy of this State to conserve its natural resources and to prevent the wilful or negligent destruction of fish and game. Policy of State.

This State may recover damages in a civil action against any person who unlawfully or negligently takes or destroys any bird, mammal, fish, mollusk or crustacean protected by the laws of this State. Damages for destruction of fish and game.

The measure of damages is the amount which will compensate for all the detriment proximately caused by the destruction of such birds, mammals, fish, mollusks or crustaceans.

Actions to recover damages under this section shall be brought in the name of the people of the State of California, in a court of competent jurisdiction in the county in which the cause of action arose.

The provisions of this section shall not apply to persons engaged in agricultural pest control, to the destruction of fish in irrigation canals or works or irrigation drainages, or to the destruction of birds or mammals killed while damaging crops as provided by law. Application of section

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CHAPTER 456.

An act to amend sections 1015 and 1016 of the Fish and Game Code and to add thereto sections 670 and 1016.5, relating to fish. Stats 1933, p 394.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1015 of the Fish and Game Code is hereby amended to read as follows: Stats 1933, p 431.

1015. Except as otherwise provided herein, every person operating under a license as provided in this article shall, in addition to the license fee, pay a privilege tax of two and one-half cents for each one hundred pounds, or fraction thereof, of fish other than salmon, purchased, received or taken by him. Privilege tax.

Persons who receive salmon from fishermen shall, in addition to any other license fee imposed by this code, pay a privilege tax of one-half cent per pound, based on the weight of the Salmon

Exemption of fresh fish

salmon in the round. Fish, excepting salmon, and excepting mollusks and crustaceans, so taken or received, which are utilized for human consumption in a fresh state, shall not be subject to a privilege tax.

Stats. 1933, p. 481.

SEC. 2. Section 1016 of the Fish and Game Code is hereby amended to read as follows:

Time of payment

1016. All privilege taxes provided for in this article shall be paid monthly to the commission or some one authorized by it, within thirty days after the close of each month. Upon failure of any person operating under a license as provided in this article to pay such privilege tax within thirty days after the close of any month, his license shall be deemed immediately forfeited. All unpaid taxes as herein provided constitute a lien upon the plant and real property wherein and whereon said packing operations shall have been conducted.

New section.

SEC. 3. Section 670 is hereby added to the Fish and Game Code to read as follows:

Stamping cans.

670. Any cannery or packing plant in which salmon are canned, must stamp on the top of each can the words "NOT FOR RESALE" in letters of such size as to be clearly legible. Any violation of this section is punishable by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500).

New section

SEC. 4. Section 1016.5 is hereby added to the Fish and Game Code, to read as follows:

Use of salmon privilege tax

1016.5. All moneys received as a privilege tax by persons who receive salmon from fishermen under the provisions of this section shall be used only for the purpose of propagating salmon.

CHAPTER 457.

Stats 1933, p. 60.

An act to amend section 348 of the Agricultural Code, relating to licenses and moneys collected for inspection of marks and brands.

[Approved by the Governor July 11, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 117.

SECTION 1. Section 348 of the Agricultural Code is hereby amended to read as follows:

License fees of slaughterers.

348. The director shall grant to every applicant, who complies with the provisions of this article, a license to slaughter cattle and sell the meat thereof for the unexpired portion of the current calendar year. Applicants for such license shall pay to said director the following annual fee in advance: Applicants who slaughter less than ten head per month, five dollars; applicants who slaughter ten or more and less than fifty head per month, ten dollars; applicants who slaughter fifty or more head per month, twenty-five dollars. One-fourth of said fee shall be paid for a quarter of a year, but in no

case shall the fee be less than two dollars for a fractional part of the year. The director shall refuse to issue a license to any applicant applying to slaughter in an unclean or insanitary slaughterhouse.

CHAPTER 458.

An act to add section 4093.5 to the Political Code, relating to transmission of moneys to counties by State officers and employees.

[Approved by the Governor July 11, 1935. In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Political Code, to be numbered section 4093.5 and to read as follows: New section

4093.5. Whenever moneys or credits or evidences thereof are transmitted to the county treasurer by any officer or employee of the State, for deposit in the county treasury or in the treasury of any political subdivision, public or municipal corporation or district of which the county treasurer is the treasurer, the State officer or employee transmitting such moneys or credits or evidences thereof shall at the time of such transmission also transmit to the county auditor a notice stating the following: Notice of transmission of moneys

(a) The amounts of moneys or credits or evidences thereof transmitted.

(b) The mode of transmission, and the date when the transmitting officer or employee placed the moneys or credits or evidences thereof in course of transmission or deposited them with the county treasurer.

(c) A description of such moneys, credits, or evidences thereof, and the purpose for which transmitted.

The auditor shall file such notices in his office and shall notify the treasurer of the receipt thereof.

CHAPTER 459.

Stats. 1927, p. 380, amended.

An act to add section 5.5 to an act entitled "An act to provide for the formation, powers, government, operation, and dissolution of garbage disposal districts to facilitate the disposal of garbage and other refuse matter, and annexation thereto, and to provide for the assessment, levy, collection and disbursement of taxes therein," approved April 20, 1927, relating to contracts for collection and disposal of garbage.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 5.5 is hereby added to the act cited in the title hereof, to read as follows:

Contracts for disposal of garbage.

5.5. The board of supervisors shall have the power to enter into contracts for the disposal of garbage and other refuse matter. Whenever the board enters into, or renews such a contract, it must advertise for bids for the performance of said work in a newspaper of general circulation in the county. Such advertisement shall be published for at least ten consecutive times in a daily newspaper or for at least two consecutive times in a weekly newspaper. In case there is no newspaper of general circulation published in said county, then such notice shall be given by posting in three public places for at least two weeks.

All bidders shall be afforded opportunity to ascertain the details of the nature of the work to be done under such contract. The contract shall be let to the lowest responsible bidder. If no satisfactory bid is obtained the board may reject all bids.

CHAPTER 460.

Stats. 1933, p. 938, amended.

An act to amend section 2 of an act entitled "An act to regulate and license persons engaged in the business of outdoor advertising and all persons erecting or maintaining or authorizing the erection or maintenance of outdoor advertising signs or structures outside of the limits of incorporated cities or towns; to provide for the securing and issuance of permits and fees therefor; to provide for the administration of this act by the Director of Public Works; to create a special fund to assist in the administration of this act; to provide for the disposition of fees and penalties collected hereunder; to provide for the enforcement of this act; to require the permission of the owner or lessee of property upon which such advertising structure or sign

is located; to provide for penalties; and to repeal all acts or parts of acts in conflict with this act," approved May 15, 1933, relating to exemptions.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 2 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1933, p. 939.

Sec. 2. Exemptions. Exemptions as to outdoor advertising

The provisions of this act shall apply only to the placing or maintenance of advertising structures and/or signs located in any of the territory of the State of California, other than the territory within incorporated cities and towns and incorporated cities and counties.

With the exception of the provisions contained in sections 14 and 15 hereof, nothing contained in this act shall be deemed or construed as applying to any of the following advertising structures or signs:

(a) Official notices issued by any court or public body or officer.

(b) Notices posted by any public officer in performance of a public duty or by any person in giving any legal notice.

(c) Directional, warning or information signs required by or authorized by law or by Federal, State, or county authority.

(d) Any advertising structure or sign used exclusively:

(1) To advertise the sale or lease of the property upon which such advertising structure or sign is placed; or

(2) To designate the name of the owner or occupant of the premises or to identify such premises; or

(3) To advertise the business conducted or services rendered or the goods produced or sold upon the property upon which such advertising structure or sign is placed; provided further, that all advertising structures or signs permitted under this subdivision (d) shall comply with the provisions of sections 9, 11, 12, 14 and 15.

CHAPTER 461.

An act to amend section 3649 of the Political Code, relating to taxation.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 3649 of the Political Code is hereby amended to read as follows: Stats. 1933, p. 1277.

Assessment of property that has escaped taxation.

3649. In the event of the failure or neglect of any person to return to the assessor for taxation any property between the first Monday in March and the first Monday in July of any year, such property when discovered by the assessor to have escaped taxation for such year, if such property is in the ownership or under the control of the same person who owned or controlled it on the first Monday in March, shall be assessed and entry thereof immediately made upon the assessment roll.

Any property discovered by the assessor to have escaped assessment for the last preceding year, if such property is in the ownership or under the control of the same person who owned or controlled it for such preceding year, shall be assessed for such year upon the current assessment roll and taxed at the current tax rate and such entry shall bear the wording "escaped assessment for the year 19__."

Taxes on personal property delinquent September 1st.

Taxes on all personal property not secured by real estate shall become delinquent on the first day in September, regardless of whether or not the property was discovered and assessed prior to or after said date, and thereupon a penalty equal to eight per cent shall attach to the tax so levied and no further penalty shall be added to said taxes.

Nothing in this section shall be construed as an interference to the assessor in carrying out the provisions of section 3821 of the Political Code.

Extension of lien

The authority of the assessor to seize and sell personal property for nonpayment of taxes mentioned in this section, for any year, shall be extended to a period of not more than two years from the date upon which the lien for such taxes attached for such year.

Stats 1935, Ch 834

Property taxable under the provisions of section 3627a of the Political Code is not subject to the provisions of this section.

CHAPTER 462.

Stats 1927, p 508, amended.

An act to amend Chapter 286, Statutes of 1927, entitled "An act authorizing the Department of Finance to appropriate waters in connection with the utilization and conservation of the water resources of the State in the development of a general or coordinated plan; authorizing the State Department of Finance to release or assign such appropriations; authorizing the State Department of Finance to request other departments of the State or State officers to furnish service or assistance to make investigations in connection with the development of a general or coordinated plan for the utilization or conservation of the water resources of

the State," approved April 29, 1927, as amended, by amending section 1 thereof, relating to appropriation of waters by the State Department of Finance.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933, p. 1425.

Section 1. The State Department of Finance is directed and authorized, pursuant to the provisions of the Water Commission Act and the rules and regulations of the Division of Water Resources of the Department of Public Works, to make and file an application or applications for any water or the use thereof which in the judgment of the State Department of Finance is or may be required in the development and completion of the whole or any part of a general or coordinated plan looking towards the development, utilization or conservation of the water resources of the State. Any such application or applications shall be made and filed by the State Department of Finance with the Division of Water Resources, Department of Public Works, within nine months after the date upon which this act shall go into effect. The priority of any such application or applications shall be as of the date this act shall become effective, and such priority shall be retained over any application made by others subsequent to said date, and which may be in conflict therewith, regardless of any requirements or provisions of the Water Commission Act relating to diligence in the completion of applications for water or the use thereof, until October 1, 1939; provided, that any such priority or priorities may be maintained and extended by further legislative enactment; provided, further, the State Department of Finance, under the requirements of the Water Commission Act and the rules and regulations of said Division of Water Resources relating to applications for the appropriation of water may publish a notice that it intends to file upon an amount of water necessary to the development of any part or unit of such general or coordinated plan and in that event the publication of such notice shall preserve, as of the date of such publication, the priority of any application made and filed subsequently by the State Department of Finance with said Division of Water Resources for the benefit of such part or unit prior to October 1, 1939; provided further, notwithstanding anything in this act contained, the State Department of Finance shall have power, in its discretion, to release from priority or to assign any portion of any of the appropriations that may be filed under the provisions of this act when such release or assignment is for the purpose of development not in conflict with such general or coordinated plan; and provided further, that no such priority shall be released, or

Department of Finance to file on unappropriated waters

Priorities

Notice

Release and assignment

assignment made of any such appropriation that will, in the judgment of the State Department of Finance, deprive the county in which such appropriated water originates, of any such water necessary for the development of such county.

CHAPTER 463.

An act to provide that school authorities of certain public and private schools shall be equipped to render first medical aid to injured children and students, and providing a penalty for violation thereof.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Schools to be equipped with first aid kits.

SECTION 1. It shall be the duty of the board of education, board of school trustees, superintendent of schools; or principal in whom is vested the administration or supervision of any public or private school in the State of California to equip such school with a package or first aid kit containing the articles hereinafter mentioned, whenever any pupils or students of such school are conducted or taken on field trips under the supervision or direction of any teacher in, or employee or agent of, such school. It shall be the duty of said teacher, agent or employee to have said package or first aid kit in his possession, or immediately available, while conducting such field trip.

Available on field trips

Contents of kits.

SEC. 2. Every such package or first aid kit shall include the following articles and such other equipment as the school officials herein charged with the duty of maintaining it may consider useful or necessary for the purposes of this act:

A standard package to contain two (2) pieces of sterile gauze, one (1) ribbon bandage, one (1) triangular cambric picture bandage in antiseptic container, six (6) of these packages to make up one (1) first aid kit which shall contain written instructions for the use of such contents. Whenever such a field trip is conducted into an area or district which is commonly known to be infested by poisonous snakes, such package or first aid kit must include some form of anti-venom medicine intended to counteract the effects of poisonous snake bites.

Penalty.

SEC. 3. Any member of any such board of education or board of school trustees, any superintendent of schools, principal, teacher or agent who wilfully violates the provisions of this act shall be guilty of a misdemeanor.

CHAPTER 464.

An act to add a new section to be numbered 2931a to the Civil Code, providing for making the State a party to an action to foreclose mortgages and other liens upon property upon which there may exist a lien securing State taxes.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section to be numbered 2931a is hereby added to the Civil Code and to read as follows: New section.

2931a. In all actions brought to foreclose a mortgage or other lien upon real property upon which exists a lien to secure the payment of taxes to the State of California, other than taxes upon such real property, the State of California may be made a party and the priority of such liens determined as in other cases. Service of process in such actions shall be made upon the Chairman of the State Board of Equalization and upon the Attorney General. It shall be the duty of the Attorney General to appear and represent the State in all such actions. State as party in foreclosure actions

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CHAPTER 465.

An act to amend sections 460, 504, 585, and 621 of the Agricultural Code, relating to dairy products. Stats 1933, p 60.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 460 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 132.

460. It is unlawful to sell, give away, deliver, or to knowingly purchase or receive any milk, goat's milk, sheep's milk, or product thereof which has been produced in or by a dairy or factory of dairy products in an insanitary condition, or that is handled by any carrier of milk or products thereof or in any store or depot that is in an insanitary condition; or that is produced from animals affected by any disease, except as hereinafter provided. Sale of insanitary milk products

SEC. 2. Section 504 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p 142

504. Cheese is the solid or semisolid product made from milk, skim milk, cream, goat's milk or sheep's milk by coagulating the casein thereof with rennet, pepsin, lactic acid or such other coagulating agents as may be approved in writing by the director, with or without the addition of ripening ferments, seasoning, salt (sodium chloride), or harmless color- "Cheese" defined

ing matter. Milk, skim milk or cream to be made into cheese shall conform to the minimum requirements for milk, skim milk or cream as the case may be.

Stats. 1933, p. 149.

SEC. 3. Section 585 of the Agricultural Code is hereby amended to read as follows:

Labels on containers

585. The class or grade of all market milk sold, except in bulk to distributors, the word "raw" or "pasteurized," as the case may be, and the name and address of the producer or original bottler shall at all times appear plainly and in a conspicuous place on, or be securely attached to, every cap, bottle, can or other container.

Ungraded market milk shall be labeled with the words, "Market Milk." Graded market milk shall be labeled with the name of the grade. All labels required by this section shall be in capital letters not less than one-eighth inch in height and one-sixteenth inch in width.

False or misleading representations

No false, misleading, or deceptive name, picture, symbol, mark, word or other representation shall appear on any milk bottle, bottle cap, can or other container, nor on any advertisement for market milk. A label or advertisement of market milk shall be deemed to be false, misleading or deceptive if in any particular it is untrue, or by ambiguity or inference creates a misleading or deceptive impression regarding the production, handling, processing, quality, composition, merits, or value of such market milk.

Stats. 1933, p. 154.

SEC. 4. Section 621 of the Agricultural Code is hereby amended to read as follows:

Milk products Manufacturing license

621. Every person, before regularly engaging in the business of dealing in, receiving, manufacturing, freezing or processing milk, goat's milk, sheep's milk, or any product of milk, goat's milk, sheep's milk or imitation ice cream, or imitation ice milk, shall obtain a license from the department to do so for each separate plant or place of business. Hotels, restaurants, boarding houses, hospitals or other concerns or agencies which manufacture products of milk for the use of patrons, guests, patients, or servants shall take out the license herein required. Nothing in this chapter applies to private homes manufacturing for their own use or to retailers dealing in finished products received from a distributor or producer in final form. Upon receipt of an application for such license, the department shall investigate the equipment and the sanitary condition of the plant where milk or the products of milk are to be received, or any of such products are to be processed, frozen or manufactured, and provide the applicant with a copy of the dairy laws of the State. If the condition of the plant is found to be satisfactory, a "factory license" shall be issued by the department to such applicant upon receipt of a license fee as hereinafter provided.

CHAPTER 466.

An act to amend section 143 of the Agricultural Code, pertaining to abandoned orchards. Stats 1933, p. 60.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 143 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 86.

143. Upon the filing of such petition, a citation shall be issued by the court, requiring the owner or person in charge or in possession of the property to appear at a time and place specified to show cause why such neglected or abandoned plants or crops should not be removed or destroyed. A copy of the citation, together with a copy of the petition, shall be served upon the record owner or upon the person in charge or in possession of the property, or upon an agent of either, not less than ten days before the date specified in the citation. A copy of the citation, together with a copy of the petition may also be served upon any person who appears of record to be the owner of any encumbrance upon or interest in the property. Citation for removal of abandoned plants

The service may be personal, by delivery to the party on whom service is required to be made, or it may be made as follows: Service of citation

If the party resides within the county, service may be made by leaving a copy of the citation, together with a copy of the petition, at the residence of the party between the hours of eight in the morning and six in the evening, with some person not less than eighteen years of age. If at the time of attempted service between the said hours, no such person can be found at the residence of the party, service may be made by mail.

If the party does not reside within the county, service may be made by mail, if he resides or has his office at a place where there is a delivery service by mail; and if not, or if his residence is not known, service may be made by posting a copy of the citation, together with a copy of the petition, in a conspicuous place on the property, at least twenty days before the date specified in the citation.

Service by mail is made as provided by the Code of Civil Procedure.

CHAPTER 467.

Stats 1933, p. 60.

An act to amend section 274 of the Agricultural Code, relating to bee diseases.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 106.

SECTION 1. Section 274 of the Agricultural Code is hereby amended to read as follows:

Importation of bees or hives Restrictions.

274. It is unlawful to import or transport into the State any bees or used hives or appliances, except used package bee cages returning empty, unless accompanied by an official certificate from a duly authorized inspector of apiaries or bee inspector, certifying that such bees or used hives or appliances originated in an apiary which had been inspected within sixty (60) days prior to importation or transportation into this State and found free from American foulbrood at time of inspection, except that the certificate accompanying bees arriving prior to April 1 of any year from those States having severe winters will satisfy the time requirement if it certifies that inspection was made on or after October 15 of the previous year, and said certificate shall be delivered by the person importing or transporting the bees or the used hives or appliances to the commissioner in the county of destination within forty-eight (48) hours of the arrival of the bees or the used hives or appliances. Any bees, used hives or appliances which have been used in or as an apiary, infected with American foulbrood at time of inspection, are hereby prohibited entry into California for any purpose whatsoever, and any such articles arriving in California from an infected apiary, or without aforementioned official certificate, shall be immediately sent out of the State or destroyed at option and expense of owner or bailee.

Foulbrood.

Food containing honey.

It is unlawful to place in any combless package of bees or queens, offered for sale or shipment, any food containing honey

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CHAPTER 468.

An act to add Article XI to Chapter I of Part I of Division II of the School Code, relating to district elections.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New article.

SECTION 1. Article XI is hereby added to Chapter I of Part I of Division II of the School Code, comprising section 2.96, to read as follows:

Article XI. Elections.

2.96. The expenses of any district election called by the governing board of a school district shall be borne by the entire district, and shall be paid out of the funds of the district. Expenses of elections.

CHAPTER 469.

An act to add a new section to the Political Code of the State of California to be numbered 3466b, relating to assessments of reclamation districts.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Political Code to be numbered 3466b and to read as follows: New section

3466b. In all cases in which an assessment has heretofore been levied or shall hereafter be levied for reclamation purposes upon the lands embraced within any reclamation district now or hereafter formed or created and in which an installment or installments of assessment have been or shall be called by the board of trustees of said reclamation district or by the county treasurer of the county where the greater portion or all of said district is situated and said call or calls have been or shall hereafter be adjudged invalid by any court of competent jurisdiction and any landowner of the district or any other person has paid or shall have paid the amount of said installment or installments so called before said call or calls have been or shall be so adjudged invalid, then the amount of money, including penalties and interest, if any, so paid by said landowner or other person shall be a credit and shall be credited by the treasurer of the county where the assessment list is filed, on the assessment on the tract of land on which said invalid call or calls of installment of assessment were paid or shall be paid, and shall be applied in satisfaction pro tanto of any subsequently called installment or installments of said assessment on said tract of land and in the event that any tract of land within a reclamation district has been heretofore, or may hereafter be sold by the trustees of said district or by the county treasurer for nonpayment of any such call or calls of any installment or installments of any such assessment on said land in said district, and any of said call or calls have been or shall hereafter be so adjudged invalid as aforesaid, then the said court shall also have power to set aside and annul any and all proceedings or acts taken or had in the matter of any such sale and to cancel and declare null and void any certificate or certificates of such sale and any deed or deeds made in pursuance of any such sale.

Invalid reclamation assessments.

Credit

Annulment of sale

Application of section

The provisions of this act shall apply to all kinds of assessments of reclamation districts, including assessments upon which bonds of such districts have heretofore been issued or hereafter shall be issued.

CHAPTER 470.

An act to amend section 818 and to repeal sections 819 and 820 of the Penal Code, relating to the issuance of warrants.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p. 167.

SECTION 1. Section 818 of the Penal Code is amended to read as follows:

Execution of warrants.

818. If a warrant is issued by a Justice of the Supreme Court, Justice of a District Court of Appeal, judge of a superior court, or judge of a municipal court, or other court of record, or by any other magistrate, it may be directed generally to any sheriff, constable, marshal, or policeman in the State, and may be executed by any of those officers to whom it may be delivered.

Repeal

SEC. 2. Sections 819 and 820 of the Penal Code are hereby repealed.

CHAPTER 471.

Stats 1933, p. 1969, amended

An act to amend sections 1 to 20 inclusive and sections 22, 23, 24 and 25 of, and to add new sections to be numbered 18.1, 19.1, 22.5, 25.1 and 27 to, "An act to conserve the agricultural wealth of the State of California, and to prevent economic waste in the marketing of agricultural crops produced in the State of California, and in that behalf creating an agricultural prorate commission; providing for the appointment of members of said commission; prescribing the powers, duties and authority of said commission and the members thereof; providing for the institution of proration programs with respect to agricultural crops; providing for the enforcement of such programs; providing penalties for violation of such programs; providing for the creation of funds for the purposes of said act and providing for the collection thereof; and making an appropriation therefor," approved June 5, 1933, relating to the conservation of agricultural wealth and the pre-

vention of agricultural waste and providing for the agricultural prorate commission.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933, p. 1969

Section 1. The unreasonable waste of agricultural wealth occasioned by the harvesting, preparation for market and delivery to market of greater quantities of agricultural commodities than are reasonably necessary to supply the demands of the market is opposed to the public interest and the difficulty inherent in any attempt by individuals to correlate within a reasonable degree the supply of any agricultural commodity to current consumptive demands is creating chaotic economic conditions in certain agricultural areas of the State of such severity as to imperil the ability of agricultural producers to contribute in appropriate amounts to the support of ordinary governmental and educational functions, thus tending to increase and increasing the tax burdens of other citizens for the same purposes. In the interest of the public welfare and general prosperity of the State, the unnecessary and unreasonable waste of agricultural wealth, hereinafter referred to as "agricultural waste," involved in the harvesting or preparation for and delivery to market of agricultural commodities for which there exists only a limited consumer demand should be eliminated while at the same time preserving to all agricultural producers an equality of opportunity in the available markets. Legislative declaration.

SEC. 2. Section 2 of said act is hereby amended to read as follows: Stats 1933, p. 1970

Sec. 2. As used in this act:

(a) The term "person" includes any individual, firm, association or corporation. Definitions.

(b) The terms "agricultural waste"—in addition to their ordinary meaning—shall include economic waste, and waste incident to the harvesting and/or preparation for any delivery to market of agricultural commodities in excess of reasonable market demands.

(c) The terms "product" or "commodity" mean any horticultural, viticultural, or vegetable product of the soil, live stock and poultry or any of their products, but shall not include milk.

(d) The terms "proration zone" or "zone" mean any district or districts with respect to which a program of market proration is proposed to be or has been instituted.

(e) The term "commission" means the Agricultural Prorate Commission unless otherwise indicated by the context.

(f) The term "producer" means any person engaged in the business of commercially growing or producing any agricultural product for commercial use to the extent of at least one producing factor as hereinafter defined.

(g) The term "distributor" means any person, other than a retailer, who acquires and distributes any product at wholesale or retail.

(h) The term "retailer" means any person engaged in the business of making sales at retail.

(i) The term "handler" means any person receiving agricultural commodities from the producer for the purpose of marketing the same.

(j) The phrase "primary channel of trade" shall mean that transaction in which the producer or his cooperative marketing association loses physical possession of the commodity through the sale thereof or other disposition commercially.

(k) The term "producing factor" means the unit of one acre unless the commission finds a smaller unit is required to assure reasonable control of the commodity, in which case the commission may determine the "producing factor" to be either one-half or one-fourth of an acre. In a case of a prorate program for live stock or poultry or the products thereof the producing factor shall be specified in the petition.

(l) The term "owner" means the person in possession of agricultural commodities and legally entitled to dispose of the same for marketing purposes.

(m) The term "proration" means the uniform percentage of their total production which all producers may harvest and prepare for market and/or market.

(n) The term "dealer" means any distributor or retailer.

(o) The term "processor" means any person who buys, or otherwise takes title to or possession of, farm products for the purpose of processing or manufacturing the same or selling, reselling or redelivering the same in dried, canned, extracted, fermented, distilled, or other preserved form, and shall include (1) any person or exchange conducting such business and (2) any person or exchange buying farm products from the producer thereof the reselling them to any person or exchange conducting such business.

(p) The term "production" means those agricultural commodities which qualify for marketing and sale to the consuming public under existing State and Federal standardization and other laws.

(q) The singular includes the plural.

Stats. 1933, p 1970.

SEC. 3. Section 3 of said act is hereby amended to read as follows:

Agricultural Prorate Commission

SEC. 3. The Agricultural Prorate Commission, consisting of nine members is hereby created. The members shall be appointed by the Governor. Four of the members of said commission shall be engaged at the time of their appointment in the production of agricultural commodities, and representation shall be given to the vegetable, dairying, citrus and deciduous fruit industries. Three of said members shall be neither producers nor handlers of agricultural commodities but shall be appointed, two to represent consumers generally and one to

represent consumers of agricultural commodities. One member shall be an experienced commercial handler of agricultural products and one shall be an experienced cooperative marketing handler of agricultural products. Their terms of office shall be four years and they shall hold office until the appointment and qualification of their successors, except that the terms of office of the members first appointed shall expire as follows: Two members, January 1, 1934, two members, January 1, 1935, two members, January 1, 1936, and three members, January 1, 1937. The members at their first meeting shall determine by lot the relative order in which their terms expire. Vacancies shall be filled by appointment for the unexpired term.

Appointment with consent of Senate.

All such appointments shall be by and with the consent of the Senate, but shall be valid to all intents and purposes, subject, however, to the consent of the Senate at its next regular session, and until such time, the persons so appointed shall have as full and ample authority as though confirmed by the Senate. In case the Senate, during its session, fails to act or refuses its consent to any such appointment, the Governor may, after adjournment of the Senate, appoint some other person, which appointment shall be valid to all intents and purposes, subject, however, to the consent of the Senate at its next regular session, and until such time, the person or persons so appointed shall have as full authority and power as though confirmed by the Senate.

Stats 1933, p 1971

SEC. 4. Section 4 of said act is hereby amended to read as follows:

Oath of office.

Sec. 4. Within thirty days after notice of his appointment each member shall qualify by taking the oath of office and filing the same with the Secretary of State in accordance with law. Within five days after all of said members shall have qualified, they shall organize and elect a president from among their number. The commission shall appoint a secretary and such other personnel as may be necessary to carry out its duties, and may remove them at its pleasure and may prescribe their duties and compensation. The members of said commission shall receive no compensation but shall be reimbursed only for their traveling expenses necessarily incurred in the performance of their duties hereunder.

Secretary.

Stats 1933, p 1971

SEC. 5. Section 5 of said act is hereby amended to read as follows:

Office of commission.

Sec. 5. The office of the commission shall be in the city of Sacramento and it may meet at such times and in such places as may be expedient and necessary for the proper performance of its duties; provided, however, said commission shall meet at least once every ninety days and the failure of any member to attend three consecutive meetings shall be just cause for his removal from said commission. At all meetings of the commission a majority of the commission shall constitute a quorum. The commission shall have a seal, bearing the following inscription: "Agricultural Prorate Com-

Quorum.

Seal.

mission." The seal shall be affixed to all orders of the commission, to authentications of copies of records and to such other instruments as the commission shall direct. All courts shall take judicial notice of said seal.

Stats 1933, p. 1972

SEC. 6. Section 6 of said act is hereby amended to read as follows:

Powers and duties of commission

Sec. 6. The said commission shall consitute a body corporate and body politic for the purpose of exercising the powers and performing the acts herein mentioned, and shall have power to sue and be sued. For the purpose of carrying out the provisions of this act, the commission is authorized to adopt such necessary rules and regulations as it may from time to time deem advisable. The conduct of any hearing, inquiry or investigation which the commission has power to undertake or hold, shall be held before at least three members of the commission and the commission shall have no authority to delegate any of its power to its secretary. Each member of the commission and the secretary thereof, in the conduct of any such hearing, inquiry or investigation shall have power to administer oaths, and issue subpenas for the attendance of witnesses and the production of papers, books, maps, accounts, documents and testimony in any inquiry, investigation or hearing ordered or undertaken by the commission in any part of the State. The superior court of the county or city and county in which any such inquiry, investigation or hearing may be held shall have power to compel the attendance of witnesses and to require the disclosure by such witnesses of all facts known to them relative to the matters under investigation, and the production of papers, maps, books, accounts, documents and testimony as required by any subpenas issued by the commission. All parties disobeying the orders or subpenas issued under the authority of said commission shall be guilty of contempt and shall be certified to the superior court of the county in which said contempt occurs, which court shall punish such contempt.

Hearings.

Stats 1933, p. 1972.

SEC. 7. Section 7 of said act is hereby amended to read as follows:

Record of business.

Sec. 7. A full and accurate record of business or acts performed or of testimony taken by the commission or any member or members thereof or by its secretary in pursuance of the provisions of this act shall be kept and be placed on file in the office of said commission, which records shall at all times be open to anyone affected by a prorate program.

Stats 1933, p. 1972.

SEC. 8. Section 8 of said act is hereby amended to read as follows:

Petition for prorated marketing

Sec. 8. An agricultural prorated marketing program may be based either upon a producing zone or upon a market zone, the basis to be specified in the petition therefor. A program for the prorated marketing of a variety or kind of agricultural commodity may be initiated by presenting a petition therefor to the commission. Such petition shall indicate whether

it is proposed that such program be instituted by an order of the commission or by an election by qualified producers.

The said petition shall, among other things contain: Contents.

(1) A legal description of the district or districts comprising the zone upon which the proposed marketing program is to be based, together with a map thereof.

(2) A general statement of facts showing the necessity for the institution of a prorated marketing program.

(3) If such petition propose an election by qualified producers, the signatures of not less than fifty qualified producers of said kind or variety of agricultural commodity within the proposed producing zone or supplying the proposed market zone, as the case may be, shall be sufficient. If such petition propose that a program be instituted by order of the commission, the signatures of not less than two-thirds of the qualified producers of said kind or variety of agricultural commodity and of the owners of not less than fifty-one per cent of the producing factors within the proposed producing zone or supplying the proposed market zone, as the case may be, shall be required. Wilful misrepresentation of any fact in signing such petition shall be unlawful.

There shall also be filed with said petition a good and sufficient undertaking to be approved by the commission, in double the amount of the probable cost of conducting the hearing of the petition by the commission, conditioned that the sureties will pay all such costs in case the petition be denied. Undertaking

The signatures to said petition may be either in person or by duly authorized agent or representative. Any nonprofit cooperative marketing agency or any cooperative, or other agricultural marketing agency may sign such petition if specifically authorized by the producers for whom such cooperative, nonprofit cooperative or agricultural marketing agency purports to sign; provided, however, such authorization shall be by an instrument other than the marketing contract or shipping contract. Signatures.

In the case of horticultural or viticultural products, each producer shall be entitled to sign for the number of producing factors specified in the petition, which he produced during the preceding season, or, in the case of vegetable products or live stock and poultry and their products, the producing factor shall be based upon the actual acreage planted or live stock owned or the products thereof produced at the time he signs the petition. Producing factors

It shall be a misdemeanor to obtain or prevent signatures to any petition by threats to curtail credit, call loans, refuse to purchase crops or by any other form of coercion whatsoever. Penalty.

Certificates of county agricultural commissioners as to the number of producers, acres or other producing factors engaged in the production of any variety or kind of commodity in their respective counties shall be prima facie evidence of the facts therein stated.

Stats 1933, p. 1973

SEC. 9. Section 9 of said act is hereby amended to read as follows:

Hearing on petition.

Sec. 9. Upon the receipt of a petition for the establishment, annexation or termination of a prorate program, the commission shall hold a hearing at some central point located within the district described in said petition and proposed to be established as a proration marketing zone. The names and addresses of all producers claimed by petitioners as being producers shall be filed and opened to public inspection by any interested party not less than twenty days prior to the hearing in the agricultural commissioner's office in each county or portion thereof in the proposed zone. Notice of such hearing shall be given at least ten (10) days prior thereto by publication in a newspaper of general circulation printed and published in each county affected and by posting in at least ten (10) conspicuous places in said district. In case the proposed proration zone includes more than one district the required notice shall be given in each district and the commission shall hold hearings in each of said districts. At said hearings the commission shall receive and hear the evidence offered by the petitioners in support of the petition and by any interested person in opposition thereto.

Notice

All evidence and exhibits and all facts and data used directly or indirectly by the commission, or introduced at a hearing, shall within a reasonable time after being so used or so introduced be available at a central point to all interested parties.

Said hearings may be adjourned from time to time and from place to place as the circumstances may require. A transcript of the proceedings at all such hearings shall be made by the commission and shall be opened to inspection by any interested party.

If no paper is published in such district, then said notice shall be published in such paper as is published in the county and has general circulation in such district.

Stats 1933, p. 1973.

SEC. 10. Section 10 of said act is hereby amended to read as follows:

Requirements for granting petition.

Sec. 10. If upon such hearing it shall be found by the commission that the following facts actually exist:

(1) That the petition, which shall also include any counterpart supplements thereto which may have been filed with the commission during or prior to the hearing, is signed in person or by authorized representatives by the required number of producers and by the owners of the required number of producing factors; and

(2) That the economic stability of the agricultural industry concerned is being imperiled by prevailing market conditions; and

(3) That agricultural waste is occurring or is about to occur; and

(4) That the institution of a program of prorated marketing will conserve the agricultural wealth of the State and will prevent threatened economic waste; and

(5) That the institution of a proration program as proposed in the petition will advance the public welfare without injustice to any producer; and

(6) That the proposed program may be instituted and conducted without permitting unreasonable profits to the producers and that the commodity named in the petition can not be marketed at a reasonable profit otherwise than by means of such a program; and

(7) That the proposed zone of proration includes all of the territory within this State reasonably necessary to render the proposed program feasible, it shall make written findings to that effect. If in the case of any petition it shall appear to the commission that the inclusion of territory additional to that described in the petition is necessary to the feasibility of the proposed program, it shall postpone further proceedings until notice shall have been given to the producers within such additional territory in the manner provided for in section 9 hereof. Thereafter said petition may be amended to include such additional territory and the commission may complete said hearing and make findings in the manner hereinbefore provided. If the commission shall find against the existence of any of the facts required to be present under this section, it shall deny the petition.

SEC. 11. Section 11 of said act is hereby amended to read as follows: Stats 1933, p. 1974.

Sec. 11. If it shall be alleged in said petition that it is signed by two-thirds or more of the producers of the commodity named in the petition within or serving the zone described, and by the owners of fifty-one per cent or more of the producing factors within or serving said zone, proof shall be required in support of such allegation and the commission shall make a finding with respect thereto. If it shall find such allegation to be the fact, and shall find to exist all of the other facts specified in section 10 of this act, the commission shall forthwith make an order declaring the proposed program instituted and specifying the zone in which the program shall be effective. Program declared effective in zone

SEC. 12. Section 12 of said act is hereby amended to read as follows: Stats 1933, p. 1974.

Sec. 12. If said petition shall have proposed an election in the proposed zone, and the commission shall find to exist all of the facts specified in section 10 hereof, thereupon it shall order an election to be held in the proposed original or modified zone. Said election shall be by secret ballot and the question to be voted upon shall appear upon the ballot substantially as follows: Election.

Shall the producers of area producing form a proration zone.	Yes	
	No	

At any such election, the polling places shall be located in each of the regular county precincts, any part of which are included in proposed zone affected. At least twenty (20) days before any election is called the commission shall cause to be posted in three (3) public places in each election precinct notice of the time and place of holding the election and also post in the office of the county clerk of each county in which any part of the proposed zone affected is located a general notice specifying the polling places of each precinct.

Stats 1933, p. 1974

SEC. 13. Section 13 of said act is hereby amended to read as follows:

Voters.

Sec. 13. At such elections only producers of the commodity named in the petition shall be entitled to vote, and each producer shall be entitled to one vote for the first fifty producing factors or any fractional portion thereof and one vote for each additional fifty factors or any fractional portion thereof. At the time of posting notices of election, the agricultural commissioners of each county shall be notified thereof, and it shall be the duty of such agricultural commissioners to prepare lists of producers entitled to vote in each precinct in their respective counties, which list shall be filed in the office of the county clerks of their respective county at least five (5) days prior to the day of election. Such lists shall also show the producing factors belonging to or controlled by each producer used in the production of the commodity as to which a proration program is proposed. Said agricultural commissioners shall at the same time notify by mail all producers whose names appear on such lists of the number of votes to which they are entitled. No irregularity in the mailing of such notices, and no failure on the part of the producer to receive such notice shall affect the validity of the subsequent election.

Stats 1933, p 1975

SEC. 14. Section 14 of said act is hereby amended to read as follows:

Establishing right to vote.

Sec. 14. Any producer whose name does not appear on the proper list and any producer claiming an erroneous allotment of producing factors may make application to the agricultural commissioner to be placed on said list, or to be credited with the proper number of producing factors, as the case may be, and upon substantiating his claim, is entitled to have the error corrected. In the event any such producer shall be dissatisfied with the final action of the agricultural commissioner in that regard, he may appeal to the commission whose finding shall be final. Producers may vote producing factors only in the precincts where they are listed. Corporations and firms shall have their voting rights similarly determined. Votes of producers may be cast either in person or by duly authorized representatives, which representatives shall include marketing agencies, as provided in section 8 subdivision 3 hereof.

Stats 1933, p. 1975.

SEC. 15. Section 15 of said act is hereby amended to read as follows:

Conduct of election

Sec. 15. At least five (5) days prior to the day fixed for the election, the board of supervisors of each county in

which any part of the district or districts affected is situated shall appoint for each precinct from among those entitled to vote at the election, one inspector and two judges, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of the election, the voters of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The polls shall be kept open for the reception of votes from ten o'clock a.m. until six o'clock p.m. when the same must be closed. The election board shall, before the opening of the polls, post in a conspicuous place thereat a list of all persons entitled to vote in said precinct at said election, together with the producing factors of such persons. The ballots used at the election shall be provided by the commission and one of the clerks of election shall deliver one of them to each person qualified to cast a vote. At the close of the polls the board of elections shall at once proceed to canvass the votes and declare the result and shall forward its certificates of such result, together with all ballots used and all documents and papers used at such election, to the clerk of the board of supervisors of the county in which the precinct is located. A copy of said certificate certified by said clerk of the board of supervisors shall be by him forwarded to the commission.

SEC. 16. Section 16 of said act is hereby amended to read as follows: Stats. 1933, p. 1976.

Sec. 16. On the second Monday succeeding such election, the commission shall proceed to canvass the votes cast thereat and if upon such canvass it appears that two-thirds or more of the producers in the proposed zone voting at such election, and the owners of two-thirds of the producing factors in the proposed zone whose owners voted at such election, as shown by the lists prepared by the agricultural commissioner, voted in favor of the institution of a proration program, the commission shall declare such a program instituted. In any order instituting a proration program, whether on petition or after election, the commission shall define the zone affected, and shall designate it by some title indicative of the commodity concerned. Each such zone shall constitute a separate entity and its affairs shall be managed by a program committee appointed as hereinafter provided. Canvass of votes. Zone affected.

SEC. 17. Section 17 of the said act is hereby amended to read as follows: Stats. 1933, p. 1976.

Sec. 17. Any order of the commission instituting a proration program and any other order of the commission substantially affecting the rights of any interested party may be reviewed by any court of competent jurisdiction. Any such action must be commenced within thirty days after the effective date of the order complained of or within thirty days after the injurious effect complained of. Review by court.

Stats 1933, p. 1976

SEC. 18. Section 18 of the said act is hereby amended to read as follows:

See Stats 1935, Ch 745

Proration program committee

Sec. 18. In the event of the institution of a marketing program in a proration zone, it shall be the duty of the commission to forthwith select a proration program committee of five producers and two handlers operating within the zone. The producer members of said program committee shall be chosen by the commission from a group of fifteen nominees who are to be nominated by the producers. The commission in the selection of the program committee, shall take cognizance of and, in so far as possible, give representation upon such committee to the various geographical areas or districts coming under the proration program. No producer member of the program committee shall be a handler or processor or an employee or officer of a handler or processor, except that a nonprofit cooperative organization may be represented by officers or directors who are producers, providing that no more than three such producer members of the prorate program committee shall be members of the same nonprofit cooperative organization in the case of commodities, the bulk of which is processed before consumption, one of the producer members of said program committee shall be a processor; in the event that the commission shall be of the opinion that a committee of seven will not afford adequate representation to all of the factors in the industry concerned, it may appoint a program committee of six producers and three handlers provided said producers are selected from the list of nominees selected by the growers as provided for herein. The members of such program committee shall not be entitled to compensation but may be reimbursed their actual and necessary traveling expenses. Such prorating program may be altered or modified from time to time by such committee.

Alternate members

Upon request of petitioners for the institution of a program or of a program committee therefor, the commission shall also appoint in the same manner as the program committee was appointed an alternate for each member of the committee. Such alternate shall be entitled to sit as a regular member of the committee in case the member for whom he is an alternate fails for any reason to attend any meeting of the committee.

Vacancies

Vacancies on the program committee occasioned by the death or resignation of any member, or by removal for incompetence or inattention or neglect of duties as a member of the program committee by the commission, or by a member ceasing to qualify as a producer or handler of the commodity concerned, shall be filled in the same manner as the original appointments were made.

Agent to administer program.

The program committee shall appoint an agent, who shall administer the proration program under the direction of the program committee and who may be removed from office in the same manner as he was appointed.

Pending action by the commission on the approval of any such agent, he shall act as such and shall appoint such deputy

agents and other assistants as may be necessary to properly direct the program. Such agent shall appoint such deputy agents and other assistants as may be necessary to direct the program which appointments shall be subject to the approval of the program committee. The salary and/or compensation received by the secretary shall not exceed the sum of five thousand ($5,000) dollars per annum from all sources and no officer or employee shall receive compensation based on a percentage of volume involved in a prorate program, or in any manner that would lend encouragement to the promotion of a proration program for the purpose of increasing salaries and income.

Deputies.

SEC. 19. A new section to be numbered 18.1 is hereby added to the act cited in the title hereof, to read as follows:

New section.

Sec. 18.1. The marketing program to be made effective in any proration zone shall be approved by the commission after hearing upon any such program proposed by petitioners at the hearing of the petition or after hearing upon any such program proposed by the program committee appointed for said zone by the commission. Such proration program may be altered or modified from time to time by such program committee with the approval of the commission but before any such alteration or modification shall be approved by the commission, it shall hold a hearing in the zone. Before approving any program or any alteration or modification thereof, the commission must find that the same is reasonably calculated to maintain the existence of the facts specified in section 10 hereof and may modify any program submitted to make it conform to this requirement.

Approval of proration program.

SEC. 20. Section 19 of said act is hereby amended to read as follows:

Stats 1933, p. 1977.

Sec. 19. In the event that a program committee shall fail within a reasonable time to present to the commission a prorating program or shall present a program which is not consistent with the conditions specified in paragraph 10 of this act, the commission shall initiate a proper program or shall modify the program presented, as the case may be, in conformity with the provisions of section 10. If at any time during the operation of any proration program, it shall appear probable to the commission that the program being carried out has ceased to be in conformity with the provisions of section 10 hereof, it shall be the duty of the commission, after hearing, to so modify such program as to obtain the conditions required by said section 10.

Duty of commission re program

Modification of program.

SEC. 21. A new section to be numbered 19.1 is hereby added to the act cited in the title, to read as follows:

New section.

Sec. 19.1. In any marketing program approved by the commission, a program committee shall be empowered to determine the method, manner and extent of proration and the movement of the prorated commodity from harvest into a primary channel of distribution. Proration may be periodic or seasonal in character and may be based upon actual pro-

Powers of program committee.

Same.

duction, whether in storage or otherwise, or upon estimated production. The estimated production shall be subject to revision by the program committee in accordance with crop and market conditions. In estimating production a program committee shall give consideration, among other factors, to the normal production of the various producing units. The program committee, for the purpose of minimizing the effect of existing surpluses upon market conditions, shall be empowered in any or all of the following particulars:

(a) To establish and maintain surplus pools which shall be authorized to receive from each producer from time to time his surplus of the prorated commodity and market the same by grades for the account of the producer when it can be advantageously disposed of either in its original or some converted state; provided, however, such surplus shall not be marketed in any form which would directly compete with that part of the crop which is regularly certificated; and provided, further, that any part of any such surplus may be turned over by a program committee to charitable organizations, self-help cooperatives, and similar agencies under proper safeguards to prevent any part of the commodity so disposed of from directly competing with the part of the crop marketed through the usual channels of trade. In operating any such surplus pool, a program committee may fix grading, packing, and servicing charges to be assessed against such commodities received by the pool and requiring such handling. The program committee shall handle all commodities received by a surplus pool and account for the same on a pooled basis. Each producer delivering his surplus to a pool shall be credited for his proportionate share of the surplus so delivered.

(b) To create, establish or otherwise obtain and operate facilities for the grading, packing, servicing, processing, preparing for market and disposal of such surplus in such manner as to maintain stability in the markets and to sell such surplus and/or any of its derived products.

(c) To appoint and empower subcommittees in the separated producing areas within the zone to facilitate the carrying out of the purposes of this act.

(d) To collaborate and cooperate with agencies or organizations with similar purposes, whether of this State, other States or of the United States, in the formulation and execution of a common marketing program; provided, that in proper cases the commission may require such collaboration and cooperation.

(e) To minimize an existing surplus by cooperating with the proper agencies in the enforcement of applicable existing standardization or other laws of this State, and of the United States, enacted to protect the consuming public from fraud or deception.

(f) To create, maintain and disburse an equalization fund to be used for the removal of any inequalities between producers as to the total volume marketed through prorated

channels resulting from errors in estimating production or surplus.

The cost of the exercise of such powers as are herein granted to the program committee shall be a part of the cost of the operation of the program and shall be obtained through fees in the same manner as other costs of the program.

SEC. 22. Section 20 of said act is hereby amended to read as follows: Stats 1933, p. 1977.

Sec. 20. After any prorating program has been formulated and has been approved by the commission, the agent for the zone shall assume the administration of the program and any subsequent modification thereof and the issuance of proration certificates thereunder. Such certificates shall be divided into primary and secondary certificates. Each producer shall be entitled to one primary certificate which shall indicate the quantities of the commodity, for which the program has been instituted which the producer named in such certificate shall be entitled to harvest or otherwise prepare for market and delivery into the primary channels of trade. Said primary certificates shall also indicate from time to time the number of secondary certificates theretofore issued under it. Secondary certificates shall be numbered consecutively and shall be used to control the time and volume of harvesting or other preparation for disposal. Such secondary certificates shall accompany all deliveries of the prorated commodity by producers into a primary trade channel; provided that in the case of commodities which are normally concentrated for preparation for market, the program committee may authorize harvesting of the entire crop for the purpose of delivery to a concentration point and subsequent marketing control. Such certificates shall be negotiable between producers.

Proration certificates.

Primary certificates.

Secondary certificates

In the operation of any program, cooperative and other market agencies entitled to the possession of agricultural commodities for marketing purposes may be authorized to receive certificates for producers represented by them and to represent their respective producers when proration is applied to the commodity while in the possession of such agencies.

SEC. 23. Section 22 of said act is hereby amended to read as follows: Stats. 1933, p. 1978.

Sec. 22. The commission shall have power to establish such rules and regulations consistent with this act as may be necessary to carry out the purposes thereof, and through its duly authorized representatives and agents shall have access, solely for the purpose of investigating possible violations of any program, to the records of producers, dealers, distributors, private and public property transportation agencies and handlers of a commodity as to which a proration program has been instituted, and shall have at all times free and unimpeded access to all buildings, yards, warehouses, storage and transportations, or other, facility or place in which any commodity under a proration program is kept, stored, handled or transported.

Rules and regulations.

All information obtained by the commission shall be confidential and shall not be disclosed except when required in a judicial proceeding.

New section.

SEC. 24. A new section to be numbered 22.5 is hereby added to the act cited in the title hereof, to read as follows:

Unlawful acts.

Sec. 22.5. It shall be a misdemeanor for:

(1) Any person to wilfully render or furnish a false or fraudulent report, statement or record required under this act;

(2) Any person to deliver into a primary trade channel without proper authority any commodity upon which a proration program shall have been instituted.

(3) Any handler, dealer or carrier to receive or have in his possession, within this State, without proper authority any commodity upon which a proration program has been instituted.

(4) Any person to aid or abet in the commission of any of the acts specified in this section, and each infraction shall constitute a separate and distinct offense.

Application of act.

The provisions of this act shall not apply to shipments handled by a common carrier operating over a regular route or between fixed temini where such shipment is made by such common carrier in good faith and in accordance with its duties as a common carrier and where a record of every such shipment within or from this State is kept by such common carrier showing the date of shipment, character and quantity of shipment, origin and destination of such shipment, and the names of the consignor and consignee. Such record shall be open to inspection at all reasonable hours by or on the written order of the official or administrative authority charged with the enforcement of this act or any marketing program instituted thereunder.

Stats 1933, p. 1978.

SEC. 25. Section 23 of said act is hereby amended to read as follows:

Termination of program

Sec. 23. After the institution of any proration program, such program shall continue to remain in effect unless there shall be filed with the commission an application for its termination signed by not less than forty per cent of the producers and by the owners of forty per cent of the producing factors of the industry within the zone in which the program is effective. Such petition shall be accompanied by a good and sufficient undertaking in an amount equal to the probable cost of conducting said hearing. A hearing must be held upon the petition to determine the sufficiency of the signatures thereto, which hearing must be held within thirty days after the presentation of the petition. If upon such hearing, it shall be established that the petition to terminate is sufficiently signed, the commission shall terminate the program.

Costs of hearing

In such case, the cost of conducting such hearing shall be paid from the funds of the program to the extent that they are available and thereafter from the undertaking. In the event the petition be found insufficiently signed, the entire cost of

conducting such hearing shall be paid from the undertaking. In the event of the termination of a program, any funds remaining for the use of the program committee not otherwise disposed of by the provisions of this act shall be deposited in the State treasury to the credit of the Agricultral Prorate Commission fund.

The commission may at any time initiate an investigation on its own motion to determine whether or not the facts specified in section 10 hereof continue to exist. Upon a finding that any one or more of the prerequisite facts no longer exist, the commission shall terminate said program. In no case shall any program on a seasonal crop be terminated except at the end of its marketing season.

SEC. 26. Section 24 of said act is hereby amended to read as follows: Stats 1933, p. 1978.

Sec. 24. Any person who shall market, handle or transport any commodity in violation of any provision of an original or modified proration program approved and made effective by the commission may be enjoined by the commission in an action brought in the superior court for the county in which the violation is alleged to be occurring. There may be enjoined in the same proceeding any number of defendants alleged to be violating the same program, although their properties and interests may be situated in several counties and their actual violations of the program may be separate and distinct. In any action for injunction brought hereunder, the procedure shall be governed by the provisions of Chapter III, Title VII, Part II of the Code of Civil Procedure of the State of California. Violation enjoined

SEC. 27. Section 25 of said act is hereby amended to read as follows: Stats. 1933, p. 1978.

Sec. 25. Any person who violates any provision of a proration program approved and made effective by the commission shall be liable civilly in an amount not to exceed a sum of five hundred dollars for each and every violation to be recovered by the commission in any court of competent jurisdiction. All sums recovered under this section shall be deposited in the State treasury to the credit of "Agricultural Prorate Commission fund." Penalties.

SEC. 28. A new section to be numbered 25.1 is hereby added to the act cited in the title hereof, to read as follows: New section

Sec. 25.1. Any other area or areas within the State of California producing the same kind or variety of agricultural commodity as a proration zone already established under this act, and competing with such proration zone, may be annexed to such already established proration zone in the following manner: Annexation to proration zone

A petition similar in form and content to that prescribed in section 8 of this act, and describing the area or areas proposed to be annexed, signed by not less than two-thirds of the producers of said commodity in petitioning area or areas and by the owners of not less than two-thirds of the producing Procedure.

factors in said area or areas, may be filed with the commission. The secretary of the commission shall forthwith inform the program committee of the zone to which it is proposed to annex the new area or areas and the committee shall within ten days advise the commission if it disapproves of the petition. A failure to disapprove shall be regarded as approval. In case the petition is disapproved, no further proceedings shall be had. In case the committee shall approve the petition, notice of hearing the petition shall be given by the commission in the area or areas proposed to be annexed in the manner provided in section 9 of this act. If it shall appear from evidence produced at such hearing that the petition, together with any supplements thereto, was sufficiently signed and that the inclusion of area or areas described in the petition is necessary to make the marketing program effective, the commission shall so find and make an order including the new area or areas in the original proration zone. When an additional area or areas are added to a proration zone the existing program committee shall function until the end of the current marketing season, at which time a new committee shall be appointed to represent the entire area as provided for in section 18 of this act.

New section.

SEC. 29. A new section to be numbered section 27 is hereby added to the act cited in the title hereof, to read as follows:

Constitutionality.

Sec. 27. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The Legislature hereby declares that it would have passed each provision of this act irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases, as provisions hereof, be declared unconstitutional.

CHAPTER 472.

Stats. 1933, p. 60.

An act to amend section 1283 of the Agricultural Code, relating to deciduous fruit dealers.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 288.

SECTION 1. Section 1283 of the Agricultural Code is hereby amended to read as follows:

Cash buyer as dealer.

1283. Whenever any person, although claiming to be a cash buyer, either (1) causes a grower to part with the control of all or any portion of his deciduous fruits by any means of proposed payment other than that specified in paragraph (b) of section 1281, or (2) causes a grower to part with the control of all or any portion of his deciduous fruits by means of any contract under which the grower has waived the

right to demand the purchase price as and when he parts with said control, then in either of said events said person is not a cash buyer but is a dealer within the meaning of this chapter. Whenever any person although claiming to be a consignment shipper either (1) causes the grower to part with control of a portion or all of his deciduous fruits under any agreement by which the price thereof is guaranteed to said grower either verbally or in writing, or (2) causes a grower to part with control of a portion or all of his deciduous fruit by any representation that said person has an order at a named price for deciduous fruit of the variety produced by said grower and that said grower's fruit is desired to fill said order, then in either of said events the said person is not a consignment shipper but is a dealer within the meaning of this chapter, notwithstanding the fact that the grower, because of said representation, is induced to, and does, enter into a consignment contract with said person in which no mention is made of said guaranteed price or of said order; and in all cases where any person represents to the grower either verbally or in writing that he holds or will get a cash deposit to support an order for deciduous fruit and by means of such representation causes a grower to part with control of a portion or all of his deciduous fruit, then such person shall upon the removal of said deciduous fruits from the grower's control be liable to said grower for the amount of said deposit less said person's legal charges. In the event any litigation is instituted by the person making said deposit to compel the return or release of said deposits then a consignment shipper may hold said deposit until the litigation is determined.

Consignment shipper as dealer.

CHAPTER 473.

An act relating to the securing of Federal aid in connection with the funding or refunding of outstanding bonds or assessments in the State of California.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Any county, city and county, municipal corporation or district of the State of California is authorized to do any and all things necessary to be done under any law of the United States of America or under any rule or regulation of any Federal department, agency, mandatory or authority, in connection with the securing of monetary aid either as a loan or as an outright appropriation toward the reduction of any indebtedness of such county, city and county, municipal corporation or district, in connection with the funding or refunding of any such indebtedness, whether the same relates to so-called general obligation bonds or to the obligations represented by

Compliance with Federal rules as to Federal aid.

special assessment bonds representing the unpaid principal upon any assessment heretofore levied pursuant to any law of the State of California in which the lien is special as to a particular property or properties described in said assessment or bond, or whether the bonds are to be paid and discharged from an annual levy in accordance with the assessed value of all of the lands in a district.

CHAPTER 474.

Stats 1933, p. 60. *An act to amend section 791 of the Agricultural Code, relating to apricots.*

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 174. SECTION 1. Section 791 of the Agricultural Code is hereby amended to read as follows:

Apricot standards 791. Fresh apricots shall be mature but not overripe; free from insect injury which has penetrated or damaged the flesh, and from mold, brown rot, and decay, and serious damage caused by cuts, bruises, cracks, shot hole fungus, growth cracks, scab, hail, or other causes. With the exception of shot hole fungus, damage to any one apricot is not serious unless it causes a waste of ten per cent, by weight, of the individual apricot. Damage to any one apricot caused by shot hole fungus is not serious unless the spots cover an aggregate area of more than one-half of an inch in diameter.

Not more than ten per cent, by count, of the apricots in any one container or bulk lot may be below these requirements but not to exceed one-half of this tolerance shall be allowed for any one cause.

Packed apricots shall not vary in size between the fruits in any one container, more than one-fourth of an inch in diameter, when measured through the widest portion of cross section.

Containers All containers of apricots shall bear upon them in plain sight and in plain letters on one outside end: the name of the person who first authorized the packing of the apricots or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer; the name of the variety, if known, and when not known the words "unknown variety" or "seedlings"; the size description or the row count, when the apricots are packed in any style container.

In the case of the four basket crate the numerical description of the pack in the top layer of the baskets shall be used to designate size.

When numerical description is used to designate size, on lugs of loose or packed apricots, it shall mean that all the

apricots would tightly pack that size on the top layer of the standard basket number one as used in the four basket crate and such size description shall be directly followed by the word "size." When row count is used to designate the size on lugs of packed apricots, they shall be marked with the number of rows of apricots packed laterally across the end of the container, directly followed by the word "row" or "rows."

Apricots, when packed, shall be in standard containers numbers 1, 5, 6, 7, 8, 9, 22a, 22b, 24 or 27.

Other size containers may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such container, in letters not less than one-half inch in height, "irregular container." Irregular containers

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CHAPTER 475.

An act to amend section 803 of the Agricultural Code, relating to peaches. Stats 1933, p. 60.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 803 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 184

803. Fresh peaches shall be mature but not overripe; free from insect injury which has penetrated or damaged the flesh, split pits which are open at the stem end, and from mold, brown rot, and decay, and free from serious damage, due to cuts or skin breaks, growth cracks, bruises, scab, rust, blight, disease, hail, or other causes. Damage to any one peach is not serious unless it causes a waste of ten per cent, by weight, of the individual peach. Peach standards

Not more than ten per cent, by count, of the peaches in any one container or bulk lot may be below these requirements, but not to exceed one-half of this tolerance shall be allowed for any one cause.

Packed peaches shall not vary in size between the fruits, in any one container, more than three-eighths of an inch in diameter, when measured through the widest portion of the cross section.

Peaches of the freestone variety, shall not be considered mature unless at the time of picking, the flesh breaks free from the pit.

All containers of fresh peaches shall bear upon them in plain sight and in plain letters on one outside end: the name of the person who first authorized the packing of the peaches or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer; the name of the variety, if known, and when not known the words "unknown variety"; the size Containers

description, when the peaches are packed in the four basket crate or the count, when wrapped and packed throughout, in straight side containers in uniform layers and rows.

In the case of the four basket crate the numerical description of the pack in the top layer of the baskets shall be used to designate size. When the count is used to designate the contents of the container a variation of four peaches more or less than the number stated shall be allowed.

Irregular containers.

Peaches, when packed, shall be in standard containers numbers, 1, 1A, 5, 6, 7, 8, 9, 15, 16, 17, 18, 18A, 26 or 27. Other size containers may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such container, in letters not less than one-half inch in height, "irregular container."

CHAPTER 476.

An act adding a new section to the Civil Code of the State of California, to be numbered 734, relating to the control of municipal property by the legislative body thereof and the right of access and use of municipal property by members of the public.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section to be numbered 734 is hereby added to the Civil Code of the State of California to read as follows:

Withdrawal of public property from free access.

734. Unless otherwise provided by law, any property owned or controlled by any municipality, city, or city and county may in the discretion of the legislative body having control of the same be withdrawn from the personal access and use of members of the public at any time, or the said access or use may be limited in area or to certain times or in any other reasonable manner deemed necessary by the legislative body having control of the same; and any person thereafter using the said property in any manner without permission from the lawful authorities in control thereof and in the manner prescribed by them shall be deemed a trespasser. Nothing herein contained shall limit or restrict any person from such access or use who may himself have a private right of property in the same.

CHAPTER 477.

Stats. 1913, p. 508, amended.

An act to amend an act entitled "An act relating to unfair competition and discrimination, making certain unfair and discriminatory practices unlawful, defining the duties of

the Attorney General in regard thereto, declaring certain contracts illegal and forbidding recovery thereon, providing for actions to enjoin unfair competition and discrimination and to recover damages therefor, making the violation of the provisions of this act a misdemeanor and providing penalties," approved June 10, 1913, relating to unfair discriminations, and declaring the urgency thereof, to take effect immediately.

[Approved by the Governor July 15, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The act cited in the title hereof is hereby amended to read as follows:

Unlawful practices

Section 1. It shall be unlawful for any person, firm, or corporation, doing business in the State of California and engaged in the production, manufacture, distribution or sale of any commodity, or product, or service or output of a service trade, of general use or consumption, or the product or service of any public utility, with the intent to destroy the competition of any regular established dealer in such commodity, product or service, or to prevent the competition of any person, firm, private corporation, or municipal or other public corporation, who or which in good faith, intends and attempts to become such dealer, to discriminate between different sections, communities or cities or portions thereof, or between different locations in such sections, communities, cities or portions thereof in this State, by selling or furnishing such commodity, product or service at a lower rate in one section, community or city, or any portion thereof, or in one location in such section, community, or city or any portion thereof, than in another after making allowance for difference, if any, in the grade or quality, quantity and in the actual cost of transportation from the point of production, if a raw product or commodity, or from the point of manufacture, if a manufactured product or commodity. Motion picture films when delivered under a lease to motion picture houses shall not be deemed to be a commodity or product of general use, or consumption, under this act. This act shall not be construed to prohibit the meeting in good faith of a competitive rate, or to prevent a reasonable classification of service by public utilities for the purpose of establishing rates. The inhibition hereof against locality discrimination shall embrace any scheme of special rebates, collateral contracts or any device of any nature whereby such discrimination is, in substance or fact, effected in violation of the spirit and intent of this act.

Officers and agents.

SEC. 2. Any person who, either as director, officer or agent of any firm or corporation or as agent of any person, violating the provisions of this act, assists or aids, directly or indirectly, in such violation shall be responsible therefor equally with the person, firm or corporation for whom or which he acts.

In the prosecution of any person as officer, director or agent, it shall be sufficient to allege and prove the unlawful intent of the person, firm or corporation for whom or which he acts.

Sales at less than cost.

SEC. 3. It shall be unlawful for any person, partnership, firm, corporation, joint stock company, or other association engaged in business within this State, to sell, offer for sale or advertise for sale any article or product, or service or output of a service trade, at less than the cost thereof to such vendor, or give, offer to give or advertise the intent to give away any article or product, or service or output of a service trade for the purpose of injuring competitors and destroying competition, and he or it shall also be guilty of a misdemeanor, and on conviction thereof shall be subject to the penalties set out in section 11 of this act for any such act.

Definitions

The term "cost" as applied to production is hereby defined as including the cost of raw materials, labor and all overhead expenses of the producer; and as applied to distribution "cost" shall mean the invoice or replacement cost, whichever is lower, of the article or product to the distributor and vendor plus the cost of doing business by said distributor and vendor.

The "cost of doing business" or "overhead expense" is defined as all costs of doing business incurred in the conduct of such business and must include without limitation the following items of expense: labor (including salaries of executives and officers), rent, interest on borrowed capital, depreciation, selling cost, maintenance of equipment, delivery costs, credit losses, all types of licenses, taxes, insurance and advertising.

Purchases at forced or bankrupt sales.

SEC. 4. In establishing the cost of a given article or product to the distributor and vendor, the invoice cost of said article or product purchased at a forced, bankrupt, closeout sale, or other sale outside of the ordinary channels of trade may not be used as a basis for justifying a price lower than one based upon the replacement cost as of date of said sale of said article or product replaced through the ordinary channels of trade, unless said article or product is kept separate from goods purchased in the ordinary channels of trade and unless said article or product is advertised and sold as merchandise purchased at a forced, bankrupt, closeout sale, or by means other than through the ordinary channels of trade, and said advertising shall state the conditions under which said goods were so purchased, and the quantity of such merchandise to be sold or offered for sale.

Proof of intent.

SEC. 5. In any injunction proceeding or in the prosecution of any person as officer, director or agent, it shall be sufficient to allege and prove the unlawful intent of the person, firm or corporation for whom or which he acts.

Cost surveys

Where a particular trade or industry, of which the person, firm or corporation complained against is a member, has an established cost survey for the locality and vicinity in which the offense is committed, the said cost survey shall be deemed competent evidence to

be used in proving the costs of the person, firm or corporation complained against within the provisions of this act.

When sale at less than cost permitted

SEC. 6. The provisions of sections 3, 4 and 5 shall not apply to any sale made:

(a) In closing out in good faith the owner's stock or any part thereof for the purpose of discontinuing his trade in any such stock or commodity, and in the case of the sale of seasonal goods or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation, provided notice is given to the public thereof;

(b) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof;

(c) By an officer acting under the orders of any court;

(d) In an endeavor made in good faith to meet the legal prices of a competitor as herein defined selling the same article or product, or service or output of a service trade, in the same locality or trade area.

Any person, firm or corporation who performs work upon, renovates, alters or improves any personal property belonging to another person, firm or corporation, shall be construed to be a vendor within the meaning of this act.

Rebates, refunds, etc

SEC. 7. The secret payment or allowance of rebates, refunds, commissions, or unearned discounts, whether in the form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all purchasers purchasing upon like terms and conditions, to the injury of a competitor and where such payment or allowance tends to destroy competition, is an unfair trade practice and any person, firm, partnership, corporation, or association resorting to such trade practice shall be deemed guilty of a misdemeanor and on conviction thereof shall be subject to the penalties set out in section 11 of this act.

Duty of Attorney General to prosecute.

SEC. 8 Upon the third violation of any of the provisions of sections 1 to 7, inclusive, of this act by any corporation, it shall be the duty of the Attorney General to institute proper suits or quo warranto proceedings in any court of competent jurisdiction for the forfeiture of its charter, rights, franchises or privileges and powers exercised by such corporation, and to permanently enjoin it from transacting business in this State. If in such action the court shall find that such corporation is violating or has violated any of the provisions of sections 1 to 7, inclusive, of this act, it must enjoin said corporation from doing business in this State permanently or for such time as the court shall order, or must annul the charter, or revoke the franchise of such corporation.

Illegal contracts

SEC. 9. Any contract, express or implied, made by any person, firm, or corporation in violation of any of the provisions of sections 1 to 7, inclusive, of this act is declared to be an illegal contract and no recovery thereon shall be had.

Actions to enjoin violation.

SEC 10. Any person, firm, private corporation or municipal or other public corporation, or trade association, may maintain an action to enjoin a continuance of any act or acts

in violation of sections 1 to 7, inclusive, of this act and, if injured thereby, for the recovery of damages. If, in such action, the court shall find that the defendant is violating or has violated any of the provisions of sections 1 to 7, inclusive, of this act, it shall enjoin the defendant from a continuance thereof. It shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in said action shall be entitled to recover from the defendant three times the amount of the actual damages, if any, sustained.

Any defendant in an action brought under the provisions of this section may be required to testify under the provisions of sections 2021, 2031 and 2055 of the Code of Civil Procedure of this State, in addition the books and records of any such defendant may be brought into court and introduced, by reference, into evidence; provided, however, that no information so obtained may be used against the defendant as a basis for a misdemeanor prosecution under the provisions of sections 1 to 7, inclusive, and 11 of this act.

Penalties.

SEC. 11. Any person, firm or corporation, whether as principal, agent, officer or director, for himself, or itself, or for another person, or for any firm or corporation, or any corporation, who or which shall violate any of the provisions of sections 1 to 7, inclusive, of this act, is guilty of a misdemeanor for each single violation and upon conviction thereof, shall be punished by a fine of not less than one hundred ($100.00) dollars nor more than one thousand ($1,000.00) dollars, or by imprisonment not exceeding six months or by both said fine and imprisonment, in the discretion of the court.

Constitutionality.

SEC. 12. If any section, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional. The remedies herein prescribed are cumulative and in addition to the remedies prescribed to the Public Utilities Act for discriminations by public utilities. If any conflict shall arise between this act and the Public Utilities Act, the latter shall prevail.

Legislative declaration.

SEC. 13. The Legislature declares that the purpose of this act is to safeguard the public against the creation or perpetuation of monopolies and to foster and encourage competition, by prohibiting unfair and discriminatory practices by which fair and honest competition is destroyed or prevented. This act shall be literally construed that its beneficial purposes may be subserved.

Short title.

SEC. 14. This act shall be known and designated as the "Unfair Practices Act."

Urgency.

SEC. 15. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the pub-

lic peace, health and safety, within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into immediate effect. The facts constituting the necessity are as follows:

The sale at less than cost of goods obtained at forced, bankrupted, close out, and other sales outside of the ordinary channels of trade is destroying healthy competition and thereby forestalling recovery. If such practices are not immediately stopped many more businesses will be forced into bankruptcy, thus increasing the prevailing condition of depression. In order to prevent such occurrences it is necessary that this act go into effect immediately.

CHAPTER 478.

An act to amend section 363i of the Political Code, relating to the administration of certain bays, ports and harbors.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 363i of the Political Code is hereby amended to read as follows: Stats. 1933, p. 2555.

363i. The Department of Public Works is hereby vested with the powers, duties, responsibilities and jurisdiction heretofore vested in the Board of Harbor Commissioners for the port of Eureka. Such port shall be in charge of a surveyor of the port, which position is hereby created. Supervision of port of Eureka.

The surveyor of the port of Eureka shall be appointed by and hold office at the pleasure of the Director of Public Works, subject to the approval of the Governor, and shall receive such compensation as may be fixed by the Director of Public Works, subject to the approval of the State Board of Control.

The Board of Harbor Commissioners for the port of Eureka, and the positions of all the members, officers, deputies and employees thereof and each of them are hereby abolished; provided, however, that the powers, duties, responsibilities and jurisdiction of each of them are hereby expressly continued in force, and transferred to and vested in the Department of Public Works, to be exercised through the surveyor of the port, with the same force and effect as if the name of said department had been set forth at length in the laws in which said powers, duties, responsibilities and jurisdiction are set forth. Board of Harbor Commissioners abolished.

CHAPTER 479.

Stats. 1933, p. 394.

An act to add section 490.5 to the Fish and Game Code, and to amend sections 651, 652, 653, 655 and 651.6 thereof, relating to fish.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 490.5 is hereby added to the Fish and Game Code to read as follows:

Unlawful use of spear.

490.5. It is unlawful to use a spear, except as otherwise provided in this code, to take the following fish:

Tuna, yellow-tail, marlin, jewfish or black sea bass, albacore, barracuda, bonita, rock bass, California whiting (also known as corbina and surf fish), yellow-fin, croaker, spotfin croaker, salmon, steelhead and other trout, charr, white-fish, striped bass, black bass, perch, crappie, calico bass, pismo clams, abalones, and all varieties of sun fishes.

Stats 1933, p. 454.

SEC. 2. Section 651 of the Fish and Game Code is hereby amended to read as follows:

Salmon seasons.

651. In district 1, salmon may be taken with hook and line, between May 29 and October 31; except that (a) in the Feather River from its mouth to the mouth of the Yuba River, (b) in the American River from its mouth to where the Fair Oaks Bridge crosses the American River, (c) in the Russian, Napa, and Navarro rivers, (d) in that portion of the Eel River in district 2, and (e) in tidewater in districts 2, 3, and 15, salmon may be taken with hook and line between May 1, and the last day of February. The bag limit is 2 per day.

Stats 1933, p. 454.

SEC. 3. Section 651.6 of the Fish and Game Code is hereby amended to read as follows:

San Joaquin and Stanislaus rivers.

651.6. In that portion of the San Joaquin River lying within the boundaries of Stanislaus County, in that portion of the Tuolumne River from its mouth to the highway bridge opposite Waterford, and in that portion of the Stanislaus River from its mouth to the Santa Fe Railroad bridge opposite Riverbank, salmon may be taken with hook and line between April 1 and December 31, and with spear between May 29 and October 31.

Stats 1933, p. 454.

SEC. 4. Section 652 of the Fish and Game Code is hereby amended to read as follows:

District 1½.

652. In district 1½, salmon may be taken with hook and line, between May 29 and December 31. The bag limit is 2 per day.

Stats. 1933, p. 454.

SEC. 5. Section 653 of the Fish and Game Code is hereby amended to read as follows:

Districts 2 and 2½.

653. In districts 2, 2½, salmon may be taken with hook and line between May 1 and the last day of February. The bag limit is 2 per day. In district 2½ not more than 2 salmon may be possessed by any person during one day.

SEC. 6. Section 655 of the Fish and Game Code is hereby amended to read as follows: Stats. 1933, p. 455.

655. In Klamath River district, above tidewater, salmon may be taken with hook and line, between May 29 and December 31. The bag limit is 2 per day. Klamath River district.

CHAPTER 480.

An act to amend section 4300a of the Political Code, relating to fees.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4300a of the Political Code is hereby amended to read as follows: Stats 1933, p 1908.

4300a. In addition to the charges otherwise provided for by law, the county clerk shall charge and collect the following fees: Fees of county clerk.

For the filing of the first paper in a civil action or in a special proceeding, except a probate proceeding or an adoption proceeding, six dollars; provided, that in every special proceeding in which more than seven applicants or petitioners join, one dollar shall be collected for each additional applicant or petitioner above seven.

For filing the papers transmitted from another court, on the transfer of a civil action or a special proceeding, except a probate proceeding or an adoption proceeding, six dollars.

When the venue in a case in a superior court is changed, for making up and transmission of transcript and papers, one dollar, and a further sum equal to the fee for filing in the court to which the case is transferred. The clerk shall transmit such filing fee, with the papers in the case, to the clerk or justice of the court to which the case is transferred.

For filing the papers transmitted on appeal from a justice's court in a civil action or a special proceeding, six dollars.

On the appearance of any defendant, intervenor or corespondent, whether separately or jointly, except for the purpose of making disclaimer, to be paid upon filing the first paper in the action on his behalf, one dollar.

For filing the first petition for letters of administration, a petition for special letters of administration, a petition for letters testamentary or a petition for letters of guardianship, six dollars; for filing a second or any subsequent petition for letters of administration, special letters of administration, letters testamentary, or letters of guardianship, in the same proceeding, or a petition to contest any will or codicil, three dollars; provided, that when such subsequent petition is filed to amend a previously filed petition, but where the petitioner

Fees of county clerk.

is the same person named in the original petition, no fee shall be charged; also, provided, that when the public administrator or the secretary of the State Commission in Lunacy, in his official capacity is the petitioner, he shall be required to pay said fee only out of the assets of the estate coming into his possession.

For issuing a writ of execution, a writ of restitution, a writ of possession, a writ of prohibition, or any writ for the enforcement of any order or judgment, one dollar.

For issuing an order of sale, one dollar.

For filing any notice of intention to move for a new trial of any civil action or special proceeding, two dollars.

For preparing a first copy, other than a carbon copy, of any record, proceeding, or paper on file in his office, per folio, twelve cents.

For preparing a carbon copy of any record, proceeding, or paper on file in his office, made at the time of preparing a first copy thereof, per folio, five cents.

For certifying to a copy of any paper, record or proceeding on file in his office, fifty cents.

For comparing with the original on file in his office, the copy of any paper, record or proceeding prepared by another and presented for his certificate, two cents per folio.

For certificate required by courts of appeal or Supreme Court on the dismissal of an appeal, one dollar.

For exemplification of record or other paper on file besides the charges allowed for copying or comparing, one dollar.

The foregoing fees shall be in full for all services rendered by the county clerk in any civil action or special proceeding.

No fee shall be charged by the clerk for service rendered in any criminal action or adoption proceeding, nor for any service to the State of California, or any municipality or county in said State, or to the National government, nor for any service relating thereto, except for making or certifying to a copy of a filed paper, record or proceeding, when not otherwise provided by law.

For issuing a marriage license, one-half to be paid to the county recorder, two dollars, to be collected at the time the notice of intention to marry is filed; provided, that in counties where the salary of the county recorder is the sole compensation allowed by law this fee shall be paid to the county treasurer, who shall credit one-half to the county recorder. Said fee shall be in full for all services of the clerk and recorder in connection with the issuance of a marriage license and the recording of a marriage certificate.

For filing and indexing articles of incorporation, amended articles of incorporation or a certified copy of articles of incorporation, one dollar.

For filing a certificate of increase of the capital stock of a corporation, one dollar.

For filing a certificate of decrease of the capital stock of a corporation, one dollar.

For filing a certificate of increase of the number of directors of a corporation, one dollar.

For filing a certificate of decrease of the number of directors of a corporation, one dollar.

For filing a certificate of notice of removal of the principal place of business of a corporation, one dollar.

For filing a certificate of creation of bonded indebtedness of a corporation, one dollar.

For filing a certificate of increase of bonded indebtedness of a corporation, one dollar.

For filing any charter, by-laws, or any other certificate, etc., of any corporation, granting powers to do business in this State, one dollar.

For filing and indexing a certificate of fictitious name, including affidavit of publication, one dollar.

For filing and indexing an auctioneer's bond, one dollar.

For filing and indexing all papers for which a charge is not elsewhere provided, other than papers filed in actions or special proceedings, official bonds, or certificates of appointment, one dollar.

For either recording or registering any license or certificate or issuing any certificate, or both, in connection with a license, required by law, for which a charge is not otherwise prescribed, one dollar.

For making a record of a certificate of reviver, one dollar.

For each certificate to the official capacity of any public official, twenty-five cents.

For taking an affidavit, except in criminal cases, or adoption proceedings, fifty cents.

For searching records or files, for each year, fifty cents.

For taking acknowledgment of any deed or other instrument, including the certificate, for each signature, fifty cents.

CHAPTER 481.

An act to amend section 109a of "The California Irrigation District Act," approved March 31, 1897, relating to name of irrigation districts. Stats. 1897, p. 254, amended.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 109a of the act cited in the title hereof is hereby amended to read as follows: Stats. 1921, p. 1110.

Sec. 109a. The name of any district hereafter organized hereunder shall contain the words "Irrigation District." Name.

CHAPTER 482.

An act to regulate grubstake contracts and prospecting agreements and to provide for the recording of the same.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Recording of grubstake contracts and prospecting agreements.

SECTION 1. All grubstake contracts and prospecting agreements hereafter entered into, and which may in any way affect the title of mining locations, or other locations under the mining laws of this State, shall be void and of no effect unless the instrument has first been recorded in the office of the county recorder of the county in which said instrument is made. The instrument or instruments shall be duly acknowledged before a notary public or other person competent to take acknowledgments. Grubstake contracts and prospecting agreements, duly acknowledged and recorded as provided for in this act, shall be prima facie evidence in all courts in this State in all cases wherein the title to mining locations and other locations under the mining laws of this State are in dispute.

CHAPTER 483.

Stats 1921, p. 1727, amended

An act to amend section 21 of the "California water storage district act," relating to property sold for delinquent assessments.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p. 750

SECTION 1. Section 21 of the act cited in the title hereof is hereby amended to read as follows:

Collection of unpaid assessments

Sec. 21. At the end of thirty days the county treasurer must make return to the board of directors of the district of all assessments paid. All unpaid assessments shall bear interest at the rate of seven per cent per annum. Thereafter all unpaid assessments and accrued interest shall be collected when and as called, and paid to the treasurer of the county or counties, who shall collect and hold such moneys to the credit of the district. Unless bonds shall have been authorized as hereinafter provided, all such payments shall be made in such amounts or installments and at such times respectively as the said board, from time to time, in its discretion, by order entered in its minutes, may direct. Upon making any order fixing and calling such installment or amount, the secretary shall also enter in the minutes of the board, and certify to each county treasurer for signature and mailing or publication in the

Notice

counties in which any lands within the district are situated a notice in substantially the following form:

(Name) water storage district. (Location of the principal place of business.) Notice is hereby given that at a meeting of the board of directors held on _____ an installment of _____ per cent of assessment number _____ was ordered paid within sixty days from the date thereof to the respective county treasurers of the counties wherein lands of such district are situate. Any installment which shall remain unpaid on the (day fixed) will be delinquent, together with the accrued interest thereon, with ten per cent of such installment and interest added as penalty.

(Signed) _____

Treasurer of _____ County.

Such notice must be sent through the mail, addressed to each owner of land in the district at his place of residence if known, and if not known, at the place where the principal office of the district is situated, or in lieu thereof such notice shall be published once a week for two consecutive weeks in each such county.

Delinquent installments

If any such installment shall remain unpaid at the expiration of said sixty days from the date of the order, then the said installment of said assessment shall become delinquent, together with the accrued interest thereon and a penalty of ten per cent of the amount of said installment and interest shall be added thereto and collected for the use of the district.

Delinquent list.

Immediately after the said installment has become delinquent the said county treasurer or county treasurers must prepare and as soon as the same is complete publish once a week for two consecutive weeks in each county wherein lands of the district are situated, in one notice a list of all delinquencies in such county, which notice shall contain a description of the property assessed, the name of the person to whom it is assessed or a statement that it is assessed to unknown owners, if such is the fact, the amount then due on said property, and a notice that the property assessed will be sold on the date therein stated in front of the courthouse of said county to pay the amount then due on said property. The date of said sale shall not be less than ten days after the date of the last publication of said notice. At the time stated in said notice, or such other time to which said sale may have been postponed, the county treasurer must sell said property to the highest bidder for gold coin of the United States. Out of the proceeds of said sale the county treasurer must deposit the amount due on said property as shown in said notice to the proper fund of the said district. The county treasurer must pay to the owner of said property any surplus remaining after said deposit to the credit of the district, after first deducting any expense of sale. Except where bonds have been issued upon an assessment the board of directors may direct the county treasurer to postpone said sale from time to time, for not less

Sale for nonpayment.

than ten nor more than thirty days at one time, by a written notice posted at the place of sale.

If no bid is made for said property equal to the amount due thereon, it must be struck off to the district for the said amount so due. A certificate of such sale shall be executed by the county treasurer to the purchaser, and this certificate of sale shall be recorded in the office of the county recorder of said county. Any person interested in said property may redeem the same at any time within three years after the date of said sale, even though the district may be in process of dissolution or may have already been dissolved. Such person shall pay to the county treasurer the amount for which said property was sold, and interest on the said sum at the rate of one per cent per month from the date of said sale, which amount shall be credited to the proper fund of said district, or paid to the person holding the certificate of sale to the property sought to be redeemed. In any district which has no bonds outstanding or which has bonds outstanding which were sold subsequent to the date of this amendment, such person shall be entitled to redeem said property by paying to the county treasurer the amount for which said property was sold and interest on the said sum at the rate of seven per cent per annum from the date of said sale, which amount shall be credited to the proper fund of said district, or paid to the person holding the certificate of sale to the property sought to be redeemed.

Certificate of sale.

Redemption.

If no redemption shall be made within said three years, the purchaser or the district, if the property shall have been sold to the district, or the assignees or transferees of the district, shall be entitled to a deed executed by the county treasurer or his successor in office, even though the district may be in the process of dissolution or may have already been dissolved. The effect of such deed shall be to convey said property free and clear of all liens and incumbrances except State, county and municipal taxes, assessments or taxes levied or assessed by or under statutory authority and any water storage district assessment or portion thereof remaining unpaid at the date of said sale, each installment whereof may be called and collected as herein provided.

Deed to purchaser.

In any district having no outstanding bonds issued prior to the date of this amendment, any parcel of land heretofore deeded to the district by the county treasurer, as herein provided, the title to which still remains in such district, and any parcel of land which shall hereafter be deeded to the district by the county treasurer, as herein provided, may, without notice, be sold and conveyed by the board of directors of such district at private sale to the owner of record at the date of the treasurer's deed to the district or to said owner's successor in interest, upon his paying to such district the amount for which the same was struck off to the district with interest thereon at the rate of seven per cent per annum from the date of said delinquent sale, together with any call that has

Sale of property owned by district.

Private sale

been made upon any prior or subsequent assessment, and the deed executed by such district in pursuance of said sale shall convey said property free and clear of all liens and encumbrances, except as herein above provided for said deed by the county treasurer to the district. The board of directors may sell such property sold to the district at any time at a public auction after notice given for the same period and in the same manner as herein provided for sale of delinquent assessments, but not for a sum less than the amount for which said property was sold, with interest at seven per cent per annum, and the deed executed in pursuance of such sale shall convey said property free from all incumbrances except as herein above provided for said deed by the county treasurer to the district. The board of directors may also dispose of said property at a private sale, without any notice, when the district is in the process of dissolution and such sale is deemed for the best interests of the district; the consideration received from the sale of said property may be past or present consideration, but must not be less than that herein provided for in the case of sales at public auction; and in any case where a district in the process of dissolution has sold and transferred any of its property at a private sale, for valuable consideration, such sale and transfer is hereby validated and approved.

Public auctions

CHAPTER 484.

An act to authorize the purchase of certain real property for the people of the State of California by the Director of Institutions and making an appropriation therefor.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The Director of Institutions is hereby authorized to acquire by purchase in the name of the State of California the following described property:

Purchase of property authorized:

A tract of land forty (40) feet in width, being twenty (20) feet on each side of the center line of the Sonoma and Santa Rosa Railroad (now the Northwestern Pacific Railroad Company) and for the length of said center line as located and staked out on the ground and described as follows:

Description

Beginning at the intersection of the center line of the Sonoma and Santa Rosa Railroad with the south line of lands belonging to W. McPherson Hill, being station 256+63, running thence by the following courses and distances, four degrees (4) curve on 1433 feet radius to the left 518 feet, north 47 degrees 51 minutes, west 1407 feet—four degrees (4) curve on 1433 feet radius to the left 420 feet, north 64 degrees 39 minutes, west 249 feet, four degrees (4) curve on 1433 feet radius to the left 285 feet, north 76 degrees 03 minutes, west

326 6/10 feet four degrees (4) curve on 1433 feet radius to the left 400 feet. South 87 degrees 58 minutes, west 318 9/10 feet, ten degrees (10) curve on 574 feet radius to the right 794 feet, north 12 degrees 51 minutes, west 90 feet eight degrees (8) curve on 717 feet radius to the left 325 feet, north 38 degrees 51 minutes, west 55 5/10 feet six degrees (6) curve on 955 feet radius to the right 225 feet ten degrees (10) curve on 574 feet radius to the right 205 feet, north 4 degrees 51 minutes, west 418 feet. Eight degrees (8) curve on 717 feet radius to the right 330 feet, north 21 degrees 33 minutes, east 23 feet eight degrees (8) curve on 717 feet radius to the left 150 feet said tract as described, containing seven and one-half (7½) acres more or less, all situate, lying and being in the county of Sonoma and State of California.

Appropriation.

SEC. 2. There is hereby appropriated, from any money in the State Treasury not otherwise appropriated, the sum of eight hundred fifty dollars to be paid to the grantor of said land as the full purchase price thereof upon delivery to the Director of Institutions of a properly executed and acknowledged grant deed to said land to the people of the State of California.

Improvements

SEC. 3. Such deed shall include a conveyance from the grantor to the grantee of the improvements on said land, except such ties as are fit for reuse in track building, and may reserve to the grantor an easement over such land, from a point opposite the Pagani Winery, from the winery to the railroad spur track, to operate and maintain a suitable pipeline to be used in transporting wine from the winery to the spur track.

CHAPTER 485.

Stats. 1933, p. 60.

An act to amend section 1092 of the Agricultural Code, relating to a tax upon commercial feeding stuffs.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 244.

SECTION 1. Section 1092 of the Agricultural Code is hereby amended to read as follows:

Disposal of funds.

1092. All moneys received under the provisions of Chapter 7a, Division V of this code shall be paid monthly into the State treasury and placed to the credit of the Department of Agriculture fund, and shall be expended only in carrying out the provisions of said Chapter 7a of Division V of this code.

Report to Governor.

The director shall, within thirty days prior to each regular session of the Legislature, submit to the Governor a full and true report of transactions under Chapter 7a of Division V of this code during the current biennium, including a statement of receipts and expenditures during that period.

CHAPTER 486.

An act to validate all proceedings for the issuance of bonds and all bonds heretofore issued or sold or to be issued or sold by any joint highway district, and directing the levy and collection of a tax sufficient to pay the principal and interest thereof.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Joint highway district bonds validated

SECTION 1. When in any joint highway district organized under the Joint Highway District Act and reorganized under the provisions of said act as amended, proceedings have been taken for the purpose of issuing or selling bonds of such district for any purpose or purposes, all acts and proceedings of the board of directors of such district and all other acts and proceedings leading up to and including the issuance of such bonds, if they have been heretofore sold, and all such acts and proceedings heretofore had, although the bonds are not yet sold, are hereby legalized, confirmed and validated to all intents and purposes, and the power of such district and of the board of directors thereof to issue and sell such bonds is hereby ratified, confirmed and approved, and said bonds heretofore sold are declared to be and shall be in the form and manner in which said bonds have been actually sold and delivered, the legal and valid obligations of and against such district, and the said bonds heretofore authorized to be issued and hereafter sold and delivered are declared to be and shall be legal and binding obligations of such district, and all the taxable property in such district shall be and remain liable to be assessed for the payment of said bonds until the same are fully paid.

Taxes authorized.

SEC. 2. For the purpose of paying the interest on said bonds as it becomes due, and the principal thereof on or before maturity, the board of directors of such district, the assessors, treasurers, boards of supervisors and other officers of the county or counties in which such district may be situated, shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds for the payment of the principal and interest of bonds of joint highway districts. It shall be, and is hereby made, the duty of the board of directors of such joint highway district to levy and collect annually each year until such bonds are paid, or until there shall be a sum in the treasury of such joint highway district set apart for that purpose sufficient to meet all sums coming due for the principal and interest of such bonds, a tax sufficient to pay the annual interest on such bonds, and also such part of the principal thereof as shall become due before the time for fixing the next general tax levy; and such board of directors is hereby vested with power and jurisdiction to do

all and singular the things herein and in said Joint Highway District Act required to be done by it for the purpose of providing funds sufficient to pay the principal and interest of said bonds as the same become due.

CHAPTER 487.

Stats. 1933, p. 60.

An act to amend section 94 of the Agricultural Code, relating to citrus fairs.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 73.

SECTION 1. Section 94 of the Agricultural Code is hereby amended to be read as follows:

Citrus fruit fairs.

94. Any citrus fruit fair which has been conducted and carried on by an association for a period of not less than ten nor more than fifteen consecutive days during each calendar year for a period of not less than twenty consecutive years at which fair citrus fruits are exhibited for prizes and premiums and which fair shall have for its purpose the promotion and encouragement of the citrus fruit industry of California shall be deemed to be a fair and association within the meaning of this article and such association so conducting and holding such citrus fruit fair shall be entitled to participate in the benefits and appropriations provided for in and by this article and shall receive aid, as provided herein and as otherwise provided by law for citrus fruit fairs, in the same manner as if such citrus fruit fair was being conducted and carried on in the manner provided in and under the previous provisions of this article.

Definitions.

The word "association" as herein used shall mean a nonprofit corporation organized and existing under the laws of this State for the purpose of and which engages in conducting and carrying on a citrus fruit fair as herein defined, for the promotion and encouragement of the citrus fruit industry of California and the words "citrus fruit fairs and expositions" where used in the laws of this State shall refer to and mean a citrus fruit fair as herein defined, and the association conducting such citrus fruit fair shall be entitled to receive and use, for such citrus fruit fairs, any moneys appropriated for use of "citrus fruit fairs" or for "citrus fruit fairs and expositions."

CHAPTER 488.

An act to amend sections 3.3 and 3.170 of the School Code, relating to attendance upon the public schools of Indian

children, and children of Chinese, Japanese or Mongolian parentage.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 3.3 of the School Code is hereby amended to read as follows: Sch. C., 1929, p. 106.

3.3. The governing board of the school districts shall have power to establish separate schools for Indian children, excepting children of Indians who are wards of the United States government and children of all other Indians who are descendants of the original American Indians of the United States, and for children of Chinese, Japanese or Mongolian parentage. School for Indians, etc.

SEC. 2. Section 3.170 of the School Code is hereby amended to read as follows: Sch C., 1929, p. 114.

3.170. The day elementary school of each school district of California shall be open for the admission of all children between six and twenty-one years of age residing within the boundaries of the district. Admission to schools.

CHAPTER 489.

An act to amend section 400 of the Fish and Game Code, relating to licenses. Stats 1933, p. 394.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 400 of the Fish and Game Code is hereby amended to read as follows: Stats 1933, p. 435.

400. All licenses and license tags authorized by this code shall be prepared and issued by the commission. The commission shall determine the form of, and method of carrying and displaying of, all licenses, and may require and prescribe the form of applications therefor, and the form of any contrivance to be used in connection therewith. Preparation of licenses and tags.

CHAPTER 490.

An act to amend section 26 of the Public Utilities Act, relating to foreign corporations which may transact public utility business. Stats 1915, p 115, amended.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 26 of the Public Utilities Act is hereby amended to read as follows: Stats. 1915, p 130.

Foreign corporations as public utilities.

Sec. 26. No foreign corporation, other than those which by compliance with the laws of this State are entitled to transact a public utility business within this State, shall henceforth transact within this State any public utility business, nor shall any foreign corporation which is at present lawfully transacting business within this State henceforth transact within this State any public utility business of a character different from that which it is at present authorized by its charter or articles of incorporation to transact, nor shall any license, permit or franchise to own, control, operate or manage any public utility business or any part or incident thereof be henceforth granted or transferred, directly or indirectly, to any foreign corporation which is not at present lawfully transacting within this State a public utility business of like character; provided, that foreign corporations engaging in commerce with foreign nations or commerce among the several States of this Union may transact within this State such commerce and intrastate commerce of a like character; and, provided, further, that any foreign corporation, which may comply with the laws of this State respecting foreign corporations, and which owns at least ninety per cent of the outstanding capital stock of any other foreign corporation transacting a public utility business in this State, may succeed to the public utility business, franchises and rights of such latter corporation and, thereafter continue and carry on such public utility business.

CHAPTER 491.

An act to add section 1203c to the Penal Code, relating to filing of reports by probation officers with the State Board of Prison Directors.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 1203c is hereby added to the Penal Code to read as follows:

Reports of circumstances of crimes by probation officer.

1203c. Notwithstanding any other provisions of law whenever any person is sentenced to State prison, whether probation has been applied for or not, or granted and revoked, it shall be the duty of the probation officer of the county from which the person is committed to file with the clerk of the State Board of Prison Directors such report upon the circumstances surrounding the crime and the prior record and history of the defendant as may be required by the State Board of Prison Directors. These reports shall be made within sixty days after the defendant has been committed to prison, in the form prescribed by the board.

CHAPTER 492.

An act to amend section 3.472 of the School Code, relating to the transportation of pupils, instructors and supervisors of high school agriculture classes.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 3.472 of the School Code is hereby amended to read as follows:

Sch C, 1929, p 126

3.472. The governing board of any high school district maintaining an agriculture course as provided above may transport pupils, instructors, or supervisors of classes to and from any such classes or places where the work of such classes is being done, whether within or without the district, in the same manner and subject to the same limitations as in transporting pupils to and from school.

Transportation of pupils and teachers to agricultural class.

CHAPTER 493.

An act to amend section 12905 of the Insurance Code, relating to the insurance commissioner.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 494.

An act to amend section 11716 of the Insurance Code, relating to insurance practice in respect to deposits of cash or security by workmen's compensation insurers.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 495.

An act to add section 4237.9 to the Political Code, relating to grand jurors and trial jurors fees and mileage in counties of the eighth class.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4237.9 is hereby added to the Political Code, to read as follows:

New section.

Jury fees and mileage, San Bernardino County.

4237.9. In counties of the eighth class jurors shall receive the following fees and mileage, notwithstanding any other provision of law: For attending as a grand juror, for each day's attendance per day three dollars; as a juror in the superior court, for each day's attendance, per day, two dollars. For each mile actually traveled in attending court as a juror in going, only, per mile, ten cents.

CHAPTER 496.

Stats. 1933, p. 60.

An act to amend section 150 of the Agricultural Code, pertaining to the qualification and certification of persons engaging for hire in the business of eradicating or controlling pests.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 87.

SECTION 1. Section 150 of the Agricultural Code is hereby amended to read as follows:

Pest control operators.

150. The commissioner shall prescribe and enforce rules for the qualification of any person who engages for hire in the business of eradicating or controlling pests within his county, and issue certificates to all persons whom he shall find by examination or otherwise to be qualified for such work.

Certificates.

It shall be unlawful for any person, firm or corporation to engage for hire in such business who has not first secured a certificate in the manner herein provided. The director shall have authority to make rules and regulations governing the conduct of, and application of methods of control or eradication used in, the business of eradicating or controlling pests for hire within the State. The commissioner shall enforce such rules and regulations. Any certificate issued under the provisions of this section may be revoked by the officer issuing same for violation by the holder thereof of any of the rules and regulations authorized by this section.

CHAPTER 497.

Stats. 1929, p. 490, amended.

An act to amend the title and sections 1, 7, and 12 of, to repeal section 15 of, and to add section 17 to an act entitled "An act to establish an institution for the confinement, care and reformation of women misdemeanants, and women convicted of a felony the punishment for which is less than death; to provide for its maintenance, conduct and government, and to make an appropriation therefor," approved

May 9, 1929, relating to the California Institution for Women."

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows: "An act to establish an institution for the confinement, care and reformation of women convicted of a felony the punishment for which is less than death; to provide for its maintenance, conduct and government, and to make an appropriation therefor." Title amended.

SEC. 2. Section 1 of said act is hereby amended to read as follows: Stats. 1929, p. 490.

Section 1. There shall be established within this State an institution for the confinement, care and reformation of women convicted of a felony the punishment for which shall be less than death, to be known as "The California Institution for Women." The California Institution for Women established.

SEC. 3. Section 7 of said act is hereby amended to read as follows: Stats. 1929, p. 491.

Sec. 7. Any woman eighteen years of age or over, confined under a sentence of commitment in any State prison within this State may be transferred therefrom to said institution by the State Board of Prison Directors for the serving of her sentence for the term of her commitment, or the balance thereof. Transfer of prisoners.

SEC. 4. Section 12 of said act is hereby amended to read as follows: Stats. 1929, p. 492.

Sec. 12. The parole of any woman confined in said institution for the commission of a felony shall be under the jurisdiction and control of the Board of Trustees. Paroles

SEC. 5. Section 15 of said act is hereby repealed. Repeal.

SEC. 6. Section 17 is hereby added to said act to read as follows: New section

Sec. 17. Until such time as a constitutional amendment is approved by the people permitting the confinement of females convicted of felonies punishable by less than death in an institution other than a State prison, this institution shall continue to be the female department of the State Prison at San Quentin. Upon the adoption of such a constitutional amendment, the Board of Trustees created by this act shall have full jurisdiction and control over all females convicted of felonies where the punishment is less than death, and shall exercise the same powers and jurisdiction over such females as the Board of State Prison Directors or the Board of Prison Terms and Paroles now exercises over other prisoners. Jurisdiction of board of trustees. Effect of S C A 21, Res., Ch 83, 1935.

CHAPTER 498.

An act to add section 1168a to the Penal Code, relating to the California Institution for Women.

[Approved by the Governor July 15, 1935. Effective upon adoption of S. C. A. 21, Res. Ch. 83, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 1168a is hereby added to the Penal Code, to read as follows:

Sentencing females to California Institution for Women.

1168a. Every female convicted of a public offense, for which imprisonment in any State prison is now prescribed by law shall, unless such convicted female is placed on probation, a new trial granted, or the imposing of sentence suspended, be sentenced to detention at the California Institution for Women, but the court in imposing the sentence shall not fix the term or duration of the period of detention.

Effect of S. C. A. 21, Res., Ch. 83, 1935.

SEC. 2. This act shall take effect upon the adoption of an amendment to the Constitution authorizing the Legislature to provide for the government, charge, and superintendence of an institution for females charged with or convicted of public offenses.

CHAPTER 499.

An act to amend sections 1202a, 1572, 1576, and 1586, of the Penal Code, relating to the State prisons.

[Approved by the Governor July 15, 1935. Effective upon adoption of S. C. A. 21, Res. Ch. 83, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 557

SECTION 1. Section 1202a of the Penal Code is hereby amended to read as follows:

Imprisonment in the State prison

1202a. If the judgment is for imprisonment in the State prison the judgment shall direct that the defendant be taken to the warden of the State Prison at San Quentin; provided, however, that if the defendant shall have previously been convicted of a felony, or if the court in the exercise of its discretion shall deem it a proper case so to do, it shall direct that the defendant be taken to the warden of the State Prison at Folsom. Thereafter, and until the termination of the sentence, the State Board of Prison Directors may transfer the defendant from one State prison to the other as in the opinion of the board conditions may require.

Stats 1933, p 557

SEC. 2. Section 1572 of the Penal Code is hereby amended to read as follows:

Designation of State prisons.

1572. The State prisons of this State shall be known as the State Prison at San Quentin, which is situated in the county of Marin, and which prison shall have an official staff conform-

ing to the laws of the State in relation to State prisons; and the State Prison at Folsom, which is situated in the county of Sacramento, and which shall have a similar staff and be similarly organized, and all the finances and accounts of the two prisons shall be kept separate and apart from each other.

SEC. 3. Section 1576 of the Penal Code is hereby amended to read as follows: Stats. 1933, p. 558.

1576. It shall be the duty of the directors to determine the necessary officers and employees of the prisons other than those of the wardens and clerks, specifying their duties severally, and fixing their salaries; provided, however, that the salary of such officers or employees so fixed shall not in any case from and after the date this act becomes effective be less than the sum of one hundred dollars per month to and including June 30, 1930, and that thereafter the salary of such officers or employees so fixed shall not in any case be less than the sum of one hundred ten dollars per month; to prescribe rules and regulations for the government of the prisons, and to revise and change the same from time to time as circumstances may require, and to board and lodge the officers and employees, or allow them a money commutation in lieu thereof; provided, the warden may make temporary rules, in cases of emergency, to remain in force until the succeeding meeting of the board. At least three of the directors shall visit the prisons once in each month and oftener if necessary, at such times as they may select. The directors shall audit all claims for supplies, services, and expenses of officers and employees, and all other demands against the prison. Powers and duties of prison directors.

Second—To enter or cause to be entered on their journal by the clerks all official acts which shall be signed by at least three members of the board.

Third—On or before the first day of December of each year to report to the Governor the condition of the prisons, together with detailed statements of receipts and expenditures, and such suggestions concerning the prisoners as may appear to be necessary and expedient.

Fourth—The board of directors shall also adopt rules and regulations not inconsistent with the Constitution and the laws of the State of California for the government of the board, and may change the same at their pleasure.

Fifth—The board of directors shall have power to establish an office in San Francisco, and employ a secretary.

SEC. 4. Section 1586 of the Penal Code is hereby amended to read as follows: Stats 1933, p. 559.

1586. All convicts may be employed by authority of the board of directors, under charge of the wardens respectively and such skilled foremen as they may deem necessary in the performance of work for the State, or in the manufacture of any article or articles for the State, or the manufacture of which is sanctioned by law. Such needlework as the female prisoners may make from time to time may be sold. The money received from the sale of said needlework shall be paid Employment of prisoners

to the warden and placed to the credit of the female who made the same. Upon the release of such female the money shall be paid to her.

At Folsom after the completion of the dam and canal the board may commence the erection of structures for jute manufacturing purposes. The board of directors are hereby authorized to purchase from time to time such tools, machinery, and materials, and to direct the employment of such skilled foremen as may be necessary to carry out the provisions of this section, and to dispose of the articles manufactured, and not needed by the State, for cash, at private sale, in such manner as provided by law.

Effect of S C A 21, Res. Ch. 83, 1935.

SEC. 5. This act shall take effect upon the adoption of a constitutional amendment permitting the incarceration of females convicted of crime in such place as the Legislature may direct.

CHAPTER 500.

Stats. 1909, p. 87, amended.

An act to amend section 51 of the Bank Act, relating to deposits by order of court.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1909, p 98

SECTION 1. Section 51 of the Bank Act is hereby amended to read as follows:

Deposits by order of court.

Sec. 51. Any court having appointed and having jurisdiction of any executor, administrator, guardian, assignee, receiver, depositary or trustee, upon the application of such executor, administrator, guardian, assignee, receiver, depositary or trustee, or upon the application of any person having an interest in the estate administered upon by such officer or trustee, after notice to other parties in interest as the court may direct, and after a hearing upon such application may authorize or may direct such officer or trustee to deposit any money then in his hands as such officer or trustee or which may thereafter come into his hands, and until the further order of the court, in any bank organized under the laws of the State of California; and upon such deposit being made, the officer or trustee so depositing the same shall thereafter and while such moneys remain on deposit in such bank, be relieved and discharged from all liability and responsibility therefor, and the bond required of such officer or trustee given upon his appointment shall be thereupon by said court reduced to such an amount as the court may deem reasonable; such deposit shall be repaid only upon the orders of said court, and shall be a preferred claim against such bank and be paid in full before any other depositor of such bank shall have been paid.

CHAPTER 501.

An act to amend sections 56.1 and 91 of the Bank Act, relating to the definition and regulation of the business of banking.

Stats. 1909, p. 87. amended.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 91 of the Bank Act is hereby amended to read as follows:

Stats. 1913, p. 178.

Sec. 91. Any court having jurisdiction of any executor, administrator, guardian, assignee, receiver, depositary or trustee, upon the application of any such officer or trustee, or upon the application of any person having an interest in the estate or property administered by such officer or trustee, after such notice to the other parties in interest as the court may direct, and after a hearing upon such application, may authorize or may direct such officer or trustee to deposit any moneys then in his hands, or which may come into his hands thereafter, until the further order of said court, with any such trust company, and upon deposit of such money, and its receipt and acceptance by such trust company, the said officer or trustee shall be discharged from further care or responsibility therefor. Such deposit shall be paid out only upon the order of said court.

Deposits by fiduciaries.

SEC. 2. Section 56.1 of the Bank Act is hereby amended to read as follows:

Stats. 1933, p. 2711.

Sec. 56.1. Any bank is hereby authorized and empowered to subscribe for and purchase Class A stock of the Federal Bank Deposit Insurance Corporation, created by the Federal Banking Act of 1933 and, with the approval of the Superintendent of Banks and upon his certification to said corporation that such bank is in a solvent condition, to become a member of the Temporary Federal Deposit Insurance Fund, created thereby, and to do everything necessary or appropriate to procure and maintain such insurance of its deposits as may now or hereafter be provided by any Federal law and to take advantage of any and all grants and privileges and to comply with all requirements incidental thereto.

Federal bank deposit insurance.

Nothing in this act shall prohibit any such bank doing or performing any and all acts necessary or proper for the purpose of becoming and remaining such member; nor from becoming a stockholder in the Federal Bank Deposit Insurance Corporation, in the manner provided in the Federal Reserve Act as amended, nor from doing or performing any and all acts necessary or proper for the purpose of becoming and remaining such stockholder; nor from becoming a member of the Temporary Federal Deposit Insurance Fund, in the manner provided by said act, nor from making payments or contributions to said fund nor from doing or performing any and

all acts necessary or proper, for the purpose of becoming and remaining a member of said fund; nor from investing any part of its capital or surplus or reserve fund in the capital stock of the Federal Bank Deposit Insurance Corporation, in accordance with the terms and provisions of the Banking Act of 1933, or in becoming a member of the Temporary Federal Deposit Insurance Fund, in accordance with the terms and provisions of the last mentioned act; nor from doing everything necessary or appropriate to procure and maintain such insurance of its deposits as may now or hereafter be provided by any Federal law and to take advantage of any and all grants and privileges and to comply with all requirements incidental thereto; provided, that such investments in, or payments for, or contributions to the capital stock of the Federal Bank Deposit Insurance Corporation, or the membership in the Temporary Federal Deposit Insurance Fund, shall in no way exceed the minimum amounts respectively required to join or maintain itself as a stockholder of such Federal Bank Deposit Insurance Corporation or as a member of said Temporary Federal Deposit Insurance Fund; provided, also, that such investment, payments or contributions may be carried in either the commercial, savings or trust department or may be apportioned to any two or all three of such departments of any departmental State bank.

CHAPTER 502.

An act to amend section 3766 of the Political Code, relating to the publication of delinquent tax lists.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1921, p. 1723.

SECTION 1. Section 3766 of the Political Code is hereby amended to read as follows:

Publication of delinquent tax list.

3766. Subject to the provisions of sections 4041.13 and 4048 of this code, the publication must be made once a week for three successive weeks in some newspaper of general circulation published in the county, and must be paid therefor at the county rate for advertising as fixed by the board of supervisors. If there be no newspaper of general circulation published in the county, then said list must be posted in three public places in the county.

Counties of first class

In each county of the first class, the delinquent county tax list or county and city or town tax list if such county collects the city or town taxes for any incorporated city or town located therein, shall be published as hereinafter in this section provided.

(a) That portion of the delinquent tax list covering property located in the unincorporated territory of said county,

and in the city in which the county seat of said county is located, and in each or any city in which there is no newspaper of general circulation published at least once each week, or in any one or more of the contingencies in this section set forth, shall be published in a daily newspaper of general circulation published in said county seat.

A contract for the publication of such list and for the preparation of matrices, as hereinafter provided for, shall be let annually by the board of supervisors, or purchasing agent, as the case may be, to the lowest responsible newspaper bidder after a call for bids in such manner as said board of supervisors or purchasing agent may deem most expedient. Such publication shall conform in all respects with all provisions of this chapter applicable thereto.

Delinquent tax list.

(b) That portion of the delinquent county or county and city tax list covering property located in any incorporated city or town other than the county seat, wherein there is published at least once a week a newspaper of general circulation, shall be published in the city or town in which such property is located.

Such publication in such city or town shall be made in a daily newspaper of general circulation, if any, published within such city or town, and, if there be no such daily newspaper published therein, then such publication shall be made in a semiweekly newspaper of general circulation published therein, and, if there be no such daily or semiweekly newspaper published therein, then in any other newspaper of general circulation, if any, published therein at least once each week; provided, that if there be no such daily, semiweekly or other newspaper published therein at least once each week, then such portion of the delinquent tax list shall be included in the list provided for in paragraph (a) hereof.

Contracts for the publication of those portions of such delinquent tax list required by the provisions of this paragraph to be published in such cities or towns shall be let to the lowest responsible newspaper bidder in such city or town in the same manner as provided for in paragraph (a) of this section; provided that the rate to be paid for such publication shall not be in excess of the rate paid for official publications for the respective city or town, and in the event that no such newspaper of such class will accept such publication at a rate not in excess of such city rate, then such portion of the delinquent list shall be published in the newspaper provided for in paragraph (a) hereof.

(c) In calling for bids for the publication of the list provided for in paragraph (a) hereof, the board of supervisors or purchasing agent, as the case may be, shall call for bids and let a contract covering the following items:

1. The composition and publication of the delinquent tax list provided for in said paragraph (a) including all indices and addenda and other items required by law to be included therein.

2. The composition and preparation of a matrix suitable for newspaper publication, of each county or county and city delinquent tax list provided for in paragraph (b) hereof, together with the appropriate addenda provided for in section 3764 of this code, and in addition thereto the necessary indices, notice and information for each such separate list required by sections 3765 and 3767 of this code and any other notice, information, or matter required by law to be appended to or included in the publication of any such delinquent tax list.

Bids for publication.

(d) In calling for bids for the publication of the list provided for in paragraph (b) hereof, the board of supervisors or purchasing agent, as the case may be, shall call for bids, and let a contract, covering the following items:

The publication in the particular city or town, excluding the cost of composition, of the delinquent tax list provided for in said paragraph (b), including indices, addenda and other items; provided, that said county shall furnish, at cost to it, to the city or town newspaper publishing any such delinquent tax list, and such newspaper shall use in such publication, the appropriate matrix hereinbefore referred to, and the cost thereof shall be shown as a credit on the claim against said county of such newspaper covering such publication.

(e) The county tax collector and the auditor shall prepare and submit to the newspaper in the county seat to which the contract provided for herein shall have been awarded, the respective several portions of such delinquent tax list placing under an appropriate descriptive heading all delinquent items and addenda required by the provisions of this section to be separately published, and said newspaper shall set up such portions of such list in such form as to permit the preparation of complete matrices therefrom.

(f) The board of supervisors of each such county is hereby authorized and empowered, within its discretion, to provide, by order duly entered in its minutes, for the mailing to each person whose name appears as a delinquent in such delinquent tax list, or any portion thereof, a copy of the item or items appearing in such list to be properly assessed in his name. Such copy shall be mailed to each such person at the address thereof shown on the assessment roll; provided, that the provisions of this paragraph (f) shall not be deemed nor construed as giving any person any right to receive such copy, and neither such county nor any officer or employee thereof shall be liable for the failure of any delinquent taxpayer to receive such copy nor for any mistake in the address or otherwise in connection with the mailing thereof.

In making any such order said board may authorize the tax collector to mail the same, or said board may include, or if there be a county purchasing agent may authorize him to include, the same as an item in the call for bids for the publication of the several portions of such delinquent tax list and may include in the contracts with the various newspapers, the

mailing of the items contained in the particular portions of such delinquent tax list published in the respective newspapers.

CHAPTER 503.

An act to amend section 1361 of the Political Code, relating to counting boards to canvass absent voter ballots.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1361 of the Political Code is hereby amended to read as follows: Stats 1933, p. 2371.

1361. As soon as all absent voter ballots issued have been received or returned and accounted for, and in no case later than seven days after any election mentioned herein, it shall be the duty of each board of supervisors, election commissioners, or legislative body of such county, city and county, or municipality, to canvass all of the ballots and count the same personally, or by a canvassing board or boards, consisting of five electors on each of said boards appointed by them for that purpose; provided, however, that when the number of absent voter ballots shall not exceed three hundred such canvass thereof shall be made by the board of supervisors, election commissioners, or legislative body of such county, city and county, or municipality, conducting said election, and that where such number of absent voter ballots exceed three hundred then, and in that event, said board of supervisors, election commissioners or legislative body authorized to canvass election returns in any county, city and county, or municipality, wherein such election is held, may appoint a special canvassing board or boards, to consist of five electors for each of said canvassing boards, to canvass each three hundred fifty ballots in excess of said three hundred absent voter ballots; and provided further that the board of supervisors may appoint a single canvassing board of such number as it may deem necessary, to count and canvass all of the absent voter ballots cast in said county; and, it is further provided that the board of supervisors or election commissioners of the county or city and county authorized to canvass election returns, or the legislative body of the municipality authorized to canvass election returns for the territory in which such election is held and for which absent voter ballots have been voted, shall, and they are authorized to provide a reasonable compensation to be paid to each member of said canvassing board for their services rendered in such canvass of the absent voter ballots made by them, payable out of the treasury of such county, city and county, or municipality, as other claims against the county, city and county, or municipal- Count of absent voter ballots.

ity, are paid. In the canvass of the absent voter ballots said canvass must be continued daily, Sundays and holidays excepted, and for not less than six hours of each and every day until completed.

At the August primary election or the May presidential primary election, the canvass shall be made in the manner prescribed by section 21 of the Direct Primary Law, except as hereinafter provided, and the canvass of votes for any general election or other election shall be according to the laws now in force pertaining to such general or other election, except as hereinafter provided.

CHAPTER 504.

An act to add section 303 to the Penal Code, relating to alcoholic beverages.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the Penal Code to be numbered 303 and to read as follows:

Sale of liquor on commission

303. It shall be unlawful for any person engaged in the sale of alcoholic beverages, other than in the original package, to employ upon the premises where the alcoholic beverages are sold any person for the purpose of procuring or encouraging the purchase or sale of such beverages, or to pay any person a percentage or commission on the sale of such beverages for procuring or encouraging such purchase or sale. Violation of this section shall be a misdemeanor.

CHAPTER 505.

An act authorizing public and private corporations of and in the State of California to make applications for the right to establish, operate and maintain, and to establish, operate and maintain foreign-trade zones in or adjacent to ports of entry in this State.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Establishment of foreign-trade zones.

SECTION 1. Any public corporation of the State of California, as that term is hereinafter defined, is hereby authorized to make application for the privilege of establishing, operating and maintaining a foreign-trade zone in accordance with an act of Congress approved June 18, 1934, entitled "An act to

provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes." (48 U. S. Stats. at L. ch. 590.)

Public corporation defined.

SEC. 2. The term "public corporation," for the purposes of this act, means the State of California or any political subdivision thereof or any incorporated municipality therein or any public agency of this State or of any political subdivision thereof or of any municipality therein, or any corporate municipal instrumentality of this State or of this State and one or more other States.

Private corporation defined.

SEC. 3. Any private corporation hereafter organized under the laws of this State for the purpose of establishing, operating and maintaining a foreign-trade zone in accordance with the act of Congress referred to in section 1 hereof is likewise hereby authorized to make application for the privilege of establishing, operating and maintaining a foreign-trade zone in accordance with the said act of Congress.

Authorization.

SEC. 4. Any public or private corporation authorized by this act to make application for the privilege of establishing, operating and maintaining such foreign-trade zone, whose application is granted pursuant to the terms of the aforementioned act of Congress, is hereby authorized to establish such foreign-trade zone and to operate and maintain the same, subject to the conditions and restrictions of said act of Congress, and any amendments thereto, and under such rules and regulations and for the period of time that may be prescribed by the board established by said act of Congress to carry out the provisions of said act.

Constitutionality.

SEC. 5. If any section, subsection, sentence, clause, phrase or word of this act is for any reason held to be unconstitutional, such division shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed each section, subsection, sentence, clause and word of this act irrespective of the fact that one or more other sections, subsections, sentences, clauses, phrases or words are declared unconstitutional.

CHAPTER 506.

Stats. 1931, p. 910, amended

An act to add section 4a to the act entitled "An act to provide for the payment of not less than the general prevailing rate of wages on public works, and not less than the general prevailing rate of wages for legal holiday and overtime work on public works, providing for the ascertainment of such general prevailing rate by the public body awarding the contract and its insertion in the contract and call for bids for the contract, providing for the keeping of records of the wages paid all workers engaged in public work and the

inspection of such records by the proper public officials, providing for a forfeiture for each calendar day, or portion thereof, any worker is paid less than the said rate and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof," approved May 25, 1931, relative to the definition of public contract work and the payment of the general prevailing rate therefor.

[Approved by the Governor July 15 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section, to be numbered 4a is hereby added to the act cited in the title hereof, said new section to read as follows:

Penalties exclusive.

Sec. 4a. The penalties and remedies provided for in this act shall be the sole and exclusive penalties and remedies, either civil or criminal, against any contractor or subcontractor for any violation of this act or of the provisions inserted in any call for bids, specifications or contracts pursuant to the provisions hereof.

Legislative intent.

SEC. 2. There is hereby added to the act cited in the title hereof of section 4a, for the purpose of clarifying the original intent of said act. This act is not intended as a declaration that any penalties or remedies other than those provided for in said act now exist against any contractor or subcontractor under said act or the provisions inserted in any call for bids, specifications or contracts pursuant to the provisions thereof.

CHAPTER 507.

An act to add section 6.2a to the School Code, relating to school property fire losses.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the School Code to be numbered 6.2a and to read as follows:

Sinking fund for fire losses.

Sch C. 1929, p 267.

6.2a. In districts situated within or partly within cities of the first class or of the first and one-half class any board of education, in lieu of carrying the insurance specified in section 6.2, may establish a sinking fund for the purpose of covering fire losses and place therein each year a sum not less than fifty per cent of the amount of premium which such board may estimate would be necessary to carry such insurance.

CHAPTER 508.

An act to add section 590 to the Vehicle Code, relating to warning devices.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 509.

An act to amend the Agricultural Code by adding to Division VI thereof a new chapter to be numbered 9 and to include sections 1299.18 and 1300 to 1300.6 inclusive, defining and pertaining to processors of farm products and the licensing thereof. Stats. 1933, p. 60.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The Agricultural Code is hereby amended by adding to Division VI thereof a new chapter to be numbered 9 and to include sections 1299.18 and 1300 to 1300.6 inclusive and to read as follows: New chapter

CHAPTER 9. PROCESSORS OF FARM PRODUCTS. Processors.

1299.18. As used in this chapter: Definitions.

(a) The term "person" includes any individual, firm, association, partnership or corporation.

(b) The term "producer" designates any person engaged in the business of growing or producing any farm product.

(c) The term "farm products" includes all agricultural, horticultural, viticultural and vegetable products of the soil, but shall not include timber and timber products, milk and milk products, hay, field grains, dried beans, and seeds.

(d) The term "processor" means any person who buys, or otherwise takes title to or possession of, farm products from the producer thereof for the purpose of processing or manufacturing the same or selling, reselling or redelivering the same in dried, canned, extracted, fermented, distilled, or other preserved form, and shall include (1) any person or exchange conducting such business, and (2) any person or exchange buying farm products from the producer thereof and reselling them to any person or exchange conducting such business.

(e) The term "agent" designates any person who on behalf of any processor contracts for or solicits any farm product from a producer thereof, or who negotiates the purchase of any farm product on behalf of any processor.

(f) The term "director" designates the State Director of Agriculture.

1300. This chapter does not apply to or include:

Cooperative organizations exempt.

(a) Any cooperative organization, operating under and by virtue of the laws of this State or of any other State or the District of Columbia or the United States or the agents of such organizations in the performance of their duties as such except as to that portion of the activities of such organization, or agent, as involves the handling or dealing in the farm products of nonmembers of such organization;

Live stock markets exempt.

(b) Any person or exchange dealing in live stock and operating at a public live stock market and subject to and operating under a bond required by the United States to secure the performance of their obligations.

License for processors.

1300.1. No person shall act as a processor or agent without having obtained a license as provided in this chapter. Every person, acting as a processor, or intending to so act, shall file an application with the director for a license to so act, and such application shall be accompanied by a license fee of twenty-five dollars.

License for agents.

Every person acting as an agent, or intending to so act, shall file an application with the director for a license to so act, and such application shall be accompanied by a license fee of one dollar.

Application.

Such application shall in each case state:

(a) The full name of the applicant.

(b) If the applicant be a firm, exchange, association or corporation the full name of each member of the firm, or the names of the officers of the exchange, association or corporation;

(c) The principal business address of the applicant in the State of California; and

(d) The name or names of the person or persons authorized to receive and accept service of summons for the applicant.

Upon the filing of such application and the payment of such fee the director shall issue to such applicant a license entitling the applicant to conduct the business of processor or act as agent within the State of California for a year from the date thereof, or until the same shall have been revoked in the manner and upon the grounds hereinafter specified; provided, however, that the director may refuse to issue a license to any applicant who has, prior to the filing of the application herein provided for, been engaged in the business of processor, produce broker, dealer, or commission merchant, and who, during the conduct of such business has failed to comply with a valid and final order made and entered against such applicant by the director.

Fraud or misrepresentation in making any application shall ipso facto work a revocation or refusal of any license granted or to be granted thereunder. Previous violation by the applicant of any of the provisions of this chapter shall be good and sufficient ground for denial of a license.

1300.2. The director may publish in pamphlet form as often as he thinks necessary a list of all licensed processors, together with all necessary rules and regulations concerning the enforcement of this chapter. Each licensed processor shall post his license, or a copy thereof, in his office or salesroom in plain view of the public. Each agent shall show his license upon the request of any interested person. All license fees collected under the provisions of this act shall be paid into the State treasury monthly and shall be credited to the Department of Agriculture fund and expended in carrying out the provisions of this chapter. The director shall, within thirty days prior to the regular session of the Legislature, submit to the Governor a full and true report of the transactions under this chapter during the preceding biennium, including a complete statement of receipts and expenditures during the period.

List of processors.

Report to Governor.

1300.3. The director, upon the verified complaint of any interested party, shall investigate, examine, or inspect any transaction involving the failure of the processor to make payment for farm products within the time specified for such payment in the contract of sale and purchase between the producer and the processor, and in accordance with the terms of said contract; provided, however, that the director shall have no jurisdiction to act upon any such complaint if the substance of such complaint is included in any dispute that has been submitted to, or settled by, arbitration in accordance with the provisions of a written contract or if such processor within ten (10) days after notice by the director of the filing of such verified complaint has submitted such dispute to arbitration in accordance with the terms of such written contract; provided, however, that the director shall have jurisdiction over any such complaint or dispute if the processor has failed to perform in accordance with any arbitration award made in accordance with the terms of such written contract. If the director has jurisdiction to entertain the complaint and is unable to effect a settlement satisfactory to him and to both parties to the controversy, he shall cause a copy of such complaint, together with a notice of the time and place of hearing of such complaint, to be served personally or by mail upon the processor against whom the complaint is filed. Such service shall be made at least ten (10) days before the hearing, which hearing shall be held in the city or town which, in the judgment of the director, shall be most convenient to the producer and the processors. At the time and place appointed for such hearing the director, or his agent, shall hear the parties to such complaint and shall enter in the office of the director at Sacramento an order either dismissing such complaint or ordering the processor to make payment in accordance with the provisions of the contract, specifying the fact established on such hearing. A copy of such order shall be furnished to the respective parties to the controversy. At such hearing the

Investigation of complaints.

Notice.

Hearing.

director or his duly appointed agent shall have full authority to administer oaths, and take testimony thereunder; to issue subpenas requiring the attendance of witnesses before him, together with such books, memoranda, papers, and other documents, articles or instruments as may be pertinent to the controversy as set forth in the complaint, to compel the disclosure by such witnesses of all facts known to them relative to the controversy, and all parties disobeying the orders or subpenas of said director or his duly authorized agent shall be guilty of contempt and shall be certified to the superior court of the State for punishment for such contempt.

Revocation or suspension of license.

1300.4. The director may revoke, suspend, or refuse any license, as the case may require, in the event any processor fails to make payment in accordance with the order of the director, or his duly authorized agent, entered in the office of the director at Sacramento in accordance with the provisions of this chapter, within five (5) days after notice of the entry of such order, unless within such period appropriate action shall have been taken by the processor to obtain a review of such order in accordance with the provisions of the following section 1300.5.

Review.

1300.5. Any party affected by any order of the director, or his duly authorized agent, entered in the office of the director at Sacramento in accordance with the provisions of this chapter, or any act of the director either referring to the granting of, or the refusal to grant, or to renew, any license, or either referring to the revocation or suspension of any license granted under the provisions of this chapter, within five (5) days after notice of the entry of any such order, or notice of the taking of any such action, may apply to the District Court of Appeal of the Third Appellate District of this State for a writ of certiorari or review for the purpose of having the lawfulness of such order or such action inquired into and determined. The provisions of the Code of Civil Procedure of this State referring to writs of certiorari or review shall, so far as applicable and not in conflict with this act, apply to the proceedings under the provisions of this section. Pending final determination of such review, in the case of the revocation or suspension of the license of any person licensed hereunder such license shall be deemed in full force and effect until the expiration of the license period, and in the case of the refusal to grant or renew any license such processor shall be entitled to conduct his business as if such license had been granted or renewed.

Penalties.

1300.6. Any person is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one (1) year, or by both fine and imprisonment, who assumes or attempts to act as a processor or agent without a license, or who fails to comply in every respect with this chapter. Criminal prosecutions arising by virtue of any of the provisions of this chapter may be commenced and tried

in either the county where the products were received by the processor, or within the county in which the principal place of business of such processor is located, or within the county in which the violation of this chapter occurred.

CHAPTER 510.

An act to amend section 852 of, and to add a new section to be numbered 852c to an act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, relating to cities of the sixth class.

Stats. 1883, p. 93, amended

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 852 of the act cited in the title hereof is hereby amended to read as follows:

Stats. 1933, p. 1319.

Sec. 852. The members of the city council, the city clerk, and the city treasurer shall be elected by the qualified electors of said city at a general municipal election. Such a general municipal election shall be held therein on the second Tuesday in April of each even-numbered year. Members of the city council and the city clerk and the city treasurer shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. The respective terms of the members of the first city council elected under the provisions of this section shall be determined as follows: The two members elected by the highest number of votes shall hold office for four years, and the three members elected by the lowest number of votes shall hold office for two years. In the event that two or more persons should be elected by the same number of votes, the respective terms of each shall be decided by lot.

Election of city officers

The city council shall appoint the chief of police and the city judge; it may also, in its discretion, appoint a city attorney, a superintendent of streets, a civil engineer, a court clerk, and such other subordinate officers or employees as in its judgment may be deemed necessary. The compensation of all appointive officers and employees may be fixed from time to time by the city council by resolution or ordinance, and said officers and employees shall hold office during the pleasure of said city council.

Appointments.

SEC. 2. A new section to be numbered 852c is hereby added to the act cited in the title hereof, to read as follows:

New section

852c. Any or all ordinances of any city which have been enacted and published in accordance with the provisions of the charter thereof or the general laws of the State, and which have not been repealed, may be compiled, revised, indexed and

Codifying ordinances

arranged as a comprehensive ordinance code and such code adopted by reference by the passage of an ordinance for such purpose, which ordinance shall be required to be adopted and approved and published, in the manner provided by charter or general law governing the passage of ordinances for such city. Not less than three copies of such code shall be filed, for use and examination by the public, in the office of the clerk of such city, as the case may be, prior to the adoption thereof.

CHAPTER 511.

An act to add section 731a to the Code of Civil Procedure, relating to the use of the injunction in industrial or commercial zones.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 731a is hereby added to the Code of Civil Procedure to read as follows:

Manufacturing and commercial zones.

731a. Whenever any city, city and county, or county shall have established zones or districts under authority of law wherein certain manufacturing or commercial uses are expressly permitted, no person or persons, firm or corporation shall be enjoined or restrained by the injunctive process from the reasonable and necessary operation in any such industrial or commercial zone of any use expressly permitted therein, nor shall such use be deemed a nuisance without evidence of the employment of unnecessary and injurious methods of operation. Nothing in this act shall be deemed to apply to the regulation and working hours of canneries, fertilizing plants, refineries and other similar establishments whose operation produce offensive odors.

CHAPTER 512.

Stats. 1933, p. 60

An act to amend sections 457 and 637 of the Agricultural Code, relating to testing of milk, cream or products thereof.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 131.

SECTION 1. Section 457 of the Agricultural Code is hereby amended to read as follows:

Fraud in sampling milk.

457. No prosecution based on a sample of milk, cream or product thereof, shall be had, unless a duplicate of said sample is left with the accused. No samples taken in connection with

the establishment of proof of fraudulent manipulation of the test for milk fat or for bacteria count in milk, or cream, need be given to the accused.

SEC. 2. Section 637 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p 160

637. The licenses issued in accordance with the provisions of this chapter, upon a hearing before the director of which the licensee shall have a written notice of the time and place of said hearing and the charges made against him may be suspended or revoked by the director if, after written notice, the licensee fails, after thirty days, to comply with the laws, rules and regulations under which the license was granted. No such thirty days' notice will be required in cases of manipulation of measures, weights, samples or tests for milk fat content or bacterial counts of milk or cream upon which payment is based, or the record thereof. Revocation of sampler's, tester's or weigher's licenses

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CHAPTER 513.

An act establishing and authorizing an additional secondary State highway from the city of Needles easterly to the Arizona-California State line, including a bridge over the Colorado River, providing for the construction, maintenance and ownership of such bridge jointly by the States of California and Arizona, and amending the Streets and Highways Code in conformance therewith.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 358 of the Streets and Highways Code is amended to read as follows:

NOTE.—See Stats. 1935, Ch. 29.

SEC. 2. The Department of Public Works is directed to construct the extension referred to in section 1 hereof when the State of Arizona has made provision for completing a highway permanent in character either as a part of the Federal aid system in Arizona, or as a connection between said bridge and a highway which is a part of the Federal aid system in Arizona, and when a contract has been executed by properly authorized officers of the State of Arizona, on behalf of said State, and by the Director of Public Works, on behalf of this State, making adequate provision for the construction, maintenance and ownership of such joint bridge. The Director of Public Works is authorized to negotiate and execute such a contract on behalf of this State, provided that each State shall bear one-half of the cost of construction and maintenance of such bridge Contract with Arizona for highway.

CHAPTER 514.

An act to amend sections 71, 72, 73, 104, 135, 136, 160, and 194, to add sections 100.5, 101.5, 104.5, 136.5 and 233 to, to add a new chapter, to be numbered 5, to Division I, and to repeal section 112 of the Streets and Highways Code, relating to public ways.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 515.

Stats. 1933, p. 2046, amended.

An act to amend sections 12, 13 and 16 of an act entitled "An act to provide for the regulation and licensing of horse racing, horse race meetings, and the wagering on the results thereof; to create the California Horse Racing Board for the regulation, licensing and supervision of said horse racing and wagering thereon; to provide penalties for the violation of the provisions of this act, and to provide that this act shall take effect upon the adoption of a constitutional amendment ratifying its provisions" approved June 5, 1933, relating to horse racing.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 2052.

SECTION 1. Section 12 of the act cited in the title hereof is hereby amended to read as follows:

License fee.

Sec. 12. The license fee to be paid by licensees shall be four per cent of all money handled in the pari mutuel pools; payment of same shall be made by said licensee, daily, during each racing meeting; each application for a license to conduct such racing meeting shall be accompanied by a certified check payable to the Treasurer of the State of California, as ex officio treasurer of the racing board in either of the following sums, dependent upon the classification of the county where the said meeting is to be held.

Counties of the first class.....$10,000
Counties of the second class.....$10,000
Counties of the third class, at the rate of fifty dollars ($50) per day for such race meeting.

When the meeting for which said license is granted has terminated, and the licensee has fully paid said four per cent of said money handled in said pools, the said sum so deposited with such application for a license shall be returned to said licensee; in the event said licensee fails, refuses or neglects to pay said four per cent of said money handled in said pools, the amount thereof shall be deducted from said sum so

deposited with such application for a license and the balance if any shall be returned to said licensee.

If by reason of any cause beyond control, and through no fault or neglect of any licensee, and when such licensee is not in default, it should become impossible for such licensee to hold or conduct racing upon any date or dates licensed by the board, the board in its discretion and at the request of such licensee shall have power to return the fees paid by such licensee for racing upon the days upon which it is impossible for such licensee to hold or conduct racing or to specify any other day or days which may replace the days omitted and to take their place. No deposit fee shall be required for horse race meetings conducted by a county fair or by a district agricultural association.

County fairs and district agricultural fairs exempt.

SEC. 2. Section 13 of the act cited in the title hereof is hereby amended to read as follows:

Stats. 1933, p. 2052.

Sec. 13. All fees, commissions, and other moneys received by the board shall be paid into the State treasury immediately upon receipt of the same and credited to a special fund hereby created, to be known as the "Fair and exposition fund." There is hereby appropriated annually out of said moneys the following: Twenty thousand dollars to the board to defray the expenses of the officers and employees provided for herein; one hundred twenty-five thousand dollars for the support of the California State Fair; one hundred twenty-five thousand dollars to the Los Angeles County fair; fifteen thousand dollars to the Sixth District Agricultural Association of the State of California, for the purpose of holding a permanent exposition and exhibition of all citrus products and of all of the industries and industrial enterprises, resources, and products of every kind and nature of the State of California, with a view of improving, exploiting, encouraging and stimulating the same, to which there shall never be any charge of admission, and for the support of the buildings and grounds and other property of the Sixth District Agricultural Association; of the balance of said moneys after all of the above deductions have been made, five per cent for payment to and use of those certain citrus fruit fairs defined in section 94 of the Agricultural Code, but not to district agricultural associations or county fairs, said sum to be apportioned between such citrus fruit fairs upon the basis of the population of the several counties in which such fairs are held, and if only one such fair is held, then it shall receive all of said sum; forty per cent of such balance for the encouragement of county, district or combined county and district agricultural fairs (exclusive of the Los Angeles County fair, the Sixth District Agricultural Association and such citrus fruit fairs) to be apportioned by and expended under the supervision of the Department of Finance in the manner and for the purpose prescribed by section 92 of the Agricultural Code and other applicable provisions of law, but no such county, district or combined county and district agricultural fair shall receive

Appropriations.

a sum greater than forty thousand dollars from the fair and exposition fund in any one year. If in any year said forty per cent of such balance is less than sixty per cent of the amount of said forty per cent of such balance in the year 1935, then during said year the apportionment to all fairs shall be made in the manner and upon the basis prescribed by section 13 of Chapter 769 of the Statutes of 1933 and by section 92 of the Agricultural Code. The balance of said moneys in said fund after all of the above deductions have been made is hereby transferred to the credit of the general fund in the State treasury and is hereby appropriated for the benefit of permanent improvements and support at State educational institutions devoted to agricultural and vocational training in animal husbandry and for the purpose of unemployment relief.

One-third of such funds is hereby appropriated, allocated and apportioned to the State Emergency Relief Administration for the relief of unemployment within the State of California; one-third of such funds is hereby appropriated, allocated and apportioned to the California Polytechnic School; and one-third of such funds is hereby appropriated, allocated and apportioned to the University of California.

The funds hereby appropriated, allocated and apportioned for the relief of unemployment within the State of California and for the benefit of the California Polytechnic School and the University of California are in addition to any other funds heretofore or hereafter appropriated for such purposes and for such institutions.

Stats. 1933, p. 2054

SEC. 3. Section 16 of the act cited in the title hereof is hereby amended to read as follows:

No local tax on county fairs or district agricultural association fairs.

Sec. 16. No license or excise tax or fee in excess of one hundred dollars ($100) for each racing day, except as provided in this act, shall be assessed or collected from any licensee by the State or by any town, district, city, township, village or any other body having the power to assess or collect a tax, license or fee; and no tax, license or fee shall be assessed or collected from any district agricultural association or any county fair conducting horse race meetings, except when such meetings are conducted for such district agricultural association or county fair by a private person, firm or corporation.

CHAPTER 516.

Stats. 1897, p. 254, amended.

An act to amend section 33 of the California Irrigation District Act relating to the payment of bonds and interest thereon.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1917, p. 764.

SECTION 1. Section 33 of the California Irrigation District Act is hereby amended to read as follows:

Sec. 33. Said bonds and the interest thereon shall, except as provided in section 32e hereof, be paid from revenue derived from an annual assessment upon the land within the district, and all the land within the district shall be and remain liable to be assessed for such payments as hereinafter provided. The board of directors shall have power to provide for a reserve fund to be used for the payment of interest on or principal of any outstanding bonds and any source or sources of revenue may by order of the board of directors with the approval of the California Districts Securities Com mission be irrevocably allocated to such reserve fund. Irrigation district bonds.

CHAPTER 517.

An act to amend section 804 of the Agricultural Code, relating to pears. Stats. 1933, p. 60

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 804 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 184.

804. Fresh pears shall be mature but not overripe, free from codlin moth larvae, mold, decay, black end, unsealed cuts, and skin breaks; and free from serious damage, due to hail, scab or other diseases, hard end, bruises, limb rubs, frost, codlin moth larvae or other insects. Pear standards

Damage to any one pear is not serious when it is caused by:

(a) Scab, unless the spots cover an aggregate area of more than one-half of an inch in diameter;

(b) Hail damage, unless it affects an aggregate area of more than one-half inch in diameter or is more than one-fourth of an inch in depth;

(c) Codlin moth larvae, unless it causes unhealed stings or holes, however superficial, well healed codlin moth stings are not serious;

(d) Thrip mark, blister mite or other superficial blemishes caused by insects, unless more than ten per cent of the surface of the fruit is affected or they cause a depression of more than one-fourth of an inch in depth;

(e) Other diseases, limb rubs, frost, bruises, or hard end, unless such defects cause a waste of more than ten per cent, by weight, of the individual pear.

Not more than ten per cent, by count, of the pears in any one container or bulk lot may be below these requirements, but not to exceed one-half of this tolerance shall be allowed for any one cause. Pears which fail to meet these requirements only because of serious damage caused by hail, shall be considered as complying with this standard, if the container in which they are packed or placed is plainly marked, on the Tolerance

outside of one end thereof, in letters not less than one-half inch in height, with the words "hail marked."

Uniformity in size.

Packed pears in any container shall be uniform in size which means in the case of pears which are two and three-fourths inches in diameter or larger a variation of not more than one-half of one inch in diameter, when measured through the widest portion of the cross-section, between the fruits in any one container and in the case of pears which are smaller than two and three-fourths inches in diameter, a variation of not more than three-eighths of one inch when so measured.

Bartlett pears.

Bartlett pears shall not be considered mature unless at the time of picking the average pressure test of not less than ten representative pears of the lot does not exceed twenty-three pounds. However, pears which at the time of picking show a yellowish green color, as indicated by the color chart prepared by the department, shall be considered mature regardless of the pressure test. The pressure test shall be determined by means of a fruit pressure tester measuring in pounds the force required to push a rounded plunger five-sixteenths of an inch in diameter into the flesh of the fruit to a depth of five-sixteenths of an inch, after the skin from the areas tested, but little of the underlying flesh, has been removed. Two such determinations are to be made on each specimen selected as a sample and the average of all individual readings from the sample shall be considered as the pressure test of the lot. Pressure test readings shall be made on opposite sides, and approximately at the widest portion of the cross-section of the fruit at right angles to the core. Sunburned or very highly colored areas shall be avoided in making pressure tests.

Markings on containers.

All containers of pears shall bear upon them in plain sight and in plain letters on one outside end: the name of the person who first authorized the packing of the pears, or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer; the name of the variety, if known, and when not known the words "unknown variety"; the size description when the pears are packed in the four basket crate or the count when wrapped and packed throughout, in straight side containers in uniform layers and rows.

In the case of the four basket crate the numerical description of the pack in the top layer of the baskets shall be used to designate size. When the count is used to designate the contents of the container a variation of four pears more or less than the number stated shall be allowed.

Standard containers.

Irregular containers

Pears, when packed, shall be in standard containers numbers 1A, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 26 or 27. Other size containers may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such container, in letters not less than one-half inch in height, "irregular containers."

CHAPTER 518.

An act to amend section 806 of the Agricultural Code, relating to plums and fresh prunes. Stats. 1933, p. 60.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 806 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p. 186.

806. Plums and fresh prunes shall be mature but not overripe, shall be free from insect injury which has penetrated or damaged the flesh, and from unsealed skin breaks or cuts, mold, brown rot, decay, and free from serious damage due to cuts, bruises, growth cracks, sunburn, hail, or other causes. Damage to any one plum or fresh prune is not serious unless it causes a waste of ten per cent, by weight, of the individual plum or fresh prune. Plum and prune standards.

Not more than ten per cent, by count, of the plums or fresh prunes in any one container or bulk lot may be below these requirements, but not to exceed one-half of this tolerance shall be allowed for any one cause. Tolerance.

Packed plums and fresh prunes shall not vary in size between the fruits, in any one container, more than one-fourth of an inch in diameter when measured through the widest portion of cross section.

All containers of plums and fresh prunes shall bear upon them in plain sight and in plain letters on one outside end: the name of the person who first authorized the packing of the plums and fresh prunes or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer; the name of the variety, if known, and when not known the words "unknown variety"; the size description when the plums and fresh prunes are packed in the four basket crate or the count when packed throughout, in a straight side container. Markings on containers.

In the case of the four basket crate the numerical description of the pack in the top layer of the baskets shall be used to designate size. When the actual count is used to designate the contents of the container, a variation of four plums or fresh prunes more or less than the number stated shall be allowed.

Plums and fresh prunes when packed shall be in standard containers numbers 1, 1A, 5, 6, 7, 8, 9, 12A, 14, 15, 16, 17, 18A, 22B, 24, 25, 26 or 27. Standard containers

Other size containers may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such containers, in letters not less than one-half inch in height, "irregular container." Irregular containers.

CHAPTER 519.

An act to amend section 1007 of the Civil Code, relating to title by prescription and adverse possession.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

1872 code.

SECTION 1. Section 1007 of the Civil Code is hereby amended to read as follows:

Adverse possession

1007. Occupancy for the period prescribed by the Code of Civil Procedure as sufficient to bar any action for the recovery of the property confers a title thereto, denominated a title by prescription, which is sufficient against all, but no possession by any person, firm or corporation no matter how long continued of any land, water, water right, easement, or other property whatsoever dedicated to or owned by any county, city and county, city, irrigation district, public or municipal corporation or any department or agency thereof, shall ever ripen into any title, interest or right against such county, city and county, city, public or municipal corporation, irrigation district, or any department or agency thereof or any agency created or authorized by the Constitution or any law of this State for the administration of any State school, college or university. The exemption of certain classes of governmental property is intended as a limitation and shall not be deemed to subject to the operation of this section any classes of governmental property which would not otherwise be subject thereto.

Public property.

CHAPTER 520.

An act making an appropriation to the Department of Agriculture.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Appropriation for egg standard enforcement.

SECTION 1. There is hereby appropriated out of any moneys in the State treasury not otherwise appropriated the sum of ten thousand dollars to be expended by the Department of Agriculture in accordance with law, for the enforcement of Articles 1 and 3 of Chapter 8 of Division 5 of the Agricultural Code, relating to eggs.

CHAPTER 521.

Stats. 1933, p. 60.

An act to add Chapter 2a to Division V of the Agricultural Code, to consist of sections 840, 841, 841.1, 842, 842.1,

842.2, 842.3, 842.4, 842.5, 843, 843.1, 843.2, 843.3, 844, 845, 845.1, and 845.2, inclusive, relating to the standardization of, and standards for, honey.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 2a is hereby added to Division V of the Agricultural Code, to consist of sections 840 to 845.2 inclusive, and to read as follows: New chapter

CHAPTER 2a. HONEY STANDARDS. Honey standards.

840. When used in this chapter: Definitions

(a) "Container" means any box, crate, chest, carton, barrel, keg or any other receptacle containing honey.

(b) "Subcontainer" means any "section box" or other receptacle used within a container.

(c) "Clean and sound containers" means containers which are virtually free from rust, stains or leaks.

(d) "Section box" means the wood or other frame in which bees have built a small comb of honey.

(e) "Pack," or "packing" or "packed," means the arrangement of all or a part of the subcontainers in any container.

(f) "Deceptive pack" means any container or subcontainer of honey which has, in any exposed surface, honey or honeycomb, so superior in quality, appearance, condition or in any other respect to that in the interior of the container or subcontainer, or the unexposed portion, as to materially misrepresent the contents. The pack shall be considered deceptive even though the honey in a container is virtually uniform in quality as defined in this chapter, when the outer or exposed surface is composed of honey which is not an accurate representation of the variation in quality of the honey in the entire container. Any pack shall be considered deceptive which is "slack-filled" unless the container is so marked, or which so closely approximates the size and appearance of any standard container as to tend to deceive and mislead the purchaser, even though such containers are marked with the proper net weight of the honey contained therein.

(g) "Slack-filled" means that the contents of any container occupy less than ninety-five per cent of the volume of the closed container.

(h) "Deceptive arrangement" or "deceptive display" means any lot or load, arrangement or display of honey which has in any exposed surface, honey which is so superior in quality, appearance or condition, or in any other respects, to any of that which is concealed or unexposed as to materially misrepresent any part of the lot, load, arrangement or display.

(i) "Mislabeled" means the placing or presence of any false or misleading statement, design or device upon, or in connec-

tion with, any container or lot of honey, or upon the label, lining, or wrapper of any such container, or any placard used in connection therewith, and having reference to such honey. A statement, design or device is false and misleading, when the honey to which it apparently or actually refers does not conform in every respect to such statement.

(j) "Placard" is any sign, label, or designation, other than an oral designation, used in connection with any honey as a description or identification thereof.

(k) "Honey" means the nectar of floral exudations of plants gathered and stored in the comb by honey bees (apis mellifica). It is laevo-rotatory, contains not more than twenty (20) per cent of water, not more than twenty-five (25) one hundredths of one per cent of ash, not more than eight (8) per cent of sucrose, its specific gravity is not less than 1.412, its weight not less than eleven (11) pounds, twelve (12) ounces per standard gallon of 231 cubic inches at sixty-eight (68) degrees Fahrenheit.

(l) "Comb honey" means honey in the comb.

(m) "Extracted honey" means honey which has been removed from the comb.

(n) "Crystallized honey" means honey which has assumed a solid form due to the crystallization of one or more of the natural sugars therein.

(o) "Honey dew" means (1) the saccharine exudation of plants or insects, other than nectareous exudations, gathered and stored in the comb by honey bees (apis mellifica) and (2) it is dextro-rotatory.

(p) "Foreign material" means pollen, wax particles, insects or other materials not deposited by bees.

(q) "Foreign honey" means any honey not produced within the State of California.

(r) "Agent" includes broker, commission merchant, auctioneer, solicitor, seller on consignment, and any other person acting upon the actual or implied authority of another.

Enforcement.

841. The director and the commissioners of each county of the State, their deputies and inspectors, under the supervision and control of the director shall enforce this chapter. The refusal of any officer authorized under this chapter to carry out the orders and directions of the director in the enforcement of this chapter is neglect of duty.

Sampling

The director may prescribe methods of selecting samples of lots or containers of honey, which shall be reasonably calculated to produce by such sampling fair representations of the entire lots or containers sampled; establish and issue official color charts depicting the color standards and requirements established in this chapter; and make such other rules and regulations as are necessary to secure uniformity in the enforcement of this chapter.

Any sample taken under the provisions of this chapter shall be prima facie evidence, in any court in this State, of the true

condition of the entire lot in the examination of which said sample was taken.

841.1. All enforcing officers may enter and inspect any place or conveyance within the county or district over which they have jurisdiction, where any honey is produced, stored, packed, delivered for shipment, loaded, shipped, being transported, or sold, and inspect all such honey and the containers thereof and equipment found in any such places or conveyances and take for inspection, such representative samples of the honey and such containers, as may be necessary to determine whether or not this chapter has been violated. Powers of enforcing officers.

All enforcing officers shall cause the prosecution of any person whom they know or have reason to believe to be guilty of violating any of the provisions of this chapter. Any enforcing officer may, while enforcing the provisions of this chapter, seize and hold as evidence all or any part of any pack, load, bulk lot, consignment or shipment of honey packed, delivered for shipment, loaded, shipped, or being transported, or sold in violation of this chapter, or any container of such product, as may in his judgment be necessary to secure the conviction of the party he knows or believes has violated or is violating any of the provisions of this chapter.

Any prosecution for the violation of any provision of this chapter may be made in any county where any part of the offense occurred. Any evidence taken by any enforcing officer in any county may be admitted in evidence in any prosecution in any other county. Venue.

842. It is unlawful to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport or sell any honey in bulk or in any container or subcontainer, which does not conform to the provisions of this chapter. Unlawful to sell honey in violation of provisions.

842.1. It is unlawful to prepare, pack, place, deliver for shipment, load, ship, transport, or sell a deceptive pack, lot, load, arrangement or display of honey. Deceptive pack.

842.2. It is unlawful to mislabel any container or subcontainer of honey or place any false or misleading statement on any wrapper, label, or lining of any container of honey, or on any placard used in connection with or having reference to any honey. Mislabeling.

842.3. It is unlawful to place or pack any honey in any container or subcontainer bearing any markings, or any designation of brand, quality, grade or other matter, unless all of such markings which do not properly and accurately apply to the product placed or packed therein have been removed, erased or obliterated. False markings on containers.

842.4. It is unlawful to move any honey, or containers of honey to which any warning tag or notice has been affixed, except under written permit from an enforcing officer or under his specific direction. Warning tags.

842.5. It is unlawful to refuse to submit any container, subcontainer, load, or display of honey to the inspection of any enforcing officer, or to refuse to stop any vehicle con- Inspection.

taining any honey, for the purpose of inspection by an enforcing officer.

Nuisance.

843. Any honey, packed, stored, delivered for shipment, loaded, shipped, or being transported or sold in violation of any of the provisions of this chapter and its containers, is a public nuisance, and shall be held by the person in whose possession such honey may be and shall not be moved from the place where it may be, except under the specific direction of a proper enforcing officer. The enforcing officer may affix a warning tag or notice to such nuisance. If, after notice of such violation is given to the packer or owner of such honey, or to the agent of such packer or owner, such person, so notified, refuses, or fails within twenty-four hours, to recondition or remark the same so as to comply with all requirements of this chapter, such honey and its containers may be seized by the director or any enforcing officer and by order of the justice's, municipal or superior court of the county, city, or township within which the same may be, shall be condemned and destroyed, or released upon such conditions as the court, in its discretion, may impose to insure that it will not be packed, delivered for shipment, shipped, transported, or sold in violation of this chapter. In case an agent is found in possession of such honey, notice of rejection or any order of the court concerning such honey may be served on such agent and need not be served on such packer or owner. It is unlawful to fail to comply with the directions of any officer relating to the disposition of such honey, or with any order of court respecting the same.

Seizure.

Condemnation.

Arrest.

843.1. Whenever any person is arrested for the transportation of honey in violation of this chapter, unless he demands the right to an immediate appearance before a magistrate, the arresting officer shall, upon production of satisfactory evidence of the identity of the person arrested, take his name and address, the number of his motor vehicle and such other information as may be necessary, and notify him in writing to appear at a time and place to be specified in such notice, such time to be at least five days after such arrest and such place to be before a magistrate of the township in which the offense with which the arrested person is charged is alleged to have been committed, or upon the demand of the person arrested, before a magistrate of the township in which is located the county seat of the county in which such offense is alleged to have been committed, whereupon such officer shall, upon the giving by such person of his written promise to appear at such time and place, forthwith release him from custody. However, in any county in which there is established a municipal court at the county seat thereof, the notice referred to herein may specify the appearance of the person arrested before any magistrate in the county.

Promise to appear

Refusal to promise to appear

Whenever any such person refuses to give his written promise to appear or demands an immediate appearance before a magistrate, he shall be taken forthwith before a

magistrate of the township in which the offense with which he is charged is alleged to have been committed. He shall then be entitled to at least five days continuance of his case in which to prepare to plead or to prepare for trial unless he waives such time in writing or in open court and gives his written promise to appear at such time and place as the court may fix for his further appearance or, if he refuses to give such promise, upon such bail as the court may fix and he shall thereupon be released from custody.

Violation of promise

Any person who wilfully violates his promise given in accordance with this section is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested. A promise to appear may be complied with by an appearance by counsel.

Markings on containers.

843.2. When any markings are used or required to be used by this chapter, on any container of honey to identify the container or describe the contents thereof, such markings must be plainly and conspicuously marked, stamped, stenciled, printed, labeled or branded in the English language in letters large enough to be readily discernible by any person, on the top, front, or side of any container. If the marking is on a placard used in display the placard must be placed or posted in such a position that there is no doubt as to the product it is to identify.

Duty of carriers

843.3. Any person, forwarding company, or common carrier may decline to ship or transport any honey when notified by any enforcing officer of this chapter, that such product is found to be delivered for shipment in violation of this chapter, and any such person, forwarding company, or common carrier may reserve the right, in any receipt, bill of lading or other writing given to the consignor thereof, to reject for shipment and to return to such consignor or hold at the expense and risk of the latter all honey, which upon inspection is found to be delivered for shipment in violation of this chapter.

Comb honey

844. Comb honey shall meet the requirements of and shall be classified, graded, packed and marked according to the grade, color, classification, packing and marketing requirements for comb honey specified in the United States Department of Agriculture grades, color standards and marking requirements for honey.

Comb honey which has crystallized shall be conspicuously marked with the word "crystallized" upon the container of honey or the label of any such container, or on a placard used in connection therewith having reference to such honey.

Markings on containers

All containers or subcontainers of honey shall be conspicuously marked with the name and address of the producer or distributor; the net weight of the honey in the container; and the grade designation. If the color of the honey is designated on the container or subcontainer or upon a placard having reference to such honey it must conform to the color definitions provided in this section. Any containers or subcontainers of honey imported from any Territory or foreign country shall be

labeled with the name of the Territory or country of origin.

Blended honey.

Any honey which is a blend of honey, any part of which is not produced in continental United States, must be labeled with the name of the Territory or country where produced. Any honey which is a blend of two or more types of honey shall be labeled with the term "blended honey" and shall not be labeled as a honey product from any particular floral source alone. No containers or subcontainers of honey shall be marked or labeled with the name "California" unless the honey is produced entirely within the State. Any "slack filled" container shall be conspicuously marked "slack filled."

Classes of honey.

The classes as to colors comprising the California standards, shall conform to the United States color standards, using the readings on the Pfund honey scale as follows:

White, from 1 to 34.
Extra light amber, below 34 to 50.
Light amber, below 50 to 85.
Amber, below 85 to 114.
Dark, below 114.

Crystallized honey.

When in crystallized form and any doubt as to color is expressed, a sample of the honey shall be liquified and the honey graded on the liquid basis. Any honey may, however, be designated as to color, by its millimeter reading on the Pfund scale and, if this reading is given, no other designation is required.

Extracted honey.

The grades for extracted honey shall be as follows: (1) California Fancy; (2) California No. 1; and (3) California No. 2.

California Fancy. The honey shall be free from damage and from scum. Density not less than 1.412 which equals a Baume reading of 42.30 or a weight of 11 lbs. 12 ozs. per gallon of 231 cubic inches at 68 degrees Fahrenheit.

The honey shall be completely liquid when being sold as "liquid honey." When in crystallized form it shall be uniformly granulated. It shall be at least as free from foreign material as honey that has been strained through standard bolting cloth of 86 meshes per inch.

California No. 1. The honey shall be free from damage. Density not less than 1.412 which equals a Baume reading of 42.30 or a weight of 11 lbs. 12 ozs. per gallon of 231 cubic inches at 68 degrees Fahrenheit. It shall be practically free from scum. When in granulated form it shall be uniformly granulated. In honey sold as "liquid honey" not more than five per cent of the honey shall be granulated. It shall be at least as free from foreign material as honey that has been strained through standard bolting cloth of 23 meshes per inch.

California No. 2. Shall consist of extracted honey which does not meet the requirements of either of the foregoing grades, but which is free from excessive foreign material and serious damage.

Nothing in these regulations shall preclude the use of a trade name or floral source on any container of honey, providing such names do not obscure the markings required in these regulations, that they are not deceptive, or that the names do not imply that the quality of the honey contained is better than that set forth in the sections on grades and colors and as marked on the containers. Where the floral flavor of the honey is stated on the container, the honey contained therein must be true to such flavor. Trade names and floral sources.

In order to allow for variations incident to proper grading and handling, not more than five per cent, by count, of the containers or of the subcontainers in any lot of honey may be below the requirements for the grade, but no part of this tolerance shall be allowed for defects causing serious damage. Tolerance

845. There are hereby established permissive standard containers for honey. The words "standard" or "standard container," shalll not be placed on any container unless such container conforms to the requirements specified herein for standard containers of honey. Containers.

The following are the sizes and names of the standard containers referred to:

5 gallon tin cans.
10 lb. tin cans or pails.
5 lb. tin cans or pails.
2½ lb. tin cans.
Glass bottle to hold 3 lbs. of honey.
Glass bottle to hold 2 lbs. of honey.
Glass bottle to hold 1½ lbs. of honey.
Glass bottle to hold 16 ozs. avoirdupois of honey.
Glass bottle to hold 12 ozs. avoirdupois of honey.
Glass bottle to hold 8 ozs. avoirdupois of honey.
Glass bottle to hold 5 ozs. avoirdupois of honey.

845.1. All honey which is not graded, and/or which is intended to be used in the State, in commercial processing, as for clarifying and packing in retail or wholesale containers, or for the manufacture of honey products for resale or which is being delivered to any person in the State, for grading, packing, processing, or reconditioning, is exempt from the provisions of this chapter. The containers of such honey must not bear any false or misleading statements, and such honey must not be deceptively packed. Ungraded honey.

The owner or person in possession of honey which is to be used or disposed of as provided in this section, must, on demand of any enforcing officer under this chapter, give to such officer a sworn statement in writing, made before a notary public, specifying that the honey will be disposed of as provided in this section, and the name and address of the person, to whom such honey is to be delivered, and an accurate identification of such honey. Within a reasonable time after the demand and receipt of such statement by the officer, a written receipt must be presented to the commissioner of the county specified in the statement as the destination of the honey, by

the person making the above mentioned statement. This receipt must contain a signed statement by the person receiving such honey, that such honey, giving an accurate description of it, has been received.

Penalty

845.2. The violation of any of the provisions of this chapter is a misdemeanor and punishable by a fine of not less than ten dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both.

CHAPTER 522.

An act to add a new section to the Political Code of the State of California, to be numbered 4041.27, authorizing boards of supervisors to provide for the creation and operation of a system of insurance for the benefit of physicians, nurses and other persons employed in county institutions and in county health departments, to procure group insurance for the benefit of such employees, and to provide for the payment of premiums therefor.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the Political Code of the State of California to be numbered 4041.27 and to read as follows:

Insurance of persons employed in county institutions

4041.27. Boards of supervisors in the respective counties shall have the jurisdiction and power to adopt a system of insurance for the benefit of physicians, nurses and any or all other persons employed in county institutions or county health departments, to purchase life, health and accident insurance for the benefit of such employees from insurance companies authorized to transact the business of such insurance in the State of California, and to pay from the general fund or salary fund of the county, as part of the compensation of such employees, the whole or any part of the premiums upon such insurance, and to deduct from the compensation of such employees and apply to the payment of such premiums that part thereof determined by such board of supervisors to be payable by such employee or employees.

CHAPTER 523.

An act to add a new section to the Political Code of the State of California, to be numbered 3719, authorizing the temporary borrowing of money by counties, cities and school districts upon the credit of revenue in course of col-

lection, and the issuing of tax anticipation notes or warrants as evidence of such indebtedness.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the Political Code of the State of California to be numbered 3719 and to read as follows:

County may borrow money in anticipation of revenues.

3719. When funds shall be needed for the immediate requirements of any county, any city or any school district in any fiscal year to pay obligations lawfully incurred in such fiscal year and before the receipt of income for such fiscal year sufficient to meet such payments, the board of supervisors of such county on the recommendation of the auditor and treasurer, or such school district on the request of two-thirds of the members of its governing board, approved by the auditor and treasurer of the county, and the legislative body of such city on the recommendation of the auditor and treasurer of such city, shall have power at any time subsequent to approval of the final budget of such county, city or school district and the levy of taxes for such fiscal year to borrow money on notes, tax anticipation warrants or other evidences of indebtedness on behalf of such county, city or school district in an aggregate amount not to exceed fifty per cent of the estimated income and revenue provided for such current fiscal year.

Four-fifths vote of supervisors required

All such notes, tax anticipation warrants or other evidences of indebtedness shall be issued only after the adoption by a four-fifths vote of all the members of the board of supervisors, or by a four-fifths vote of all members of the legislative body of such city, of a resolution setting forth the necessity for such borrowing and stating the amount of income and revenue provided for such county or for such city or for such school district for such current fiscal year. All such notes, tax anticipation warrants or other evidences of indebtedness shall be offered at public sale by the board of supervisors or legislative body of such city after not less than two days advertising in a newspaper of general circulation within the county, or within the city as the case may be and not less than five days after the last day on which such advertisement is published.

Sale of bonds, etc.

Each such sale shall be made to the bidder offering the lowest rate of interest or whose bid represents the lowest net cost to the county, city or school district; provided, however, that the rate of interest shall not exceed five per cent per annum. Such notes, tax anticipation warrants or other evidences of indebtedness shall be signed on behalf of the county or school district by the chairman of the board of supervisors, countersigned by the auditor and treasurer of such county, or on behalf of such city by its mayor, countersigned by the auditor and treasurer of such city. The repayment of any sum so borrowed pursuant to the authority of this section shall constitute

a first lien and charge against the taxes, revenue and other income collected during the fiscal year in which said money was borrowed and shall be repaid from the first moneys received from said taxes, revenue and income. All such notes, tax anticipation warrants or other evidences of indebtedness issued for funds borrowed prior to December 31 in any fiscal year shall be repaid not later than said December 31, and all other evidences of indebtedness for funds borrowed in any fiscal year shall be repaid not later than May 30 of such fiscal year, and no notes, tax anticipation warrants or other evidences of indebtedness shall be issued after December 31 in any fiscal year in the event that funds borrowed prior to said December 31 are not repaid prior to said date. It is the intention of this section that such loan shall be made solely for the purpose of anticipating receipt of income and shall be made solely upon the credit of income and revenue provided for the fiscal year in which said loans are made. The board of supervisors, the legislative body of each city, and the governing board of each school district may include in the respective budgets of the county, city or school district, separately stated amounts of anticipated disbursement to meet the interest to be paid on any funds borrowed under the authority of this section.

Legislative intent.

CHAPTER 524.

An act to amend section 702 of the Vehicle Code, relating to motor vehicles.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 525.

An act authorizing the State Franchise Tax Commissioner to destroy certain tax returns.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Destruction of tax returns after four years

Stats 1929, p 19.

SECTION 1. All returns for State taxation, made to and filed with the State Franchise Tax Commissioner under the provisions of an act entitled "An act to carry into effect the provisions of section 16 of article thirteen of the Constitution of the State of California, relating to bank and corporation taxes," approved March 1, 1929, shall be retained and kept on file by said commissioner for a period of four years from

the time of the receipt thereof, and after the elapse of said period may be destroyed in any manner that will not violate the provisions of section 35 of the Bank and Corporation Franchise Tax Act or the Constitution of this State. Stats. 1935, Ch. 276.

CHAPTER 526.

An act to amend sections 18 and 23 of the California Barber Law, relating to restrictions upon barber shops or colleges in this State. Stats. 1927, p 1748, amended.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 18 of the California Barber Law is hereby amended to read as follows: Stats. 1929, p. 610.

Sec. 18. Each of the following shall constitute a misdemeanor punishable upon conviction by a fine of not less than twenty-five dollars ($25), nor more than two hundred dollars ($200): Penalties for violation of barber law

(a) The violation of any of the provisions of section 1 of this act;

(b) Permitting any person in one's employ, supervision or control to practice as an apprentice unless that person has a certificate of registration as a registered apprentice;

(c) Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentations;

(d) Practicing or attempting to practice by fraudulent misrepresentations;

(e) The wilful failure to display a certificate of registration as required by section 13 of this act;

(f) The use of any room or place for barbering which is also used for residential or business purposes (except the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco, confectionery and such commodities as are used and sold in barber shops), unless a substantial partition of ceiling height separates the portion used for residential or business purpose.

(g) A violation of any of the provisions of subdivisions (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) and (k) of section 23 hereof;

(h) The wilful failure by any owner or manager of a barber shop to display the copy of section 23 hereof with rules and regulations as provided in section 13 hereof.

SEC. 2. Section 23 of the California Barber Law is hereby amended to read as follows: Stats. 1929, p 611.

Sec. 23. It shall be unlawful: Practices prohibited.

(a) For any barber or apprentice to knowingly continue the practice of barbering, or for any student knowingly to

Practices prohibited.

continue as a student in any school or college of barbering, while such person has an infectious, contagious or communicable disease;

(b) To own, manage, operate or control any barber shop unless continuously hot and cold running water be provided for therein;

(c) To own, manage, operate or control any barber school or college or part or portion thereof whether connected therewith or in a separate building wherein the practice of barbering as hereinbefore defined is engaged in or carried on unless all entrances to the place wherein the practice of barbering is so engaged in or carried on shall display a sign indicating that the work therein is done by students exclusively;

(d) To own, manage, control or operate any barber shop as hereinbefore defined unless the same display a recognized sign indicating that it is a barber shop, which said sign shall be clearly visible at the main entrance to said shop;

(e) To use upon one patron a towel that has been used upon another patron unless and until the towel has been relaundered.

(f) Not to provide the head rest on each chair with a relaundered towel or a sheet of clean paper for each patron;

(g) Not to place around the patron's neck a strip of cotton, towel or neck band so that the hair-cloth does not come in contact with the neck or skin of the patron's body;

(h) To use in the practice of barbering as hereinbefore defined, any styptic pencils, finger bowls, sponges, lump alum or powder puffs. Possession of a styptic pencil, finger bowl, sponge, lump alum or powder puff in a barber shop is prima facie evidence that the same is being used therein in the practice of barbering;

(i) To use on any patron any razors, scissors, tweezers, combs, rubber discs or parts of vibrators used on another patron, unless the same be kept in a closed compartment and immersed in boiling water or in a solution of two per cent carbolic acid, or its equivalent, before each such use.

(j) To operate or keep open any barber shop or college for more than six days in any one calendar week.

(k) To own, manage or operate or control any barber school or college or portion thereof whether connected therewith or any separate building wherein the practice of barbering is heretofore defined, engaged in or carried on, unless all entrances to the place wherein the practice of barbering is so engaged or carried on shall carry a sign indicating that the work therein is done by students exclusively.

The State Board of Barber Examiners shall have power to make other rules and regulations and prescribe other sanitary requirements in addition to the foregoing in aid or furtherance of the provisions of this act.

Any member of said board or its agents or assistants shall have authority to enter into and to inspect any barber shop or school or college at any time during business hours.

The board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension and revocation of certificates of registration. This record shall also contain the name, place of business and residence of each registered barber and registered apprentice and the date and number of his certificate of registration. This record shall be open to public inspection at all reasonable times.

Constitutionality.

SEC. 3. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

CHAPTER 527.

An act to amend sections 146 and 154 of the Vehicle Code, and to add sections 146.5, 180.5, and 371.5 to said Vehicle Code, all relating to vehicles previously registered outside this State, and the registration and transfer thereof within this State.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 528.

An act to amend section 274 of the Penal Code, relating to the crime of abortion.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

1872 code.

SECTION 1. Section 274 of the Penal Code is hereby amended to read as follows:

Administering drugs to produce miscarriage.

274. Every person who provides, supplies, or administers to any woman, or procures any woman to take any medicine, drug, or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless the same is necessary to preserve her life, is punishable by imprisonment in the State prison not less than two nor more than five years.

CHAPTER 529.

An act to add a new section to the Political Code to be numbered 3663c, relating to the correction of errors by the State Board of Equalization in assessments made by said board.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section to be numbered 3663c, is hereby added to the Political Code to read as follows:

Correction of defective assessment by Board of Equalization.

3663c. Defects in description or defects in form or clerical errors or omissions of the State Board of Equalization in any assessment required to be made by said board, when it can be ascertained from any assessment book or from the maps, block books, or other papers of said board, what was intended or what should have been assessed, may be supplied or corrected by the said board at any time within two years after said assessment was made, provided that where said change will increase the amount of taxes charged against the taxpayer, by reason of said assessment, the person so charged shall be given at least five days notice of the time when the matter will be heard by the State Board of Equalization, and he may at such time present any objections he may have to such change to said board, and their decision shall be final. The date and nature of every such correction shall be entered in the records of said board. Said board shall transmit a statement of the correction of such assessment to the auditor or other chief accounting officer of the county, city and county, city or town in which the property is located with respect to which the corrected assessment is made, and he shall enter such correction on the assessment book or roll of said county, city and county, city or town opposite said assessment, and the statement of the correction shall be filed by said auditor or other chief accounting officer and preserved by him as a public record, and he shall make the proper charges or credits in his account with the tax collector.

Assessment of property escaping taxation.

In the event of the failure or neglect of any person, partnership, joint stock association, company, corporation, or other taxpayer, whose property is required to be assessed by the State Board of Equalization, to return to said board for taxation any property between the first Monday of March and the first Monday of April of any year, such property, when discovered by the board to have escaped taxation for such year, if such property is in the ownership or under the control of the same company or other taxpayer who owned or controlled it on the first Monday of March, shall be assessed, and the said board shall transmit a statement of such assessment to the auditor or other chief accounting officer of the county, city and county, city or town in which the property is located

with respect to which the assessment is made, and he shall enter such assessment on the assessment book or roll of said county, city and county, city or town, and the statement of assessment shall be filed by said auditor or other chief accounting officer and preserved by him as a public record, and he shall make the proper changes or credits in his account with the tax collector. If personal property is discovered and assessed after the first day of December, a penalty equal to ten per cent of the tax shall attach to the tax so levied. The same procedure for notifying the auditor or other chief accounting officer of the county, city and county, city or town in which the personal property is located shall be followed by the board as prescribed above for other property.

Limitation of time.

The authority granted to the State Board of Equalization to assess property which has escaped taxation and to enter the same upon the assessment or tax roll of the year for which said property should have been assessed or taxed, shall be limited to a period of not more than two years from the date upon which the lien for taxes of such were attached, and the authority to seize and sell said property for the nonpayment of such taxes shall be extended for a like period of time. Property taxable under the provisions of section 3627a of the Political Code of the State of California is not subject to the provisions of this section.

Stats 1935, Ch 834

CHAPTER 530.

An act to add a new chapter to the Insurance Code, to be numbered Chapter 13 of Part 2 of Division 2 thereof, comprising sections 11525 to 11533, inclusive, relating to the voluntary mutualization of incorporated life insurers or life and disability insurers having a share capital and issuing nonassessable policies on a reserve basis.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 531.

An act to amend sections 1104, 1108 and 1147 of Chapter 8 of Division V of the Agricultural Code, relating to the administration of standards for eggs and egg products.

Stats 1933, p. 60.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1104 of the Agricultural Code is hereby amended to read as follows:

Stats. 1933, p. 245.

Sale of eggs.

1104. Every person selling to a retailer or manufacturer eggs other than those of his own production shall furnish an invoice or candling certificate showing the exact quality and weight specifications of such eggs according to the standard prescribed by this article. A copy of such invoice or candling certificate shall be kept on file by the seller and by the purchaser at their respective places of business for thirty days and shall be available for inspection at all reasonable times. No retailer or manufacturer shall be prosecuted under the provisions of this article if he can show a proper invoice or candling certificate from the person from whom the eggs are purchased, if said eggs have been labeled by the retailer for resale in accordance with the purchase invoice or candling certificate therefor. No retailer or manufacturer is exempt from prosecution who may have kept eggs, covered by an invoice or candling certificate, for such a time after purchase or under such conditions as to cause said eggs to deteriorate into a lower grade.

Stats. 1933, p. 247.

SEC. 2. Section 1108 of the Agricultural Code is hereby amended to read as follows:

Penalty.

1108. The violation of any provision of this article is a misdemeanor and punishable by a fine of not less than ten dollars nor more than fifty dollars; for the second offense a fine of not less than ten dollars nor more than one hundred dollars; for the third and any subsequent offenses a fine of not less than twenty-five dollars nor more than two hundred dollars. All fines shall be paid to the county treasurer of the proper county, who shall remit one-half thereof into the State treasury to the credit of the general fund.

Disposition of fines

Stats 1933, p 250.

SEC 3. Section 1147 of the Agricultural Code is hereby amended to read as follows:

Rules and regulations.

1147. The director and the county agricultural commissioners shall and the Department of Public Health, the other city, county and State officers may enforce the provisions of Articles 1 and 3 of this chapter; and the Department of Public Health shall enforce the provisions of Article 4 of this chapter. The Department of Agriculture and the Department of Public Health shall make and enforce all necessary rules and regulations in relation to those articles which each respectively must enforce.

CHAPTER 532.

An act to amend section 1881 of the Code of Civil Procedure, relating to privileged communications.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 1421.

SECTION 1. Section 1881 of the Code of Civil Procedure is hereby amended to read as follows:

1881. There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person can not be examined as a witness in the following cases: Privileged communications

1. A husband can not be examined for or against his wife without her consent; nor a wife for or against her husband, without his consent; nor can either, during the marriage or afterward, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, or for a crime committed against another person by a husband or wife while engaged in committing and connected with the commission of a crime by one against the other; or in an action brought by husband or wife against another person for the alienation of the affections of either husband or wife or in an action for damages against another person for adultery committed by either husband or wife. Husband and wife

2. An attorney can not, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment; nor can an attorney's secretary, stenographer, or clerk be examined, without the consent of his employer, concerning any fact the knowledge of which has been acquired in such capacity. Attorney and client

3. A clergyman, priest or religious practitioner of an established church can not, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs. Clergyman and confessor.

4. A licensed physician or surgeon can not, without the consent of his patient, be examined in a civil action, as to any information acquired in attending the patient, which was necessary to enable him to prescribe or act for the patient; provided, however, that either before or after probate, upon the contest of any will executed, or claimed to have been executed, by such patient, or after the death of such patient, in any action involving the validity of any instrument executed, or claimed to have been executed, by him, conveying or transferring any real or personal property, such physician or surgeon may testify to the mental condition of said patient and in so testifying may disclose information acquired by him concerning said deceased which was necessary to enable him to prescribe or act for such deceased; provided further, that after the death of the patient, the executor of his will, or the administrator of his estate, or the surviving spouse of the deceased, or if there be no surviving spouse, the children of the deceased personally, or, if minors, by their guardian, may give such consent, in any action or proceeding brought to recover damages on account of the death of the patient; provided further, that where any person brings an action to Physician and patient

recover damages for personal injuries, such action shall be deemed to constitute a consent by the person bringing such action that any physician who has prescribed for or treated said person and whose testimony is material in said action shall testify; and provided further, that the bringing of an action, to recover for the death of a patient, by the executor of his will, or by the administrator of his estate, or by the surviving spouse of the deceased, or if there be no surviving spouse, by the children personally, or, if minors, by their guardian, shall constitute a consent by such executor, administrator, surviving spouse, or children or guardian, to the testimony of any physician who attended said deceased.

Public officer.

5. A public officer can not be examined as to communications made to him in official confidence, when the public interest would suffer by the disclosure.

Journalist.

6. A publisher, editor, reporter, or other person connected with or employed upon a newspaper can not be adjudged in contempt by a court, the Legislature, or any administrative body, for refusing to disclose the source of any information procured for publication and published in a newspaper.

CHAPTER 533.

Stats 1909, p. 656, amended

An act amending section 3 of an act entitled: "An act to regulate contracts on behalf of the State in relation to the erection, construction, alteration, repair, or improvement of any State structure, building, road, or other State improvement of any kind, and to repeal an act entitled 'An act to regulate contracts on behalf of the State in relation to erections and buildings, approved March 28, 1876'," relative to bidding on public contracts.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p 2108.

SECTION 1. Section 3 of the act cited in the title hereof is amended to read as follows:

Contracts for public works

Sec. 3. Said Department of Public Works shall after the approval and filing of plans, specifications and estimates of cost, as in this act required, let such work by contract to the lowest responsible bidder or bidders upon public notice which shall be given as follows, except as otherwise provided in section 4 hereof. Notice of such work must be published once a week for at least two consecutive weeks, or once a week for more than two consecutive weeks if such longer period of advertising is deemed necessary by the Department of Public Works, next preceding the day set for the receiving of bids in two trade papers of general circulation, one published in Los Angeles and one in San Francisco, devoted primarily to the dissemination of contract and building news among con-

Notice.

tracting and building material supply firms or, in the discretion of the department, in one newspaper of general circulation published in the county in which such work or the major portion thereof is to be done, and in one such trade paper published in the county group, as defined in section 187 of the Streets and Highways Code, in which such work is to be done. In each case such notice must state the time and place for the receiving and opening of sealed bids and must also state that the bids will be required for the entire work and also, when advisable, for the performance of segregate parts of the entire work, such segregation to be determined by the Department of Public Works and designated in such notice.

CHAPTER 534.

An act to amend sections 223, 228, and 231 of and to add section 228.1 to the Agricultural Code, relating to bovine tuberculosis. Stats 1933, p 60

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 223 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 98.

223. The department may designate veterinarians, as approved veterinarians, to buy, possess or use tuberculin, and may suspend or revoke such designation. It is a misdemeanor punishable by imprisonment in the county jail for not less than ninety days, without alternative of a fine in any case, for any person other than an approved veterinarian to buy, possess, or use tuberculin. Possession of tuberculin.

SEC. 2. Section 228 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 99.

228. It is unlawful to:

(a) Obstruct, attack, or interfere with, or permit to be obstructed, attacked, or interfered with, the department or an approved veterinarian conducting a tuberculin test. Interference with tuberculin test.

(b) Neglect or fail to properly secure and restrain any bovine animal to be tuberculin tested, or under tuberculin test, for examination, injection, observation, or other procedures pertaining to a tuberculin test.

SEC. 3. Section 228.1 is hereby added to the Agricultural Code, to read as follows: New section

228.1. It is a misdemeanor punishable by imprisonment in the county jail for not less than ninety days, without the alternative of a fine in any case, to defeat or interfere with or to attempt to defeat or interfere with a tuberculin test by the use of chemicals, biological products or by any other similar means. Attempts to defeat test.

Stats. 1933, p. 99.

SEC. 4. Section 231 of the Agricultural Code is hereby amended to read as follows:

Branding of tubercular cattle.

231. Every reactor shall, immediately upon the determination of such reaction, be permanently branded on the left jaw by its owner or his agent, under the supervision of the approved veterinarian conducting the tuberculin test. The brand shall be the letter "T", not less than three (3) inches in length from top to bottom, and two (2) inches wide at the top.

CHAPTER 535.

An act to amend section 1370 of the Insurance Code, relating to the assets of reciprocal insurers.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 536.

An act to add section 3343 to the Civil Code, relating to damages in connection with fraud and deceit.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 3343 is hereby added to the Civil Code, to read as follows:

Measure of damages for fraud.

3343. One defrauded in the purchase, sale or exchange of property is entitled to recover the difference between the actual value of that with which the defrauded person parted and the actual value of that which he received, together with any additional damage arising from the particular transaction.

Nothing herein contained shall be deemed to deny to any person having a cause of action for fraud or deceit any legal or equitable remedies to which such person may be entitled.

CHAPTER 537.

An act to amend the title and section 1 of an act entitled "An act to enable counties to purchase, lease, obtain, hold, improve and maintain land for the uses and purposes of public parks and boulevards," approved May 31, 1929, relating to public boulevards.

Stats. 1929, p. 992, amended

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows:

Stats. 1929, p. 992

An act to enable counties to purchase, lease, obtain, hold, improve and maintain land for the uses and purposes of public parks.

Title amended

SEC. 2. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats. 1931, p. 199.

Section 1. Any county in this State may purchase or lease with the consent of the owner, or obtain by gift and hold, improve and maintain land for the uses and purposes of public parks.

County parks.

Nothing in this act shall affect the right of any county to acquire property within such county by proceedings in eminent domain in the manner prescribed by law.

CHAPTER 538.

An act to carry into effect the provisions of section 22 of Article XX of the Constitution of the State of California as added at the general election held on November 6, 1934, relating to the business of loaning money on pledges of personal property known as pawnbroking, and providing penalties for the violation hereof.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Every person, firm or corporation engaged in the business of receiving goods in pledge as security for a loan is a pawnbroker within the meaning of this act.

SEC. 2. It shall be a misdemeanor for any pawnbroker to charge or receive compensation at a rate in excess of three per cent per month on loans not exceeding three hundred dollars, or in excess of two per cent per month on loans in excess of three hundred dollars, except that a minimum charge of fifty cents per month may be made in any case where the monthly charge permitted by this section would otherwise be less than fifty cents.

Interest charges by pawnbrokers.

Retention of property pledged

SEC. 3. Every pawnbroker shall retain in his possession every article pledged to him, except clothing, wearing apparel, furs, trunks and suit cases, and articles of similar character, for a period of one year after the last date fixed by his loan contract for redemption. He shall keep such excepted articles for a period of six months after the last date fixed for redemption by his loan contract.

Redemption

The pledgor or his assigns may redeem the articles at any time during such period. If such article is not redeemed within the period thus allowed, the pawnbroker shall at the end of that period become vested with all right, title and interest of the pledgor or his assigns therein, to hold and dispose of as his own property. All provisions of law relating to pledges and foreclosure of pledges in conflict with this act shall not apply to pledges with pawnbrokers under this act. It shall be a misdemeanor for any pawnbroker to violate any provision of this section.

Charges permitted.

SEC. 4. As used herein "compensation" includes expenses, disbursements, storage charges and all other charges not herein specified of any nature in connection with the loan or forbearance.

Stats 1929, p 431.

SEC. 5. Sections 340 and 341, Penal Code, are hereby repealed.

Stats 1929, p 432, repealed

SEC. 6. Nothing in this act shall apply to any of the following, to wit:

Exemptions.

1. Any corporation organized for the purpose of securing credit from any Federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923," nor,

2. To any nonprofit cooperative corporations or associations with or without capital stock, organized or existing pursuant to the provisions of Chapter 4 of Division VI of the Agricultural Code of the State of California, nor,

3. To any person, corporation, association syndicate, joint stock company, or partnership, engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, live stock, poultry and bee products on a cooperative nonprofit basis.

CHAPTER 539.

Stats 1933, p. 60.

An act to add section 321.5 to the Agricultural Code, relating to meat inspection.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 321.5 is hereby added to the Agricultural Code to read as follows:

321.5. As used in this article, the term "meat" includes dressed rabbits and dressed poultry. Whenever rabbits and poultry are shipped or handled together, all accounts thereof shall be segregated as to each such item.

Dressed rabbits and poultry.

CHAPTER 540.

An act to amend an act entitled "An act to amend section 11 of "The California Districts Securities Commission Act," relating to the levy of annual assessments by irrigation districts, providing that said section shall remain in effect until November 1, 1937, and declaring this act an emergency measure enacted under the police power, approved April 8, 1935, by adding a new section thereto to be numbered section 3, relating to refunding bonds of irrigation districts issued pursuant to a plan or readjustment confirmed in any proceedings under the Federal Bankruptcy Act, and authorizing the levy of assessments in accordance with the terms of such refunding bonds.

Stats 1931, p. 2263
Stats 1935, Ch. 36

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section to be numbered section 3 is hereby added to the act cited in the title to read as follows:

Stats 1935, Ch. 36.

Sec. 3. Nothing in this act contained shall be applicable to refunding bonds of any irrigation district issued under or pursuant to a plan of readjustment submitted to and confirmed by any United States District Court in any proceedings under the Federal Bankruptcy Act, as amended, and such refunding bonds shall be payable, as to both principal and interest, from assessments levied and collected in accordance with the terms of said bonds and the plan of readjustment pursuant to which the same are or are to be issued, anything in this act to the contrary notwithstanding.

Refunding bonds of irrigation districts under readjustment plan.

CHAPTER 541.

An act authorizing the Director of Natural Resources to receive and hold land for future development for forestry purposes, to manage such land and dispose of the products thereof, and providing for the distribution of revenue therefrom, and to acquire land for development for State forestry purposes.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Whenever it appears to be to the best interest of the State, the Director of Natural Resources, upon behalf of

Acceptance by State of forest lands.

and in the name of the State of California, with the approval of the Director of Finance, is hereby authorized to accept gifts, donations or contributions of forest lands from the United States government or any private person, firm or corporation. The terms "forest land" and "State forests," as used herein, include the areas suitable for timber production, outdoor recreation, water protection, and fish and game production.

Development.

SEC. 2. When such lands are accepted as gifts, donations or contributions under section 1 of this act, the Director of Natural Resources is hereby authorized to make expenditures from funds appropriated for the support of the Department of Natural Resources or the Division of Forestry, and not otherwise allocated, for the management, development and utilization of said properties.

Director of Natural Resources may execute instruments.

SEC. 3. The Director of Natural Resources is hereby authorized and directed, with the approval of the Governor, to promulgate such rules and regulations as may be necessary or desirable to effectuate the purposes of this act, and whenever it appears to be to the best interests of the State, with the approval of the Director of Finance, is hereby authorized and empowered to execute any and all instruments in the name of and upon behalf of the State of California for the purpose of making an exchange of any lands so acquired for lands of the United States government lying within the exterior boundaries of the State of California.

CHAPTER 542.

Stats. 1933, p. 394.

An act to add section 798.7 to the Fish and Game Code, relating to abalones.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 798.7 is hereby added to the Fish and Game Code to read as follows:

Abalones in district 2½.

798.7. In district 2½ not more than ten abalones per day may be taken. Not more than one daily bag limit of abalones may be possessed by any person during one day, except that any person conducting a market or restaurant where abalones are sold to the pubic may possess any number of lawfully taken abalones.

CHAPTER 543.

An act to amend section 870 of the Agricultural Code, relating to the standardization of canned foods. Stats 1933, p. 60.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 870 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 215.

870. There shall be no false or misleading marking or designation on any container of canned fruit, vegetables or ripe olives. The label covering the walls of a container of olives, except when packed in clear glass, shall show a cut or imprint representing the approximate size of the fruit, followed by a statement of the approximate number of olives contained in the can, in addition to any other marking or wording on the label. Markings on canned fruit, vegetables and olives.

As to canned ripe olives packed after October 1, 1933, when the following size-names are used, the count per pound, as determined by the examination of a representative sample of the olives taken at random from the container, is hereby established as follows:

"Small," "Select," or "Standard(s)"—averaging 135 to the pound. Olive standards.

"Medium"—averaging 113 to the pound.

"Large"—averaging 98 to the pound.

"Extra Large"—averaging 82 to the pound.

"Mammoth"—averaging 70 to the pound.

With a tolerance above or below of seven and one-half per cent by count, except that "Small," "Select," or "Standard(s)" shall not count less than an average of 128 or more than an average of 140 to the pound.

"Giant"—averaging 53 to 60 to the pound, with no tolerance.

"Jumbo"—averaging 46 to 50 to the pound, with no tolerance.

"Colossal"—averaging 36 to 40 to the pound, with no tolerance.

"Super-Colossal"—not to exceed 32 to the pound, with no tolerance.

In determining such count, the sample shall be weighed so as to determine the weight thereof by pounds, ounces and fractions of an ounce.

CHAPTER 544.

An act to amend section 1 of an act entitled "An act fixing the price, terms and conditions of sale at which jute goods shall be sold by the State, and providing for prosecution Stats 1927, p. 1068, amended.

of and punishment of offenses under the same," approved May 19, 1927, relating to the price for the sale of jute bags.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p. 555.

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Sale of jute goods by Board of Prison Directors.

Section 1. It shall be the duty of the State Board of Prison Directors from time to time to fix the price, and to give public notice of the same, at which jute goods shall be sold by the State which price so fixed shall not be more than one and one-half cents per bag in excess of the net cost of producing the same exclusive of the labor of prisoners and guards. Notice of the price fixed shall be given by publication in at least three newspapers of general circulation, printed and published as follows, to wit: one in Sacramento Valley, one in San Joaquin Valley and one in the Salinas Valley. Between the first day of October of each year and the first day of April of the following year jute bags shall be sold only to consumers thereof. At other times, if a surplus of said jute bags remain unsold, they may be sold to anyone in such quantities and at such prices as the Board of Prison Directors in their discretion may deem proper.

CHAPTER 545.

An act to amend sections 376a and 376b of the Political Code, relating to the Department of Penology.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1929, p. 350.

SECTION 1. Section 376a of the Political Code is hereby amended to read as follows:

Director of Penology

376a. The department shall be conducted under the control of an executive officer to be known as the Director of Penology, which office is hereby created. The Governor shall appoint the director and select him from the chiefs of the divisions of the department the person so appointed to hold the office of director at the pleasure of the Governor. He shall be a member of the Governor's Council and shall give such time as may be necessary for the performance of the duties of the director of the department. He shall receive no salary but shall receive his actual and necessary traveling expenses incurred in the performance of his duties. The director, before entering upon the duties of his office, shall execute an official bond to the State of California in the penal sum of

Expenses.

Bond.

fifteen thousand dollars conditioned upon the faithful performance of his duties.

SEC. 2. Section 376b of the Political Code is hereby amended to read as follows: Stats 1929, p. 350.

376b. For the purpose of administration, the department shall be forthwith organized by the director in such manner as he shall deem necessary and proper to conduct the work of the department, and shall be divided into five divisions as follows: Organization of department

1. Prisons and paroles. The Division of Prisons and Paroles which shall be administered by the State Board of Prison Directors, and the chairman of said board, who shall also be known as chief of the division: Prisons and Paroles

2. Criminal identification and investigation. The Division of Criminal Identification and Investigation, which shall be administered by the Superintendent of the Bureau of Criminal Identification and Investigation, who shall also be known as the chief of the division, and who shall be a member of the Advisory Pardon Board, to serve thereon in lieu of the Director of the Department of Penology; Criminal Identification and Investigation

3. Pardons and commutations. The Division of Pardons and Commutations which shall be administered by the chairman of the advisory pardon board, who shall also be known as the chief of the division; Pardons and commutations.

4. Narcotics. The Division of Narcotic Enforcement which shall also be administered by the Chief of the Division of Narcotic Enforcement who shall also be known as chief of the division. Narcotics

5. Criminology. The Division of Criminology which shall be administered by the chairman of the California Crime Commission, who shall also be known as chief of the division. Criminology.

CHAPTER 546

An act to amend sections 105, 109 and 111 of the Vehicle Code, relating to the Department of Motor Vehicles.

[Approved by the Governor July 15, 1935 In effect September 15, 1935]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 547.

Stats. 1933, p. 394.

An act to amend section 378 of the Fish and Game Code and to add thereto section 375.5, relating to migratory bird reservations.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 375.5 is hereby added to the Fish and Game Code to read as follows:

Migratory bird reservations exempt from taxation.

375.5. The property acquired by the United States under the provisions of section 375 shall be released and exempt from all State, county and municipal and irrigation and other district taxes and assessments or other charges which may be imposed under the laws or authority of this State as soon as title thereto is acquired.

Stats. 1933, p. 434.

SEC. 2. Section 378 of the Fish and Game Code is hereby amended to read as follows:

Condemnation of land by United States for migratory bird reservations.

378. The people of the State of California, through their legislative authority, also consent to the declaration, withdrawal or determination of any part of any National forest or power site, and do further consent to the condemnation of any lands lying and being below an elevation known and described as minus two hundred thirty foot elevation below sea level, as a migratory bird reservation under any of the provisions of said act of Congress.

CHAPTER 548.

Stats. 1933, p. 60.

An act to add a new article to the Agricultural Code, to be numbered Article 5, Chapter 1, Division 3, relating to horse, mule, burro and sheep marks and brands.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New article.

SECTION 1. A new article is hereby added to the Agricultural Code to be numbered Article 5, Chapter 1, Division 3, and to read as follows:

Article 5. Horse, Mule, Burro and Sheep Marks and Brands.

380.50. The director shall enforce this article and make such rules and regulations as may be necessary therefor.

Horse, mule, burro and sheep brands

380.51. Any owner of horses, mules, burros or sheep within this State may record with the director a brand to be used by such owner in branding horses, mules, burros or sheep. No brand shall be recorded which is identical with or similar to

any brand previously recorded, except upon permission of the director.

380.52. Two dollars shall be paid the director for the recordation of any brand from the time of recording until the first day of the following January. For each successive year, the owner shall pay one and one-half dollars annually to the director for renewal of such recordation. Fee.

380.53. No person shall operate an establishment in this State for the purpose of slaughtering horses, mules or burros unless he has procured from the director a license to carry on such business, and executed a bond to the State in the sum of one thousand dollars, to be approved by the director, conditioned that such person shall not slaughter, sell or expose for sale any horses, mules or burros, or the meat thereof, without first being the owner thereof, or being authorized to do so by the owner, and that in case he shall slaughter any horses, mules or burros without being the owner or so authorized by the owner, he shall, in addition to all other statutory penalties, pay therefor double the value of such animal. All amounts recovered on said bonds shall be paid as follows: one-half to the owner of such animal and the remaining one-half to the Department of Agriculture fund to be used for the purpose of carrying out this article. Slaughter of horses, mules and burros. Bond.

380.54. The director shall grant to every applicant who complies with the provisions of this article and the rules and regulations promulgated for its enforcement, a license to operate such establishment for the balance of the current calendar year. Said applicant shall pay to the director for such license an annual fee of twenty-five dollars. Such license shall be renewed on or before the first day of each succeeding year. License.

380.55. The director may inspect horses, mules or burros at the place of slaughter prior to slaughter. Inspection.

380.56. Every licensed slaughterer of horses, mules or burros shall keep on file in his office for ninety days after slaughter, the original bill of sale of such animals, purchased and slaughtered by him. Records

380.57. Every licensed slaughterer of horses, mules or burros shall at the end of each calendar month mail to the director a written report stating the total number of horses, mules or burros slaughtered during the preceding month, showing the number of horses, mules or burros, the number slaughtered on each date; from whom purchased; the date of purchasing; and the brands on branded horses, mules or burros. Reports.

380.58. The director may revoke a license for a wilful violation of any of the provisions of this article, after notice to the interested party and a hearing, and a license so revoked shall not be reissued except upon the payment of a renewal fee of twenty-five dollars. Revocation of license.

380.59. No person shall sell, give away, deliver, transport, buy, accept or receive the hide of any branded horse, mule or burro within thirty days after the same has been removed, Sale of hides.

unless such hide shall have been inspected and released by the director.

Bill of sale. 380.60. No person shall buy or sell a horse, mule, burro or sheep, the carcass of any such animal from which the hide or skin has not been removed, or the hide or skin thereof, unless the seller give, and the buyer receive, at the time of delivery of such animal, carcass or hide, a written bill of sale, giving the number, kind and brand or brand and marks of each such hide, skin, carcass or animal, signed by the party giving the same and two subscribing witnesses who have been freeholders of the county for at least two years. No witness shall be necessary if each of the parties is known to the other to have been freeholders of the county for at least two years immediately preceding the date of sale.

License to transport. 380.61. It is unlawful for any person who buys horses, mules or burros for transportation for sale or slaughter, to receive the same for transportation or to transport the same, without having first procured from the director a license to do so. Any applicant for such license shall file with the director a written application stating his name, present address and addresses for the preceding three years, the county or counties in which he proposes to carry on said business, and the certificate of two reputable citizens who have been residents for at least two years of the county in which the applicant resides, certifying to the good moral character of the applicant. The director shall receive for issuing such license a fee of twelve dollars per year, payable quarterly in advance. Every person holding such a license must on or before the tenth day of each month file with the director a statement showing from whom he purchased horses, mules or burros, where he received them, to whom he sold them, to whom and when he delivered them, and a general description showing the brands and marks, or natural marks on, and the age, weight, sex, color of such animals.

Application.

Fee.

Report

Inspection of conveyances 380.62. Any agent of the department, or any peace officer, may stop any truck which is transporting horses, mules, burros or sheep, carcasses of the same with hides or skins on, or the hides or skins thereof on any public thoroughfare, for the purpose of making an investigation and take possession of horses, mules, burros or sheep, carcasses of the same with hides or skins on, or hides or skins being transported and hold the same for thirty days pending an investigation. Any expense incurred thereby shall be paid by the owner. The cost of caring for such property so held shall be a lien upon the property. Such lien may be enforced in the manner prescribed in section 3052 of the Civil Code.

Report to Controller. 380.63. The director at least once each month, shall report to the State Controller the total amount of moneys collected for fees, penalties, judgments or otherwise, and at the same time shall pay into the State treasury the entire amount of such receipts, which shall be credited to the Department of

Agriculture fund and expended in carrying out the provisions of this article.

380.64. The director shall, within thirty days prior to the regular session of the Legislature, submit to the Governor a full and true report of transactions under this article during the preceding biennium, including a complete statement of receipts and expenditures during the period. Report to Governor.

380.65. A civil action may be brought by the director to recover any fee, penalty or other money that may become due under this article. Suit for fees or penalties

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CHAPTER 549.

An act to amend sections 781, 783, 784, 785, 787, 788, and 822 and to add sections 784.1, 784.2, 784.3, 784.4, 784.5, 784.6 and 784.7 to the Agricultural Code, relating to fruits, nuts and vegetables. Stats 1933, p. 60.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 781 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 168.

781. As used in this chapter:

(a) "Container" means any box, crate, lug, chest, basket, carton, barrel, keg, drum, sack, or other receptacle. Definitions

(b) "Subcontainer" means any container when being used within another container.

(c) "Closed container" means any container the contents of which are hidden or partially hidden from view by a cover or wrapping of any kind.

(d) "Pack," "packing," or "packed" means the regular compact arrangement of all or part of the fruit or vegetables in any container or subcontainer.

(e) "Deceptive pack" means any container or subcontainer which has in the outer layer or any exposed surface, fruits, nuts or vegetables which are in quality, size, condition, or in any other respect so superior to those in the interior of the container or subcontainer or in the unexposed portion as to materially misrepresent the contents. Such pack is deceptive when the outer or exposed surface is composed of products whose size is not an accurate representation of the variation of size of the products in the entire container, even though the fruits, nuts or vegetables in the container are virtually uniform in size or comply with the specific commodity size variation requirements of this chapter.

(f) "Deceptive arrangement" or "deceptive display" of fresh or dried fruits, nuts or vegetables means any bulk lot or load, arrangement or display of such products which has in the exposed surface, fresh or dried fruits, nuts or vege-

tables which are so superior in quality, size, condition, or in any other respect so superior to those which are concealed, or the unexposed portion, as to materially misrepresent any part of the bulk lot or load.

(g) "Fruits, nuts, or vegetables" means the food product of any tree, vine or plant.

(h) "Mature," except when otherwise specifically defined, means having reached that stage of ripeness which will insure the proper completion of the ripening process after the removal of the product from the tree, plant or vine.

(i) "Overripe" means having reached an advanced state of maturity which causes the product to be undesirable or inedible in a fresh state.

(j) "By product" means any product commercially processed, preserved or manufactured from fruits, nuts or vegetables, except fresh citrus fruit juices, with or without the addition of other ingredients.

(k) "Processing," "preserving," or "manufacturing" includes canning, preserving, fermenting, which materially alters the flavor, keeping quality, or any other property, and extracting of juices or other substances, and making of any substantial change of form, but does not include refrigeration at temperatures above the freezing point nor any other treatment which merely retards or accelerates the natural processes of ripening or decomposition.

(l) "Agent" includes broker, commission merchant, auctioneer, solicitor, seller on consignment, and any other person acting upon the actual or implied authority of another.

(m) "Mislabel" means the placing or presence of any false or misleading statement, design, or device, upon any container, or upon the label or lining of any such container, or upon the wrapper of any fresh or dried fruit, nut or vegetable, or upon any fruit, nut or vegetable, or upon any placard used in connection therewith and having reference to such fresh or dried fruits, nuts or vegetables. A statement, design or device is false or misleading, when the fresh or dried fruit, nut or vegetable, or container to which it apparently or actually refers, does not conform in every respect to such statement.

(n) A "bulk lot" or "bulk load" of any fresh or dried fruit, nut or vegetable is any one group of specimens of such product which is not in a container and which is set apart or is separate from any other group or groups.

(o) A "placard" is any sign, label, or designation other than an oral designation used in connection with any fresh or dried fruit, nut or vegetable as a description or identification thereof.

(p) "Cross section" means the section of the fruit or vegetable taken at a right angle to a straight line drawn from the stem end to the distal end thereof.

Stats 1933, p 171.

SEC. 2. Section 783 of said act is hereby amended to read as follows:

783. All enforcing officers may enter and inspect any place or conveyance within the county or district over which they have jurisdiction, where any fresh or dried fruits, nuts or vegetables are produced, stored, packed, delivered for shipment, loaded, shipped, being transported, or sold, and inspect all such fresh or dried fruits, nuts and vegetables and the containers thereof and equipment found in any such places or conveyances and take for inspection, such representative samples of the produce and such containers, as may be necessary to determine whether or not this chapter has been violated. Authority of enforcing officers.

All enforcing officers shall cause the prosecution of any person whom they know or have reason to believe to be guilty of violating any of the provisions of this chapter. Any enforcing officer may, while enforcing the provisions of this chapter, seize and hold as evidence all or any part of any pack, load, bulk lot, consignment or shipment of fresh or dried fruits, nuts or vegetables packed, delivered for shipment, loaded, shipped, or being transported, or sold in violation of this chapter, or any container of such product, as may in his judgment be necessary to secure the conviction of the party he knows or believes has violated or is violating any of the provisions of this chapter.

Any prosecution for the violation of any provision of this chapter may be made in any county where any part of the offense occurred. Any evidence taken by any enforcing officer in any county may be admitted in evidence in any prosecution in any other county. Venue

The commissioner of each county, his deputies and inspectors holding valid certificates of eligibility for the office to which they have been appointed, are hereby authorized upon request to issue certificates stating that the fruits, nuts or vegetables inspected meet all of the requirements of this chapter or the requirements of the State or country of intended destination other than this State. Certificates of compliance

The board of supervisors of the county may at their option establish a schedule of fees for such certificates to be paid by owners, shippers or other interested parties requesting such certificates The schedule of fees established for such certificates shall be based upon the approximate cost of the inspection necessary to determine that the fruits, nuts or vegetables have met such requirements. In no case shall the maximum charge for each certificate on any one consignment, shipment or bill of lading consisting of ten or less separate packages, parcels, boxes, crates or other containers on an inspection made at one time and place exceed twenty-five cents and in no other case fifty cents for each certificate except for certificates on truck load or carlot inspections. Fees.

SEC. 3. Section 784 of said act is hereby amended to read as follows: Stats. 1933, p. 171.

784. It is unlawful to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport or sell any fruits, nuts and vegetables in bulk or in any container or sub- Fruits, nuts and vegetables must conform to code.

container, which do not conform to the provisions of this chapter.

New section. SEC. 4. Section 784.1 is hereby added to said act to read as follows:

Deceptive pack or display. 784.1. It is unlawful to prepare, pack, place, deliver for shipment, load, ship, transport, or sell a deceptive pack, bulk lot, bulk load, load, arrangement, or display of fresh or dried fruits, nuts, or vegetables.

New section. SEC. 5. Section 784.2 is hereby added to said act to read as follows:

Mislabeling. 784.2. It is unlawful to mislabel any fruit, nut, or vegetable, or place any false or misleading statement on any wrapper or container, on the label or lining of any container of any fresh or dried fruit, nut, or vegetable, or on any placard used in connection with or having reference to any fresh or dried fruit, nut, or vegetable.

New section. SEC. 6. Section 784.3 is hereby added to said act to read as follows:

Misbranding. 784.3. It is unlawful to place or pack any fruit, nut, or vegetable in any container or subcontainer bearing any markings, or any designation of brand, quality, grade or other matter, unless all of such markings which do not properly and accurately apply to the products placed or packed therein have been removed, erased, or obliterated. It is unlawful to sell, purchase, or use any container or subcontainer of fruits, nuts, or vegetables which bears a trade mark or trade name unless such trade mark or trade name is obliterated or effaced, except where the purchaser or user is entitled to use such trade mark or trade name.

New section. SEC. 7. Section 784.4 is hereby added to said act to read as follows:

Warning tags. 784.4. It is unlawful to move any fruits, nuts or vegetables, or their containers to which any warning tag or notice has been affixed, except under written permit from an enforcing officer or under his specific direction.

New section. SEC. 8. Section 784.5 is hereby added to said act to read as follows:

Count in all layers must be same. 784.5. Except as otherwise provided, it is unlawful to pack any fruits, nuts, or vegetables in layers in containers having straight sides, unless there is approximately the same numerical count in each layer. All fruits, nuts, or vegetables when packed must be so tightly packed that they will not move in the container.

New section. SEC. 9. Section 784.6 is hereby added to said act to read as follows:

Unexposed commodities to be described on container. 784.6. It is unlawful to pack any dried fruits, or mixtures of dried fruits, with nuts, glazed fruits or confections in a fancy pack if the exposed portion does not consist of the same kinds or mixtures of dried fruits, nuts, glazed fruits or confections as in the unexposed portion of the contents of the container, unless the container is conspicuously marked on the

top thereof with a label accurately describing the kinds of such dried fruits or nuts contained in the unexposed portions.

SEC. 10. Section 784.7 is hereby added to said act to read as follows: New section.

784.7. It is unlawful to refuse to submit any container, sub-container, load, or display of fruits, nuts, or vegetables to the inspection of any enforcing officer, or to refuse to stop any vehicle containing any fruits, nuts, or vegetables, for the purpose of inspection by an enforcing officer. Refusal to submit to inspection

SEC. 11. Section 785 of said act is hereby amended to read as follows: Stats 1933, p 172.

785. Any fruits, nuts or vegetables, packed, stored, delivered for shipment, loaded, shipped, or being transported or sold in violation of any of the provisions of this chapter and their containers, are public nuisances, and shall be held by the person in whose possession they may be and shall not be moved from the place where they may be, except under the specific direction of a proper enforcing officer. The enforcing officer may affix a warning tag or notice to such nuisance. If, after notice of such violation is given to the packer or owner of such fruits, nuts or vegetables, or to the agent of such packer or owner, such person, so notified, refuses, or fails within twenty-four hours, to recondition or remark the same so as to comply with all requirements of this chapter, such fruits, nuts or vegetables and their containers may be seized by the director or any enforcing officer and by order of the justice's, municipal or superior court of the county, city, or township within which the same may be, shall be condemned and destroyed, or released upon such conditions as the court, in its discretion, may impose to insure that they will not be packed, delivered for shipment, shipped, transported, or sold in violation of this chapter. In case an agent is found in possession of such fruits, nuts or vegetables, notice of rejection or any order of the court concerning such fruits, nuts or vegetables may be served on such agent and need not be served on such packer or owner. It is unlawful to fail to comply with the directions of any officer relating to the disposition of such fruits, nuts or vegetables, or with any order of court respecting the same. Nonstandard commodities are nuisance. Seizure. Compliance with orders.

SEC. 12. Section 787 of said act is hereby amended to read as follows: Stats 1933, p. 173.

787. When any markings are used or required to be used by this chapter, on any container of any fruits, nuts, and vegetables to describe the contents thereof, such markings, with the exception of net weight, must be plainly and conspicuously marked, stamped, stenciled, printed, labeled or branded on one end of each box, lug, or carton, and either on one side or the top cover of each basket, barrel, or other similar containers. The designation of grade shall be stated in letters of not less than one-half inch in height. If the marking is on a placard used in display the placard must Markings on containers

be placed or posted in such a position that there is no doubt as to the product it is to identify.

Stats. 1933, p. 173.

Federal requirements control.

SEC. 13. Section 788 is hereby amended to read as follows:

788. Nothing in this chapter shall be construed to conflict with any California or Federal laws or regulations regarding net weight or other markings on containers or subcontainers.

Stats. 1933, p. 197.

Containers of apples.

SEC. 14. Section 822 of said act is hereby amended to read as follows:

822. All containers of apples shall bear upon them in plain sight and in plain letters on one outside end: the name of the person who first authorized the packing of the apples or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer; name of variety, if known, and when not known the words "unknown variety"; the grade of the apples therein contained; the date when such apples were first packed, or if repacked, the date of repacking; and on each container of apples which has been held in cold storage for more than thirty days after being packed, a statement of the fact that the contents have been held in cold storage; the minimum net weight of the apples contained therein, or the cubical contents of the package, and in the case of wrapped packed apples the numerical count. A variation of five apples, more or less, than the number stated, shall be allowed. Open containers of apples which are not packed shall be required to show only the name and address of the person who first packed or authorized the packing of the apples, and the designation of grade.

United States standards.

In lieu of the standard grade markings required by this section any container of apples may be marked with the name of the equivalent grade established for such apples in the United States standards for apples promulgated by the United States Department of Agriculture and approved by the director.

CHAPTER 550.

An act to amend section 5.63 of the School Code, relating to admission of nonresident students to State teachers colleges.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 2707.

SECTION 1. Section 5.63 of the School Code is hereby amended to read as follows:

Nonresident students in teachers colleges. Fees.

5.63. Any person submitting evidence of proper qualifications and not a resident of the State of California may be admitted to a State teachers college upon payment of the nonresident tuition fee. Each such nonresident student is required to pay a tuition fee of seventy-five dollars for the first semester or part of a semester for which he registers; and a fee of thirty-seven dollars and fifty cents for each semester

attended consecutively thereafter. In any State teachers college in which the school year is divided into three periods, commonly referred to as quarters, each such nonresident student must be required to pay a tuition fee of thirty-seven dollars and fifty cents for each such period or part of a period, except that the tuition fee for each nonresident student who has attended and paid tuition fees for three such periods consecutively shall thereafter be twenty-five dollars for each such period.

CHAPTER 551.

An act to amend sections 5.125 and 5.161 of the School Code, relating to the issuance of high school credentials and certificates.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 5.125 of the School Code is hereby amended to read as follows: Sch. C. 1929, p. 223.

5.125. Each credential issued must clearly state the kind of service that it authorizes, the grades or classes, or the types of schools, in which it authorizes such service, and if a teacher's credential, the subjects it authorizes the holder to teach. No credential issued shall authorize any service beyond that authorized by law to be performed by the holder of a certificate issued on such credential. Credentials.

SEC. 2. Section 5.161 of the School Code is hereby amended to read as follows: Sch. C. 1929, p. 225.

5.161. High school certificates, authorizing the holders to teach in any secondary or in the seventh and eighth grades of any elementary school in the county, provided that all high school certificates granted prior to December thirty-first, nineteen hundred and thirty-six, shall be valid for teaching in all grades of the elementary school, and when legally renewed shall continue to be valid for such teaching; and provided further that special certificates limited to specified subjects shall be valid for teaching such subjects in any grade of the elementary and secondary schools. High school teachers in elementary schools

CHAPTER 552

An act to add two new sections to the School Code to be numbered 2.807 and 5.533, relating to liability for the death of, or injury to, pupils enrolled in the public schools.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the School Code to be numbered 2.807 and to read as follows:

Liability of members of governing boards.

2.807. No member of the governing board of a school district shall be held personally liable for the death of, or injury to, any pupil enrolled in any school of the district, resulting from the participation of such pupil in any classroom or other activity to which he has been lawfully assigned as a pupil in such school unless negligence on the part of such member of said governing board is the proximate cause of such injury or death.

New section

SEC. 2. A new section is hereby added to the School Code to be numbered 5.533, and to read as follows:

Liability of certificated employees.

5.533. No superintendent, principal, teacher or other employee of a school district employed in a position requiring certification qualifications shall be held personally liable for the death of, or injury to, any pupil enrolled in any school of the district, resulting from the participation of such pupil in any classroom or other activity to which he has been lawfully assigned as a pupil in such school unless negligence on the part of such employee is the proximate cause of such injury or death.

CHAPTER 553.

Stats 1933, p. 60.

An act to amend sections 828 and 829 of the Agricultural Code, relating to fruits, nuts and vegetables.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 200.

SECTION 1. Section 828 of the Agricultural Code is hereby amended to read as follows:

Standard containers

828. There are hereby established permissive standard containers and standard packs for the fruits, nuts and vegetables mentioned in section 829, when being packed or placed in any container, or after packing, or when delivered for shipment, loaded, shipped, being transported, or sold in any container. The words "standard" or "standard container" shall not be placed on any container unless such container conforms to the requirements specified for the standard containers of such

fruit, nut or vegetable. When the fruit, nut or vegetable is packed in a standard container and in conformity to the standard pack established in this section for such product, and then only, may the container be marked with the words "standard pack" or "standard container and pack." Standard containers.

The following are the numbers, names and dimensions of the standard containers referred to:

1. Standard basket, approximately eight inches square on top, six and one-half inches square on bottom and four inches deep, inside measurements.

1A. Standard basket, approximately five and three-fourths inches in width, and eleven and one-fourth inches in length on top; five and three-eighths inches in width, and ten and one-half inches in length on the bottom; and three and five-sixteenths inches in depth, all inside measurements.

2. Standard four quart climax basket with following dimensions: length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, four and eleven-sixteenths inches, outside measurements; top of basket, length fourteen inches, width six and one-fourth inches, outside measurements. Basket to have cover six and one-fourth inches by fourteen inches, when cover is used.

3. Standard berry baskets: (a) Dry pint containing an interior capacity of approximately thirty-three and six-tenths cubic inches. (b) Dry one-half pint containing an interior capacity of approximately sixteen and eight-tenths cubic inches.

		Dimensions		
No.	Name	Depth inside in inches	Width inside in inches	Length inside in inches
4	Standard twelve-basket crate	2⅞	13½	18
5	Standard crate	4	16	16⅛
6	Standard crate	4¼	16	16⅛
7	Standard crate	4½	16	16⅛
8	Standard crate	4¾	16	16⅛
9	Standard crate	5	16	16⅛
10	Standard cherry box	2¼	9	18⅛
11	Special cherry box	3	9¾	18⅛
12	Standard cherry lug	4½	9	18
12A	Standard cherry lug	3¾	11½	14⅛
13	Standard fruit box	3	11½	18
14	Standard fruit box	3½	11½	18
15	Standard fruit box	4	11½	18
16	Standard fruit box	4¼	11½	18
17	Standard fruit box	4½	11½	18
18	Standard fruit box	4¾	11½	18
18A	Standard fruit box	5	11½	18
19	Special pear box	5½	11½	18
20	Standard pear box	8½	11½	18
21	Standard artichoke box	9¾	11	20⅝

Standard containers.

No.	Name	Dimensions: Depth inside in inches	Width inside in inches	Length inside in inches
22	Half artichoke box	4⅞	11	20⅝
22A	Special lug box	3⅞	11	14⅝
22B	Special lug box	4⅞	12½	16⅛
22C	Standard lug box	3⅞	13½	16⅛
23	Standard lug box	4	13½	16⅛
24	Standard lug box	4⅞	13½	16⅛
25	Standard lug box	4⅞	13½	16⅛
26	Standard lug box	5 1/16	13½	16⅛
27	Standard lug box	5¼	13½	16⅛
28	Special sawdust pack lug	11	13½	16⅛
29	Special sawdust pack lug	7¾	13½	16⅛
30	Special lug box	8½	14	22¾
31	Standard orange box	11½	11½	24⅝
32	Standard persimmon box	3¾	11½	24⅝
33	Half orange box	5¾	11½	24⅝
34	Standard pomegranate box	6½	11½	24⅝
35	Standard lemon box	10	13	25⅝
36	Half lemon box	5	13	25⅝
37	Jumbo lemon box	11⅛	13½	25⅝
38	Half jumbo lemon box	5 9/16	13½	25⅝
39	Standard cantaloupe crate	12	12	22⅛
40	Pony cantaloupe crate	11	11	22⅛
41	Jumbo cantaloupe crate	13	13	22⅛
42	Standard cantaloupe flat	4	12	22⅛
43	Special cantaloupe flat	4⅛	13½	22⅛
44	Special cantaloupe flat	5	14½	22⅛
45	Standard crate	13	18	21⅝
45A	Standard lettuce crate	13¾	17½	21⅝
45B	Standard lettuce crate	13	17½	21⅝
45C	Half lettuce crate	9 or 9½	13	21⅝
46	Standard cauliflower crate	8½	18	21⅝
47	Half sweet potato crate	7¾	11½	22⅜
48	Three-fourths sweet potato crate	9⅞	14	22⅜

The inside length shown hereinabove for the half and three-quarters sweet potato crates, numbers 47 and 48, shall be a minimum length, with maximum outside length of these containers of twenty-four inches.

Standard containers numbers 45A, 45B and 45C, when lidded, shall have a lid not over twenty-five inches in length. The inside length shown hereinabove for the standard containers numbers 45, 45A, 45B, 45C and 46, shall be a minimum length, with maximum outside length of these containers of twenty-four and one-half inches; and the inside lengths of these containers shall be measured between the end slats, except that if flat end posts wider than one and one-half inches are used, the inside length shall be measured between the posts.

49. Standard grape drum, containing two thousand six hundred forty-two cubic inches, fourteen inches deep, fifteen and one-half inches wide, inside.

50. Standard grape keg containing two thousand six hundred forty-two cubic inches minimum.

51. Standard pyramid asparagus crate, maximum depth inside, eleven inches; length inside, eighteen inches; width at the bottom inside, eleven inches; maximum width at the top inside, ten inches; minimum width at the top inside, nine inches.

52. Standard pyramid asparagus crate, maximum depth inside, ten inches; length inside, eighteen inches; width at the bottom inside, eleven and one-half inches; maximum width at the top inside, ten inches; minimum width at the top inside, nine inches.

In standard containers numbers 31, 32, 33 and 34 the average inside length of the two compartments, between center and end pieces, shall be not less than eleven and fifteen-sixteenths inches. In standard containers numbers 35, 36, 37 and 38 the average inside length of the two compartments, between center and end pieces, shall be not less than twelve and seven-sixteenths inches.

Containers designated as standard for apricots, cherries, peaches, pears and plums and fresh prunes in this chapter, shall be considered standard for each such commodity, when used with or without a cleat or cleats, even though the sides of the container are placed above the container head.

These standard containers are hereinafter referred to by their respective numbers.

SEC. 2. Section 829 of said act is hereby amended to read as follows: Stats 1933, p. 205

829. The standard containers and packs for the following fruits, nuts and vegetables hereinafter specified shall be as follows: Standard containers for specific commodities

1. Fresh apricots, numbers 1, 5, 6, 7, 8, 9, 22A, 22B, 24, or 27.

2. Strawberries, number 3a.

3. Red and blackcap raspberries, blackberries, dewberries and loganberries, numbers 3a or 3b.

4. Cherries, numbers 4, 10, 11, 12A, 15, 22C, 23, or 27.

5. Oranges, grapefruit and tangerines, numbers 31, or 33; lemons, numbers 35, 36, 37, or 38.

6. Grapes when packed in sawdust, cork or similar packing material, numbers 28, 29, 49, or 50. All other grapes, numbers 1, 2, 5, 6, 7, 8, 26, or 27. Standard containers for grapes are subject to the following restrictions and additions: (a) Container number 27 shall be standard for grapes only when used without cleats or when used with cleats eleven-sixteenths of an inch in depth. (b) Standard display lugs shall have a total inside depth of five and three-fourths inches, including one or more cleats on each end, which shall total one and one-fourth inches in depth with inside width of thirteen and

Standard containers

one-half inches, and inside length of sixteen and one-eighth inches. (c) Container number 26 shall be standard for grapes only when used with a cleat on each end eleven-sixteenths of an inch in depth.

7. Fresh peaches, numbers 1, 1A, 5, 6, 7, 8, 9, 15, 16, 17, 18, 18A, 26, or 27.

8. Fresh pears, numbers 1A, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 26 or 27. Container number 19 shall be standard only when used with three pads or cushions.

9. Oriental persimmons, numbers 6, 7, 8, 13, 14, 15, 16, 17, 18, 27, or 32.

10. Plums or fresh prunes, numbers 1, 1A, 5, 6, 7, 8, 9, 12A, 14, 15, 16, 17, 18A, 22B, 24, 25, 26, or 27.

11. "Wonderful" pomegranates, numbers 33 or 34.

12. Globe artichokes, numbers 21 or 22. Globe artichokes when packed as a standard pack in standard containers shall be tightly packed with a bulge and shall have a minimum net weight of thirty-five pounds to the standard container number 21. The following sizes may be put up as standard packs in the standard container number 21:

Size 1. Packed with not more than sixty artichokes.

Size 2. More than sixty but not more than seventy-five artichokes.

Size 3. More than seventy-five but not more than ninety-six artichokes.

Size 4. More than ninety-six but not more than one hundred twenty-five artichokes.

Size 5. Shall constitute a standard pack in the standard container number 22 and shall pack not more than one hundred twenty-five artichokes in this container.

13. Cantaloupes, numbers 39, 40, 41, 42, 43, or 44. The following counts of cantaloupes when packed, are hereby established as standard packs for the respective standard containers as follows:

Standard pack counts	Container number	Standard container name.
27, 36, or 45	39	Standard cantaloupe crate.
45 or 54	40	Pony cantaloupe crate.
27, 36, or 45	41	Jumbo cantaloupe crate.
9, 12, or 15	42	Standard cantaloupe flat.
9, 12, or 15	43	Special cantaloupe flat.
8, 9, 11, or 12	44	Special cantaloupe flat.

14. Carrots, number 45.

15. Cauliflower, number 46.

16. Lettuce, numbers 45A, 45B and 45C. Head lettuce, when packed as a standard pack and so marked, must, in addition to other packing requirements in this chapter, contain either two dozen, two and one-half dozen, three dozen, three and one-half dozen, four dozen, five dozen, seventy-five or ninety heads of lettuce per standard container numbers 45A

and 45B, with a slight bulge of crates when lidded. Each crate of three and one-half dozen count shall have each layer arranged with four rows of three, four, and four and three heads. In the case of sizes seventy-five and smaller per crate, a bridge of from three to six heads shall be permitted and in the five dozen size a bridge of four heads shall be permitted.

17. Sweet potatoes, numbers 27, 47, or 48.
18. Tomatoes, number 27.
19. Asparagus, numbers 51 and 52.

CHAPTER 554.

An act to amend the title of and add a new section to "An act to provide for the creation of a board of parole commissioners for each county in this State, for the paroling of prisoners confined in county jails, and authorizing and empowering such boards to make rules and regulations in relation thereto," approved March 25, 1909, as amended, relating to the unconditional release by the county board of parole commissioners of alien prisoners who consent to return or to be returned to their native country and providing for the payment of the expenses of such return by counties.

Stats. 1909, p. 783, amended

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The title of "An act to provide for the creation of a board of parole commissioners for each county in this State, for the paroling of prisoners confined in county jails, and authorizing and empowering such boards to make rules and regulations in relation thereto," approved March 25, 1909, as amended, is hereby amended to read as follows:

Stats. 1909, p. 783.

An act to provide for the creation of a board of parole commissioners for each county in this State, for the paroling of prisoners confined in any jail within the county, for the unconditional release and return to their native land of alien prisoners so confined, and authorizing and empowering such boards to make rules and regulations in relation to such paroles and releases.

Title amended

SEC. 2. A new section is hereby added to the said act named in the title hereof which said section is designated as section 3 and shall read as follows:

New section

Sec. 3. Said board of parole commissioners shall also have the power to make and establish written rules and regulations for the unconditional release of and may unconditionally release any such prisoner who is an alien and who voluntarily consents to return or to be returned to his native land and who actually returns or is returned thereto. The necessary expenses of the transportation of such alien prisoner and

Board of Parole Commissioners.

Return of alien prisoners.

officers or attendants in charge of such prisoner, may be paid by the county, upon order of the board of supervisors authorizing or ratifying the return of the prisoner at the expense of the county. Whenever the board of parole commissioners designate deputies to serve for them as temporary commissioners in considering applications for parole of prisoners such temporary commissioners or deputies may also exercise all the powers herein granted relative to the unconditional release of alien prisoners.

CHAPTER 555.

Stats. 1931, p. 587, amended.

An act to add section 1140.5 to the Probate Code, relating to the duties of the public administrator and providing for the management, control, rental and sale by the public administrator of properties of indigent or other aliens returned to their native lands by or at the request of counties.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 1140.5 is hereby added to the Probate Code, to read as follows:

Public administrator to care for property of alien indigents returned to native land

1140.5. The public administrator of each county shall upon request of the board of supervisors take charge of the property within his county of alien indigents who are returned or are being returned by the county to their native land, and shall exercise any and all powers granted or given to him in respect thereto by such alien indigents. No greater charge shall be made for his services respecting such property of such alien indigents than the actual cost of such services. The obligation of his official bond shall inure to the benefit of every such alien indigent.

CHAPTER 556.

Stats 1933, p. 60.

An act to amend sections 1261, 1263, 1264, 1265, 1267, 1268, 1269, 1273, of and to add a new section to be numbered 1268.5 to the Agricultural Code, relating to persons licensed to deal in farm products.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 274. See Stats. 1935, Ch 566

SECTION 1. Section 1261 of the Agricultural Code is hereby amended to read as follows:

1261. As used in this chapter:

(a) The term "person" includes any individual, firm, association, partnership or corporation. Definitions

(b) The term "producer" means any person engaged in the business of growing or producing any farm product.

(c) "Farm products" shall include all agricultural, horticultural, viticultural and vegetable products of the soil, poultry and poultry products, live stock and live stock products, honey and cut flowers, but shall not include timber and timber products, milk and milk products, hay, field grains, dried beans, and seeds.

(d) The term "consignor" includes any person who ships or delivers to any commission merchant or dealer any farm products for handling, sale or resale.

(e) The term "commission merchant" means any person who shall receive on consignment or solicit from the producer thereof any farm product for sale on commission on behalf of such producer, or who shall accept any farm product in trust from the producer thereof for the purpose of resale, or who shall sell or offer for sale on commission any farm product, or who shall in any way handle for the account of or as an agent of the producer thereof any farm product.

(f) The term "dealer" means any person other than a commission merchant who obtains from the producer thereof possession or control of any farm product except by payment to the producer, at the time of obtaining such possession or control, of the full agreed price of such commodity in lawful money of the United States; provided, that any person licensed as a slaughterer under the provisions of Article 3 of Chapter 1 of Division III of this code shall not be required to obtain a license as a dealer under this chapter, and provided that the term "dealer" as herein defined shall not include retail merchants having a fixed or established place of business in this State.

(g) The term "broker" means any person engaged in the business of soliciting or negotiating the sale of any farm product.

(h) The term "agent" means any person who, on behalf of any commission merchant, or dealer, or broker receives, contracts for or solicits any farm product from a producer thereof or who negotiates the consignment or purchase of any farm product on behalf of any commission merchant, dealer or broker.

(i) The term "director" means State Director of Agriculture.

SEC. 2. Section 1263 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p. 276.

1263. No person shall act as a commission merchant, dealer, broker or agent without having obtained a license as provided in this chapter. Every person, acting as a commission merchant, dealer, broker or agent as herein defined shall file an application with the director for a license to transact the busi- License.

ness of commission merchant, dealer, broker, and/or agent, and such application shall be accompanied by the license fee herein provided for each specified class of business. Separate applications shall be filed for each class of business.

Application.

Such application shall in each case state the class or classes of farm products applicant proposes to handle, the full name of the person applying for such license, and if the applicant be a firm, exchange, association or corporation, the full name of each member of the firm, or the names of the officers of the exchange, association or corporation shall be given in the application. Such application shall further state the principal business address of the applicant in the State of California and elsewhere and the name or names of the person or persons authorized to receive and accept service of summons and legal notices of all kinds for the applicant. Such applicant shall further satisfy the director of his or its character, responsibility and good faith in seeking to carry on the business stated in the application.

Additional requirements.

In addition to the general requirements applicable to all classes of applications as in this section set forth, the following requirements shall apply to the class of application noted:

Commission merchants.

(a) Commission merchants: Each application shall include a schedule of commissions and charges for services, and such designated commissions and charges shall not be changed or varied for the license period except by written contract between the parties.

Agents.

(b) Agents: Each application shall include such information as the director may consider proper or necessary, and shall include the name and address of applicant, and the name and address of each commission merchant, dealer or broker represented or sought to be represented by said agent, and the written indorsement or nomination of such commission merchant, dealer or broker.

The director shall thereupon issue to such applicant, a license entitling the applicant to conduct the business described in the application at the place named in the application for a year from the date thereof or until the same shall have been revoked for cause. Provided, however, that licenses of agents shall expire upon the date of expiration of the license of the principal for whom the agent acts. The director may also issue to each agent a card or cards, which shall bear the signature of said agent and his principal, separate cards being required for each principal. Any agent shall show said card or cards upon the request of any interested person.

Fraud or misrepresentation in making any application shall ipso facto work a revocation of any license granted thereunder. All indicia of the possession of a license shall be at all times the property of the State of California and each licensee shall be entitled to the possession thereof only for the duration of said license.

Fees.

For filing the application herein described, each applicant must pay a fee as follows:

(a) Commission merchants: Twenty-five dollars for each year; provided, that a person licensed as a slaughterer under the provisions of Article 3 of Chapter 1 of Division III of this code shall be entitled to be licensed as a commission merchant without payment of further fees.

(b) Dealers: Twenty-five dollars for each year.

(c) Brokers: Twenty-five dollars for each year.

(d) Agents: One dollar for each year.

Any person who shall have been licensed as a commission merchant shall, upon application, be licensed also as a dealer and as a broker as defined herein, without payment of further fees, and shall thereupon conform to the parts of this chapter regulating the business of a dealer and/or broker. Any person who has applied for and received a license as a dealer or broker in the manner and upon payment of the fee herein set forth may apply for and secure a license as a commission merchant in addition to the license issued to him as such dealer or broker, without payment of further fee and upon further complying with those parts of this chapter regulating the licensing of a commission merchant.

SEC. 3. Section 1264 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 277.

1264. The director may publish in pamphlet form as often as he thinks necessary a list of all licensed commission merchants, dealers, brokers and agents together with all necessary rules and regulations concerning the enforcement of this chapter. Each licensed commission merchant, dealer, broker or agent shall post his license or a copy thereof in his office or salesroom in plain view of the public. The director shall issue to any dealer who collects or receives farm products from producers by truck, a card which shall bear the signature of said dealer, certifying that he is licensed as a produce dealer, and the dealer shall show said card upon the request of any interested person. All license fees collected under the provisions of this chapter shall be paid into the State treasury monthly and shall be credited to the Department of Agriculture fund and expended in carrying out the provisions of this chapter. Publication of list of brokers, agents, rules. Disposition of funds.

SEC. 4. Section 1265 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p 278.

1265. Before any license is issued to any commission merchant, the applicant shall execute and deliver to the director a surety bond in the sum of five thousand dollars executed by the applicant as principal and by a surety company qualified and authorized to do business in this State as surety. Said bond shall be conditioned upon compliance with the provisions of the chapter and upon the faithful and honest handling of farm products in accordance with the terms of this chapter. Said bond shall be to the State in favor of every producer-consignor of farm products. Any producer-consignor of farm products claiming to be injured by the fraud, deceit or wilful negligence of any commission merchant may bring action upon Bond

said bond against both principal and surety in any court of competent jurisdiction to recover the damages caused by such fraud, deceit or wilful negligence, or the failure to comply with the provisions of this chapter. In case of failure by a commission merchant to pay producer-consignor creditors for farm products received from said consignors to be sold, the director shall proceed forthwith to ascertain the names and addresses of all consignor creditors of such commission merchant, together with the amounts due and owing to them and each of them by such commission merchant, and shall request all such consignor creditors to file a verified statement of their respective claims with the director. Thereupon the director shall bring an action on the bond in behalf of said consignor creditors. Upon any action being commenced on said bond, the director may require the filing of a new bond and immediately upon the recovery in any action on such bond such commission merchant shall file a new bond and upon failure to file the same within ten days in either case, such failure shall constitute grounds for the suspension or revocation of his license.

Stats. 1933, p. 279.

SEC. 5. Section 1267 of the Agricultural Code is hereby amended to read as follows:

Enforcement.

1267. For the purpose of enforcing the provisions of this chapter the director is authorized to receive verified complaints from producers against any commission merchant, dealer, broker or agent or any person, assuming or attempting to act as such, and upon receipt of such verified complaint shall have full authority to make any and all necessary investigations relative to the said complaint. He shall have at all times free and unimpeded access to all buildings, yards, warehouses, storage and transportation facilities in which any produce is kept, stored, handled or transported. He shall have full authority to administer oaths and take testimony thereunder, to issue subpenas requiring the attendance of witnesses before him, together with all books, memoranda, papers, and other documents, articles or instruments; to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation, and al parties disobeying the orders or subpenas of said director shall be guilty of contempt and shall be certified to the superior court of the State for punishment for such contempt. Copies of records, inspection certificates, certified reports, findings and all papers on file in the office of the director shall be prima facie evidence of the matters therein contained.

Stats 1933, p. 280.

SEC. 6. Section 1268 of the Agricultural Code is hereby amended to read as follows:

Inspection and investigation

1268. The director on his own motion may or upon the verified complaint of any interested party shall investigate, examine or inspect any transaction involving solicitation, receipt, sale or attempted sale of farm products by any person or persons acting or assuming to act as a commission merchant, dealer, broker or agent; failure to make proper and true

account of sales and settlement thereof as in this chapter required; the intentional making of false statements as to condition, and quantity of any farm products received or in storage; the intentional making of false statements as to market conditions; the failure to make payment for farm products within the time required by this chapter; or investigate, examine or inspect any and all other injurious transactions, and in furtherance of any such investigation, examination or inspection, the director or any authorized representative, may examine that portion of the ledgers, books, accounts, memoranda and other documents, farm products, scales, measures, and other articles and things used in connection with the business of such person relating to the transactions involved. When a producer-consignor of farm products fails to obtain settlement satisfactory to him in any transaction after having notified the consignee, a verified complaint may be filed with the director who shall undertake to effect a settlement, and in the event that he shall fail to effect such settlement, he shall cause a copy of such complaint, together with a notice of the time and place of hearing of such complaint, to be served personally or by mail upon such person. Such service shall be made at least ten days before the hearing, which shall be held in the city or town in which is situated the business location of the licensee, or in which the transaction complained of is said to have occurred, or at the nearest office of the State Department of Agriculture. At the time and place appointed for such hearing the director or his agents, shall hear the parties to such complaint, and shall enter in the office of the director at Sacramento a decision either dismissing such complaint or specifying the facts established on such hearing. If upon such hearing the director determines from the facts specified that the licensee has violated any provision of section 1269 of this chapter, he shall, unless the offender has already made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation, and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. A copy of such decision shall be furnished to each, every and all the respective parties thereto.

Place of hearing.

SEC. 7. A new section is hereby added to the Agricultural Code to be numbered 1268.5 to read as follows:

New section

1268.5. In the event that a person against whom an order as specified in section 1268 of this chapter is made and issued shall fail, neglect or refuse to obey said order or orders, within the time specified in said order, the director may thereupon, and in the premises, issue a further order to said person, directing said person to show cause why the license or licenses of said person should not be suspended or revoked for failure to comply with said order.

Order to show cause.

In such case, a copy of said order to show cause, together

Notice.

service shall be made at least ten days before said hearing, which shall be held in the city or town in which is situated the business location of the licensee, or at an office of the Department of Agriculture nearest to said city or town.

Hearing.

At the time and place appointed for such hearing the director or his agents shall hear the matter set forth in the order, and the showing of the licensee in the premises, and shall enter in the office of the director at Sacramento an order and decision specifying the facts, dismissing the order to show cause, or directing the suspension or revocation of the license or licenses held by the licensee, or making such other conditional or probationary orders as may be proper. A copy of said order and decision shall be furnished to the licensee.

Suspension or revocation of license.

Nothing in this section contained may be construed as limiting the power of the director to revoke or suspend a license when he is satisfied of the existence of any of the facts specified in section 1269 of this chapter.

Stats. 1933, p. 281.

SEC. 8. Section 1269 of the Agricultural Code is hereby amended to read as follows:

Revocation of license: Grounds.

1269. The director may refuse to grant a license and may revoke or suspend any license, as the case may require, when he is satisfied of the existence of any of the following facts:

(a) That fraudulent charges or returns have been made by the applicant, or licensee, for the handling, sale or storage of, or for rendering of any service in connection with the handling, sale or storage of any farm products.

(b) That the applicant, or licensee, has failed or refused to render a true account of sales, or to make a settlement thereon, or to pay for farm products received, within the time and in the manner required by this chapter.

(c) That the applicant, or licensee, has made any false statement as to the condition, quality or quantity of farm products received, handled, sold or stored by him.

(d) That the applicant, or licensee, directly or indirectly, has purchased for his, or its own account farm products received by him upon consignment without prior authority from consignor together with price fixed by consignor or without promptly notifying the consignor of such purchase. This shall not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of farm products remaining unsold, if such commission merchant shall forthwith enter such transaction on his account of sales.

(e) That the applicant, or licensee, has intentionally made any false or misleading statement as to the conditions of the market for any farm products.

(f) That the applicant, or licensee, has made fictitious sales or has been guilty of collusion to defraud the producer.

(g) That a commission merchant to whom any consignment is made has reconsigned such consignment to another commis-

sale therefor for the consignor, unless by consent of such consignor.

(h) That the licensee was intentionally guilty of fraud or deception in the procurement of such license.

(i) That the licensee or applicant has failed or refused to file with the director a schedule of his charges for services in connection with produce handled on account of or as an agent of another; that the applicant, or licensee has indulged in any unfair practice.

Previous violation by the applicant or by any person connected with him or it of any of the provisions of this chapter shall be good and sufficient ground for denial of a license.

SEC. 9. Section 1273 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p. 286.

1273. (1) Any person is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year or by both who assumes or attempts to act as a commission merchant, dealer, broker or agent without a license, or who, being a commission merchant: Penalties

(a) Imposes false charges for handling or services in connection with farm products. Unlawful acts.

(b) Fails to account promptly, correctly, fully and properly and to make settlement therefor as herein provided.

(c) Intentionally makes false or misleading statement or statements as to market conditions.

(d) Makes fictitious sales or is guilty of collusion to defraud the producer.

(e) Directly or indirectly purchases for his own account, goods received by him upon consignment without prior authority from the consignor, or fails promptly to notify the consignor of such purchases, if any, on his own account. This clause does not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of farm products remaining unsold, if such commission merchant forthwith enters such transaction on his account of sales.

(f) Intentionally makes false statement or statements as to the grade, condition, markings, quality or quantity of goods shipped or packed in any manner.

(g) Fails to comply in every respect herewith.

(2) Civil suits and criminal prosecutions arising by virtue of any of the provisions of this chapter may be commenced and tried in either the county where the products were received by the commission merchant, dealer, broker or agent, or within the county in which the principal place of business of such commission merchant, dealer, broker or agent is located, or within the county in which the violation of this chapter occurred. Venue

CHAPTER 557

An act to amend sections 1206 and 1207 of the Code of Civil Procedure, relating to preferred claims for work or personal services.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p. 1702.

SECTION 1. Section 1206 of the Code of Civil Procedure is hereby amended to read as follows:

Preferred creditors.

1206. Upon the levy of any attachment, garnishment, or execution, not founded upon a claim for labor, any miner, mechanic, salesman, servant, clerk, laborer or other person who has performed work or rendered personal services for the defendant within ninety days prior to the levy, may file a verified statement of his claim therefor with the officer executing the writ, file a copy thereof with the court which issued the writ, and give copies thereof, containing his address, to the plaintiff and the defendant, or any attorney, clerk or agent representing them, or mail copies to them by registered mail at their last known address, return of which by the post office undelivered shall be deemed a sufficient service if no better address is available, and such claim, not exceeding two hundred dollars, unless disputed, must be paid by such officer, immediately upon the expiration of the time for dispute of the claim as prescribed in section 1207, from the proceeds of such levy remaining in his hands at the time of the filing of such statement or collectible by him on the basis of the writ.

Record of preferred labor claims.

The court issuing the writ must make a notation on its docket of every preferred labor claim of which it receives a copy and must endorse on any execution or abstract of judgment issued subsequently in the case that it is issued subject to the rights of a preferred labor claimant or claimants thereunder and giving the names and amounts of all such preferred labor claims of which it has notice.

Levy of execution.

In levying any execution the officer making the levy shall include in the amount due under the execution any and all preferred labor claims that have been filed in the action and of which he has notice, except any claims which may have been finally disallowed by the court under the procedure provided for herein and of which disallowance he has actual notice. The amount due on preferred labor claims that have not been finally disallowed by the court shall be considered a part of the sum due under any attachment, garnishment or execution in augmentation of the amount thereof and it shall be the duty of any person, firm, association or corporation on whom a writ of attachment, garnishment or execution is levied to immediately pay to the levying officer the amount of such preferred labor claims, out of any money belonging to the defendant in the action, before paying the principal sum called for in the writ.

If any claim is disputed within the time, and in the manner prescribed in section 1207, and a copy of the dispute is mailed by registered mail to the claimant or his attorney at the address given in his statement of claim and the registry receipt is attached to the original of the dispute when it is filed with the levying officer, or is handed to the claimant or his attorney, the claimant, or his assignee, must within ten days after such copy is deposited in the mail or is handed to the claimant or his attorney petition the court having jurisdiction of the action on which the writ is based, for a hearing before it, to determine his claim for priority, or the claim to priority is barred. If more than one attachment, garnishment or execution is involved the petition shall be filed in the court having jurisdiction over the senior attachment, garnishment or execution. The hearing shall be held within twenty days from the filing of the petition unless the court continues it for good cause. Ten days' notice of the hearing shall be given by the petitioner to the plaintiff and the defendant, and to all parties claiming an interest in the property, or their attorneys. The notice may be informal and need specify merely the name of the court, names of the principal parties to the senior attachment, garnishment or execution and name of the wage claimant or claimants on whose behalf it is filed but shall specify that the hearing is for the purpose of determining the claim for priority. The plaintiff or the defendant, or any other party claiming an interest may contest the amount or validity of the claim in spite of any confession of judgment or failure to appear or to contest the claim on the part of any other person.

Disputed

Hearing

Notice.

There shall be no cost for filing or hearing the petition and the hearing on same shall be informal but all parties testifying must be sworn. Any claimant may appear on his own behalf at the hearing and may call and examine witnesses to substantiate his claim. An appeal may be taken from a judgment in a proceeding under this section in the manner provided for appeals from judgments of the court where the proceeding is had.

Costs

Appeal

The officer must retain in his possession until the determination of the claim for priority so much of the proceeds of the writ as may be necessary to satisfy the claim, and if the claim for priority is allowed, the officer must pay the amount due, including the claimant's cost of suit, from such proceeds, immediately after the order allowing the claim becomes final.

Disposition of proceeds

SEC. 2. Section 1207 of the Code of Civil Procedure is hereby amended to read as follows:

Stats 1931, p 1703.

1207. Within five days after receiving a copy of the statement provided for in the next preceding section, either the plaintiff or the defendant in the action in which the writ issued may file with the officer a sworn statement denying that any part of such claim is due for services rendered within ninety days next preceding the levy of the writ, or denying that

Disputed claims

belief unless the party swearing to same has actual information and belief that the wage claim, or the portion thereof that is contested, is not justly due, and in such case the nature and source of the information must be given. If a part of the claim is admitted to be due, and the claimant nevertheless files a petition for hearing and the court does not allow more than the amount so admitted, he can not recover costs but the costs must be adjudged against him, and the amount thereof deducted from the sum found due him.

Proceedings if portion of claim not denied.

CHAPTER 558.

Stats. 1923, p. 571, amended.

An act to amend section 11 of the Motor Vehicle Fuel License Tax Act, relating to refunds of license taxes.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1639.

SECTION 1. Section 11 of the act cited in the title hereof is hereby amended to read as follows:

Refunds of motor vehicle fuel tax.

Sec. 11. Any person, firm, association or corporation who shall buy and use any motor vehicle fuel for purposes other than in motor vehicles operated upon the public highways of the State of California, or who shall export the same for use outside of this State, or any employee of the United States Government, who shall buy any motor vehicle fuel and use the same exclusively in the transportation of rural free delivery mail and special delivery mail and who shall have paid any license tax for such motor vehicle fuel hereby required to be paid, either directly or to the vendor from whom it was purchased, or indirectly by the adding of the amount of such license tax to the price of such fuel, shall be reimbursed and repaid the amount of such license tax paid by him or it upon presenting to the State Controller an affidavit supported by the original invoice or invoices showing such purchase, which affidavit shall be verified by the oath of the claimant and shall state the total amount of such fuel so purchased and that the claimant has paid the price thereof and the manner and the equipment in which the claimant has used the same; provided, however, that any motor vehicle fuel carried from this State in the fuel tank of a motor vehicle shall not be considered as exported from this State.

Affidavit.

The State Controller, upon the presentation of such an affidavit and such invoice or invoices shall cause to be paid to such claimant, from the license taxes collected in accordance with the provisions of this act, an amount equal to the license taxes collected hereunder on such motor vehicle fuel; provided, however, that the State Controller shall have the right if he

pose and the failure upon the part of the claimant to accede to such demand shall constitute a waiver of all right to the refund claimed on the account of the transactions questioned. Such examination may be made either through employees of the office of the State Controller or of the office of the State Board of Equalization.

All such applications for refund based upon exportation of motor vehicle fuel from this State must be filed with the State Controller within forty-five days from the date of exportation; all other applications shall be filed within twelve months from the date of the purchase of such motor vehicle fuel. Any application filed after the times herein prescribed shall not be considered for any purpose by the State Controller, the State Treasurer or the State of California. Time of application.

CHAPTER 559.

An act to amend sections 12422, 12423, 12427, 12442, 12484, 12486, 12488 and 12543 of the Insurance Code and to add a new section to said code to be numbered 12490, all relating to mortgage insurers.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

SEC. 9. For the purpose of construing other acts or existing contracts this act shall be deemed to be an amendment to Chapter VIII of Title II of Part IV of Division First of the Civil Code of the State of California.

CHAPTER 560.

An act to amend section 284 of the Code of Civil Procedure, relating to substitution of attorneys and fees of same.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 284 of the Code of Civil Procedure is hereby amended to read as follows: Code amdts., 1880, p. 57.

284. The attorney in an action or special proceeding may be changed at any time before or after judgment or final determination, as follows: Change of attorney.

1. Upon the consent of both client and attorney, filed with the clerk, or entered upon the minutes;

2. Upon the order of the court, upon the application of either client or attorney, after notice from one to the other except that in all civil cases in which the fee or compensation of the attorney is contingent upon the recovery of money, in which case the court shall determine the amount and terms of payment of the fee or compensation to be paid by the party. Contingent fee cases.

CHAPTER 561.

Stats. 1909, p. 87, amended.

An act to amend sections 21.1, 53, 54, 63, 64, 105, 133, 135d and 139 of the Bank Act, and to add two new sections thereto to be numbered 16d and 51.1.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 2711.

SECTION 1. Section 21.1 of the Bank Act is hereby amended to read as follows:

Prohibition of payment of interest on demand deposits.

Sec. 21.1. No bank shall, directly or indirectly, by any device whatever, pay any interest on any deposit which is payable on demand; provided, that nothing herein contained shall be construed as prohibiting the payment of interest in accordance with the terms of any certificate of deposit or other contract heretofore entered into in good faith which is in force on the date of the enactment hereof; but no such certificate of deposit or other contract shall be renewed or extended unless it shall be modified to conform herewith, and every bank shall take such action as may be necessary to conform herewith as soon as possible consistently with its contractual obligations; provided, however, that this section shall not apply to any deposit of such bank which is payable only at an office thereof located in a foreign country, and shall not apply to any deposit made by a savings bank, nor to any deposit of public funds made by or on behalf of the State, or of any county, city and county, city, town, municipality or other public or municipal corporation of the State of California, with respect to which payment of interest is required under State law.

No bank shall pay any time deposit before its maturity, or waive any requirement of notice before payment of any savings deposit except as to all savings deposits having the same requirement.

Stats 1927, p. 1796.

SEC. 2. Section 53 of the Bank Act is hereby amended to read as follows:

Par value of capital stock

Sec. 53. The capital stock of any bank having a capital stock shall have a par value of one hundred dollars per share, or such other amount as shall be approved by the Superintendent of Banks, and the paid up value shall be endorsed upon the face of each certificate issued, which paid up value shall be the same on all certificates issued. No bank whose capital stock, on January 1, 1915, failed to comply with any of the requirements of this section, shall be compelled to change its capital stock in compliance herewith.

Stats 1933, p. 1180.

SEC. 3. Section 54 of the Bank Act is hereby amended to read as follows:

Real estate to be sold within ten years

Sec. 54. Unless the time be extended by the Superintendent of Banks in writing all real estate purchased by any bank at sales under pledges, mortgages or deeds of trust for its benefit for money loaned and such as may be conveyed to

it by borrower in satisfaction and discharge of loans made thereon and all other real estate owned or held by it, which is not necessary for carrying on its business, must be sold or exchanged for other real estate by such bank within ten years after title thereto shall have vested in it by purchase or otherwise; provided, however, that no exchange of such real estate for other real estate shall be made unless and until written consent thereto shall first be given by the Superintendent of Banks; and provided, further, that any real estate so taken in exchange may be held for such period of time as the Superintendent of Banks may fix but not to exceed ten years. Nothing in this section contained shall be deemed to affect the power of the Superintendent of Banks to require the writing down of the value of the real estate held by any bank, at any time, when such writing down shall be proper.

SEC. 4. Section 63 of the Bank Act is hereby amended to read as follows: Stats. 1909, p. 101.

Sec. 63. Savings banks may issue general certificates of deposit, which are transferable, as in other cases, by indorsement and delivery; may issue, when requested by the depositor, special certificates, acknowledging the deposit by the person therein named of a specified sum of money, and expressly providing on the face of such certificate that the sum so deposited and therein named may be transferred only on the books of the bank; payment thereafter made by the bank to the depositor named in such certificate, or to his assignee named upon the books of the bank, or in case of death, to the legal representative of such person, of the sum for which such special certificate was issued, shall discharge the bank from all further liability on account of the money so paid. Certificates of deposit.

All time certificates of deposit issued by a savings bank shall be payable: (1) Without notice, on a certain date, specified in the instrument, not less than thirty days after the date of deposit, or (2) Without notice, at the expiration of a certain time specified in the instrument subsequent to the date of the instrument, in no case less than thirty days, or (3) Upon notice in writing which is actually required to be given a certain number of days specified in the instrument, not less than thirty days, before the date of repayment, and (4) In all cases only upon presentation and surrender of the instrument.

SEC. 5. Section 64 of the Bank Act is hereby amended to read as follows: Stats 1913, p. 168.

Sec. 64. Each savings bank must prescribe by its by-laws, or by contract with its depositors, the time and conditions on which repayment is to be made to depositors, except as in this act otherwise provided. In all cases, except as in this act otherwise provided, the by-laws or contracts shall provide that notice of at least thirty days may, at the option of any such bank, be required to be given of intention to withdraw any deposit or part thereof, but whenever there is any call by depositors for repayment of a greater amount than the bank Time and conditions of payment to depositors.

may have disposable for that purpose, the directors or officers thereof must not make any new loan or investment of the funds of the depositors or of earnings thereof until such excess of call has ceased. The directors of any such bank having no capital stock shall, before the declaration of any dividend, carry at least one-tenth part of the net profits of such bank, for the preceding half year, or for the period covered by said dividend, to its reserve fund. Subject to the provisions of section 19 of this act, any losses sustained by any such bank may be charged to and paid out of its reserve fund. A larger reserve fund may be created and nothing herein contained shall be construed as prohibitory thereof. The assets of any such bank are a security to its depositors. Any such bank organized without capital stock may provide by its by-laws for the disposal of any amount in its reserve fund in excess of the amount required by section 19 of this act, and may also provide for final disposal, upon the dissolution of the bank, of its reserve fund or the balance thereof remaining after payment of any losses of such bank.

Reserve fund.

Stats. 1933, p. 1191.

SEC. 6. Section 105 of the Bank Act is hereby amended to read as follows:

Trust companies' investments

Sec. 105. Except as otherwise provided by law every trust company shall invest its capital and surplus and any trust funds received by it in connection with its trust business, in accordance with the provisions of this act relative to the investment or loan of funds deposited with savings banks, unless the terms or provisions of the trust of which such funds constitute a part contain a specific agreement or provision to the contrary or unless it is otherwise ordered by the court in connection with any court trust.

Deposit in banks.

Any trust company holding funds awaiting investment or distribution may deposit such funds with any State or National bank which has been designated as a depositary by the Superintendent of Banks, or in which such deposit will be fully insured under the provisions of any law of the United States, and any trust department of any bank doing a departmental business may deposit such funds so held by it with the savings department or the commercial department of the same corporation or association; provided, however, that no such funds so held awaiting investment shall be deposited by any trust department of a departmental bank with the savings department or the commercial department of the same corporation or association or of any corporation or association holding or owning the whole or any part of the capital stock of the trust company making such deposit unless such corporation or association shall first set aside, as security for such deposit, bonds or securities of the kind in which savings banks are permitted to invest and which bonds or securities so set aside shall have a value not less than the funds so deposited; provided, further, that no security shall be required in case of any such part of any

such deposits as is insured under the provisions of any law of the United States.

Every trust company may hold, during the life of the trust, all property, real and personal, received by it into the trust from any source, though such property be not legal for the investment of trust funds, in the same manner and upon the same conditions as if such property were legal for the investment of trust funds, unless the terms of the instrument creating or declaring the trust specifically provide to the contrary. Holding trust property.

SEC. 7. Section 133 of the Bank Act is hereby amended to read as follows: Stats 1931, p. 359.

Sec. 133. Whenever it shall appear from the report of any bank, or the Superintendent of Banks shall have reason to believe that the capital of any bank is impaired or reduced below the amount required by law, it shall be the duty of the Superintendent of Banks and he shall have the power to examine said bank and ascertain the facts, and in case he finds such impairment or reduction of capital, he shall require such bank to make good the deficiency so appearing within sixty days after the date of such requisition. The directors of every such bank, upon which such requisition shall have been made, shall levy an assessment upon the stock thereof to repair such deficiency, and shall cause notice of such requisition to be given to each stockholder of the bank and of the amount of the assessment which he must pay for the purpose of making good such deficiency, by a written or printed notice mailed to such stockholder at his last known address or served personally upon him. If any stockholder shall refuse or neglect to pay the assessment specified in such notice within thirty days from the date of mailing or serving in such notice as aforesaid, the directors of such bank shall have the right to sell to the highest bidder at public auction the stock of such stockholder, after giving a previous notice of such sale for ten days in a newspaper of general circulation published in the county where the principal place of business of such bank is located, and a copy of such notice of sale shall also be served on the owner of such stock by being served personally on him or by mailing to his last known address ten days before the day fixed for such sale; or such stock may be sold at private sale and without such public notice; provided, however, that before making such private sale thereof an offer in writing shall first be obtained and a copy thereof served upon the owner of record of the stock sought to be sold, either personally or by mailing a copy of such offer to his last known address, and if, after service of such offer, such owner shall still refuse or neglect to pay such assessment within two weeks from the time of the service of such offer, the said directors may accept such offer and sell such stock to the person making such offer, or to any other person or persons making a larger offer than the amount named in the offer submitted to the stockholder; but such stock shall in no event

Impaired capital.

Assessment.

Sale of delinquent stock.

be sold for less than the amount of said assessment so called for and the cost of sale. Out of the avails of the stock so sold, the directors shall pay the amount of assessment levied thereon, and the necessary cost of sale, and the balance, if any, shall be paid to the person or persons whose stock has thus been sold. A sale of stock as herein provided shall effect an absolute cancellation of the outstanding certificate or certificates evidencing the stock so sold, and shall make the same null and void, and a new certificate shall be issued by the bank to the purchaser thereof.

Effect of sale.

Stats 1933, p. 322.

SEC. 8. Section 135d of the Bank Act is hereby amended to read as follows:

Preferred stock.

Sec. 135d. Notwithstanding any other provision of law, any bank may, with the approval of the Superintendent of Banks and by vote of shareholders owning a majority of the stock of such bank, upon not less than five days' notice, given by registered mail pursuant to action taken by its board of directors, issue preferred stock of one or more classes in such amount and with such par value as shall be approved by the Superintendent of Banks, and make such amendments to its articles of incorporation as may be necessary for this purpose; but, in the case of any newly organized bank which has not yet issued common stock, the requirement of notice to and vote of shareholders shall not apply. No issue of preferred stock shall be valid until the par value of all stock so issued shall be paid in. Notwithstanding any other provision of law whether relating to restrictions upon the payment of dividends upon capital stock or otherwise, the holders of such preferred stock shall be entitled to receive such cumulative dividends at a rate not exceeding 6 per centum per annum and shall have such voting and conversion rights and such control of management, and such stock shall be subject to retirement in such manner and upon such conditions as may be provided in the articles of incorporation with the approval of the Superintendent of Banks and the stated capital of any bank retiring any of its preferred stock, whether out of capital, surplus, undivided profits or earnings, shall be reduced, without action on the part of the stockholders, in the amount represented by the aggregate of the preferred stock so retired. The holders of such preferred stock shall not be held individually responsible as such holders for any debts, contracts, or engagements of such bank, and shall not be liable for assessments to restore impairments in the capital of such bank as now provided by law with reference to holders of common stock.

Cumulative dividends

Liability of preferred stockholders.

Dividends preferred

No dividends shall be declared or paid on common stock until the cumulative dividends on the preferred stock shall have been paid in full; and, if the bank is placed in liquidation or a conservator is appointed therefor, no payments shall be made to the holders of the common stock until the holders of the preferred stock shall have been paid in full the par value of such stock plus all accumulated dividends.

SEC. 9. Section 139 of the Bank Act is hereby amended to read as follows: Stats. 1923, p. 69.

Sec. 139. It shall be the duty of the board of directors of every bank to examine fully, or cause a committee of at least three of its members, none of whom shall be an officer of the bank, to examine fully into the books, papers and affairs of the bank of which they are directors, and particularly into the loans and discounts thereof, with a special view to ascertaining the value and security thereof, and of the collateral security, if any, given in connection therewith, and into such other matters as the Superintendent of Banks may require; such examination to be made at least once a year, but no such subsequent yearly examinations shall be made within three months of the next preceding examination. Such directors shall have power to employ such assistance in making such examinations as they may deem necessary. Within thirty days after the completion of such examination, a report in writing thereof, sworn to by the directors making the same, shall be made by the board of directors of such bank, and placed on file with the records of said bank, and shall be subject to examination by the Superintendent of Banks. Examination by board of directors.

Such report shall particularly contain a statement of the assets and liabilities of the bank examined, as shown by its books, together with any deductions from the assets, or additions to liabilities, which such directors or committee, after such examination, may determine to make. It shall also contain a statement, in detail, of loans, if any, which in their opinion are worthless or doubtful, together with their reasons for so regarding them; also a statement of loans made on collateral security, which in their opinion are insufficiently secured, giving in each case the amount of the loan, the name and market value of the collateral, if it has any market value, and if not, a statement of that fact, and its actual value as nearly as possible. Such report shall also contain a statement of overdrafts, of the names and amounts of such as they consider worthless or doubtful, and a full statement of such other matters as affect the solvency and soundness of the bank. Report.

If the directors of such bank shall fail to make such examination or fail to cause it to be made, or shall fail to file such report of such examination in the manner and within the time specified, the Superintendent of Banks shall have authority to make or cause to be made an extra examination of such bank, at the expense of such bank. Failure to examine.

Whenever the board of directors of any bank may determine by resolution, duly entered in its minutes, that a special examination shall be made or caused to be made by the Superintendent of Banks in lieu of the examination herein required to be made by the board of directors of such bank, a certified copy of such resolution shall be transmitted to the Superintendent of Banks, whereupon it shall be the duty of the Superintendent of Banks to make or cause to be made a special examination of the affairs of such bank in lieu of the examination of Examination by Superintendent of Banks

such bank by the board of directors thereof. Such special examination shall be made at such time as the Superintendent of Banks may determine but in any event such examination shall be made within sixty days after the receipt by the Superintendent of Banks of the resolution hereinbefore referred to. The cost of making such examination shall be a charge against the bank for which such examination is made.

Report to directors.

Upon completion of such examination the Superintendent of Banks shall cause a report thereof in writing to be prepared and delivered to the board of directors of such bank at such time as may be fixed by the Superintendent of Banks, but not later than thirty days after the completion of such examination.

Examination by Federal agencies

The Superintendent of Banks may accept in lieu of the directors' examination herein provided for any year any examination made, during such year, by the Federal Reserve Bank of San Francisco, or any bank which is a member of the Federal Reserve Bank of San Francisco, or by a clearing house association of which the examined bank is a member, or by the Federal Deposit Insurance Corporation or other similar Federal agency.

New section.

SEC. 10. A new section is hereby added to the Bank Act to be numbered 16d and to read as follows:

Stopping payment of checks.

Sec. 16d. No order stopping payment on a check shall be valid unless the same be in writing specifically describing the check ordered stopped and delivered to the particular office or branch of the bank on which said check was drawn.

Any bank that pays a check, the payment of which has been ordered stopped as herein provided, shall be responsible to the person who so ordered the payment thereof stopped, for any actual loss incurred by such person because of the payment by such bank of such check.

Stop order to branch of bank.

The delivery to one office or branch of a bank of an order to stop payment on a check shall not constitute notice, actual or constructive, to any other office or branch of the same bank and shall not impair the right of such bank to be a holder in due course of such check, other than the office or branch to which such order to stop payment is delivered.

New section.

SEC. 11. A new section is hereby added to the Bank Act to be numbered 51.1 and to read as follows:

Transfers on order of court.

Sec. 51.1. When the court has ordered the deposit of any of the assets of an estate with a bank or trust company as provided in section 51 or in section 93 hereof, any bank having possession or control of any of the assets so ordered deposited, shall, upon the demand of the said bank or trust company which has been ordered to receive such deposit, whether the officer or trustee ordered to make such deposit has duly qualified or not, deliver such assets to the bank or trust company named by the court to receive such deposit and the receipt and acceptance of such assets by such bank or trust company, shall relieve the bank which has been in possession thereof from all further responsibility therefor.

CHAPTER 562.

An act to amend section 410 of the Political Code, relating to the publication and distribution of the laws, resolutions and journals of the Legislature.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 410 of the Political Code is hereby amended to read as follows: Stats 1933, p. 2186.

410. The laws, resolutions and journals of the Legislature shall be delivered by the State Printer to the Secretary of State, who shall immediately distribute them as follows: Distribution of laws, journals and resolutions

1. To the Library of Congress, three copies.
2. To the State Library or other library or department in each State and Territory, authorized to receive them, one copy.
3. To the Lieutenant Governor, each member of the Legislature, the Secretary of the Senate and the Clerk of the Assembly, one copy each.
4. To each municipal and county free library, county law library, and the library of each incorporated college or university in this State, one copy.
5. To the State Library fifty copies or as many more as the State Librarian may require for exchange purposes.

All other copies of the laws, resolutions and journals shall be sold by the State Printer at such price as may be fixed by the Department of Finance. Sale by State Printer

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CHAPTER 563.

An act to amend section 226 of the Civil Code, relating to proceedings on adoption.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 226 of the Civil Code is hereby amended to read as follows: Stats. 1931, p. 2402.

226. Any person desiring to adopt a child may for that purpose petition the superior court of the county in which the petitioner resides and the clerk of the court shall immediately notify the State Department of Social Welfare at Sacramento in writing of the pendency of the action. In all cases in which consent is required, except in the case of an adoption by a step-parent where one natural parent retains his or her custody and control of the child, unless a society licensed by the State Department of Social Welfare to find homes for children and place children in homes for adoption joins in Petition for adoption Consent.

the petition for adoption, the consent for adoption must be signed in the presence of an agent of the State Department of Social Welfare on a form prescribed by such department and filed with the clerk of the superior court, in the county of the petitioner's residence; provided that if such department fails to submit its report to the court within one hundred eighty days after the filing of the petition, then the court may allow the signing of consent in open court; provided, however, that the court may allow such additional time for the filing of said report as in its discretion it may see fit.

Effect of consent.

Such consent, when reciting that the person giving it is entitled to the sole custody of the minor child, shall, when duly acknowledged before such agent, be prima facie evidence of the right of the person making it to the sole custody of the child and such person's sole right to consent.

Duty of Department of Social Welfare.

In all cases of adoption in which no agency licensed to place children for adoption is a party, except in the case of an adoption by a step-parent where one natural parent retains his or her custody and control of the child, it shall be the duty of the Department of Social Welfare to ascertain whether the child is a proper subject for adoption and whether the proposed home is suitable for the child, prior to accepting the consent of a natural parent to the adoption of the child by the petitioner.

Appeal.

If the Department of Social Welfare refuses to accept the consent of the natural parent, for adoption, on the ground that the best interests of the child will not be promoted by the proposed adoption, said parent may appeal from said refusal to the superior court of the county in which the petition is filed, in which event the clerk of the court shall immediately notify the Department of Social Welfare which shall within ten days file a report of its findings as to refusal to accept consent. After the filing of said findings, the court may allow the signing of consent in open court.

When consent not necessary.

In all cases in which consent is not necessary and no society licensed to place children for adoption is a party to the petition, the State Department of Social Welfare must, prior to the hearing of the petition, file its consent to the adoption with the clerk of the superior court of the county in which the petition is filed. Such consent shall not be given by the Department of Social Welfare unless the child's welfare will be promoted by the adoption.

Time to file report of Department of Social Welfare.

Except in the case of the adoption of a child by a step-parent where one natural parent retains his or her custody and control of the child, it shall be the duty of the Department of Social Welfare to submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition within one hundred eighty days after the filing of the petition.

Adoption by step-parent.

In case of an adoption of a child by a step-parent where one natural parent retains his or her custody and control of said child, the consent of either or both parents may be

signed in the presence of and filed with the clerk of the superior court of the county where the petition is filed and the clerk shall file a certified copy of such consent to adoption with the State Department of Social Welfare.

If the father or mother of a child to be adopted resides outside the State of California, his or her consent may be signed before a notary and in such case the consent of the Department of Social Welfare will also be necessary. Consent of nonresident parent.

A parent who is a minor shall have the right to sign a consent for the adoption of his or her child and such consent shall not be subject to revocation upon such parent reaching his or her majority. Minor parents.

CHAPTER 564.

An act relating to shares of insured Federal savings and loan associations, as legal investments for trust and other funds.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. All shares issued by any duly chartered Federal savings and loan association shall be legal investments for the funds of executors, administrators, guardians, and trustees of every kind and nature and for the funds of all insurance companies, cemetery associations and savings banks; provided such association shall be an "insured institution" as defined in Title IV of the National Housing Act. Shares of Federal savings and loan associations legal investments.

SEC. 2. This act is intended to be and shall be considered the latest enactment upon the matters herein contained and is supplemental to any and all other acts relating to and declaring what shall be legal investments for the funds of executors, administrators, guardians, trustees, insurance companies, cemetery associations and savings banks. Legislative intent

SEC. 3. In the event any part of this act shall be declared unconstitutional or invalid for any reason, such declaration shall not affect any other portion hereof not so declared unconstitutional or invalid. Constitutionality.

CHAPTER 565.

An act to amend section 487 of the Agricultural Code, relating to guaranteed milk. Stats. 1933, p. 60.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 487 of the above entitled act is hereby amended to read as follows: Stats. 1933, p. 137.

Guaranteed raw milk.

487. (a) Guaranteed raw milk is market milk which conforms to the following minimum requirements:

(1) The health of the cows shall be determined by physical examination at least once each month by an official representative of an approved milk inspection service and by a tuberculin test:

(2) It shall be produced on dairies which score not less than ninety per cent on the dairy farm score card;

(3) It shall be bottled on the premises where produced and delivered in containers having the pouring lip completely protected from contamination;

Bacteria count.

(4) It shall be cooled immediately after being drawn from the cow to fifty degrees Fahrenheit or less, and so maintained until delivered to the consumer, at which time it shall contain not more than ten thousand bacteria per milliliter, and not less than three and one-half per cent of milk fat;

(5) It must be sold to the consumer within thirty hours after production and labeled to indicate the date of sale to the consumer. All persons who come in contact with the raw guaranteed milk must exercise scrupulous cleanliness and not be afflicted with any communicable disease or in a condition to disseminate the germs of typhoid fever, tuberculosis, diphtheria or any other communicable disease liable to be conveyed by the milk. The absence of such germs in all such persons shall be determined by bacteriological and physical examination by a health department maintaining an approved milk inspection service, or other person or laboratory approved in writing by the department, conducted at the time of employment and every six months thereafter in a manner approved by the director.

Guaranteed pasteurized milk.

(b) Guaranteed pasteurized milk shall conform to all the requirements for raw guaranteed milk, except it need not be bottled where produced and except it shall contain not more than three thousand bacteria per milliliter at the time of delivery to the consumer.

CHAPTER 566.

Stats. 1933, p 60.

An act to amend section 1261 of Chapter 6, Division VI, of the Agricultural Code, relating to produce dealers.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1935, Ch. 556

SECTION 1. Section 1261 of the Agricultural Code is hereby amended to read as follows:

1261. As used in this chapter:

Definitions

(a) The term "person" includes any individual, firm, association, partnership or corporation.

(b) The term "producer" means any person engaged in the business of growing or producing any farm product. Definitions

(c) "Farm products" shall include all agricultural, horticultural, viticultural and vegetable products of the soil, poultry and poultry products, live stock and live stock products, honey and cut flowers, but shall not include seeds, timber and timber products.

(d) The term "consignor" includes any person who ships or delivers to any commission merchant or dealer any farm products for handling, sale or resale.

(e) The term "commission merchant" means any person who shall receive on consignment or solicit from the producer thereof any farm product for sale on commission on behalf of such producer, or who shall accept any farm product in trust from the producer thereof for the purpose of resale, or who shall sell or offer for sale on commission any farm product, or who shall in any way handle for the account of or as an agent of the producer thereof any farm product.

(f) The term "dealer" means any person other than a commission merchant who obtains from the producer thereof possession or control of any farm product except by payment to the producer, at the time of obtaining such possession or control, of the full agreed price of such commodity in lawful money of the United States; provided, that any person licensed as a slaughterer under the provisions of Article 3 of Chapter 1 of Division III of this code shall not be required to obtain a license as a dealer under this chapter, and provided that the term "dealer" as herein defined shall not include retail merchants having a fixed or established place of business in this State.

(g) The term "broker" means any person engaged in the business of soliciting or negotiating the sale of any farm product.

(h) The term "agent" means any person who, on behalf of any commission merchant, or dealer, or broker receives, contracts for or solicits any farm product from a producer thereof or who negotiates the consignment or purchase of any farm product on behalf of any commission merchant, dealer or broker.

(i) The term "director" means State Director of Agriculture.

CHAPTER 567.

Stats. 1933, p. 60.

An act to amend section 830.5 of the Agricultural Code, relating to transportation of fruits, nuts, and vegetables.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 209.

SECTION 1. Section 830.5 of the Agricultural Code is hereby amended to read as follows:

Substandard commodities.

830.5. It is unlawful to transport or deliver commodities referred to in section 830, which fail to meet the requirements of this chapter and are intended for commercial by-product or live stock feeding purposes, without first having secured a permit from the commissioner. It is unlawful to move, transport or deliver commodities referred to in section 830, which fail to meet the requirements of this chapter, for the purpose of grading, packing or reconditioning, from one packing plant to another, without first having secured a permit from the commissioner.

Permit.

Transportation of substandard commodities.

It is unlawful to sell, offer for transportation or delivery commodities referred to in section 830, which fail to meet the requirements of this chapter, and are intended for commercial by-product or live stock feeding purposes, to any person required to have a permit under the provisions of this section unless such person has such permit. It is unlawful to sell, offer for transportation or delivery, such commodities to any person unless the seller keeps an accurate record of all such transactions on such form and available to the commissioner at such time as the commissioner of the county may require.

Every person who transports or delivers such commodities shall apply to the commissioner of the county of his residence for a permit which shall be issued to him for a period not to exceed twelve months. The permittee shall, upon request of any commissioner, furnish such affidavits, receipts and other evidence as such commissioner reasonably may require as proof that the commodities have been disposed of for commercial processing, preserving, or manufacture of by-products. Such permit may be revoked or suspended for failure to furnish required evidence of lawful disposal of the commodity or commodities or for violation of any other requirement of this chapter, after notice and hearing by the commissioner who issued the permit. Such notice when mailed to the permittee at the address given in his application shall give such commissioner jurisdiction to revoke or suspend such license. Nothing herein contained shall apply to a common carrier operating over a regular route or between fixed termini and transporting any of the commodities mentioned in section 830 in good faith and in accordance with its duties as a common carrier.

CHAPTER 568.

An act to amend section 6 of an act entitled "An act to insure the better education of dental surgeons and to regulate the practice of dentistry in the State of California, providing penalties for the violation hereof," approved May 21, 1915, relating to persons eligible to examination.

Stats. 1915, p. 698, amended.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 6 of the act cited in the title hereof is hereby amended to read as follows:

Stats. 1933, p. 1450

Sec. 6. Any person over twenty-one years of age shall be eligible to take an examination before the Board of Dental Examiners of California, upon making application therefor, and upon (1) paying a fee of twenty-five dollars; provided, that the fee shall be fifty dollars for applicants presenting credentials of graduation from dental schools other than in California; (2) furnishing satisfactory testimonials of good moral character; (3) furnishing satisfactory evidence of having graduated from a reputable dental college, which must have been approved by the Board of Dental Examiners of California; provided, however, that every person actually engaged as an apprentice to a regularly licensed dentist who has practiced in the State of California for ten years or more shall be eligible for examination, if, within thirty days after this section, as amended, goes into effect, he shall file with the secretary of the board an affidavit stating his name, age, the length of time for which he has been actually apprenticed and with whom; and who, at the time of his application for examination shall show to the satisfaction of the board that he has served an apprenticeship of at least five years and is a graduate from a high school or similar institution of learning in this or some other State of the United States requiring a three years' course of study; and provided, that no examination shall be given to an applicant claiming the right to take the same as an apprentice later than January 31, 1936.

Eligibility for examination by Board of Dental Examiners

Apprentices.

CHAPTER 569.

An act to amend section 1238 of the Code of Civil Procedure, relating to the exercise of the right of eminent domain.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1238 of the Code of Civil Procedure is hereby amended to read as follows:

Stats. 1929, p. 478.

Eminent domain.

1238. Subject to the provisions of this title, the right of eminent domain may be exercised in behalf of the following public uses:

United States.

1. Fortifications, magazines, arsenals, navy yards, navy and army stations, lighthouses, range and beacon lights, coast surveys, and all other public uses authorized by the government of the United States.

State and State agencies

2. Public buildings and grounds for use of a State, or any State institution, or any institution within the State of California which is exempt from taxation under the provisions of section 1a of Article XIII of the Constitution of the State of California, and all other public uses authorized by the Legislature of the State of California.

Public utilities, cities or counties.

3. Any public utility, and public buildings and grounds, for the use of any county, incorporated city, or city and county, village, town, school district, or irrigation district, ponds, lakes, canals, aqueducts, reservoirs, tunnels, flumes, ditches, or pipes, lands, water system plants, buildings, rights of any nature in water, and any other character of property necessary for conducting or storing or distributing water for the use of any county, incorporated city, or city and county, village or town or municipal water district, or the inhabitants thereof, or any State institution, or necessary for the proper development and control of such use of said water, either at the time of the taking of said property, or for the future proper development and control thereof, or for draining any county, incorporated city, or city and county, village or town; raising the banks of streams, removing obstructions therefrom, and widening and deepening or straightening their channels; roads, highways, boulevards, streets and alleys; public mooring places for water craft; public parks, including parks and other places covered by water, and all other public uses for the benefit of any county, incorporated city, or city and county, village or town, or the inhabitants thereof, which may be authorized by the Legislature; but the mode of apportioning and collecting the costs of such improvements shall be such as may be provided in the statutes by which the same may be authorized.

Wharves, bridges, roads, ferries

4. Wharves, docks, piers, warehouses, chutes, booms, ferries, bridges, tollroads, byroads, plank and turnpike roads; paths and roads either on the surface, elevated, or depressed, for the use of bicycles, tricycles, motorcycles and other horseless vehicles, steam, electric, and horse railroads, canals, ditches, dams, poundings, flumes, aqueducts and pipes for irrigation, public transportation, supplying mines and farming neighborhoods with water, and draining and reclaiming lands, and for floating logs and lumber on streams not navigable, and water, water rights, canals, ditches, dams, poundings, flumes, aqueducts and pipes for irrigation of lands furnished with water by corporations supplying water to the lands of the stockholders thereof only, and lands with all wells and water therein adjacent to the lands of any municipality

or of any corporation, or person supplying water to the public or to any neighborhood or community for domestic use or irrigation.

5. Roads, tunnels, ditches, flumes, pipes, aerial and surface tramways and dumping places for working mines; also outlets, natural or otherwise, for the flow, deposit or conduct of tailings or refuse matter from mines; also an occupancy in common by the owners or possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines. Tunnels, flumes, ditches

6. Byroads leading from highways to residences, farms, mines, mills, factories and buildings for operating machinery, or necessary to reach any property used for public purposes. Byroads.

7. Telegraph, telephone, radio and wireless lines, systems and plants. Communications

8. Sewerage of any incorporated city, city and county, or of any village or town, whether incorporated or unincorporated, or of any settlement consisting of not less than ten families, or of any buildings belonging to the State, or to any college or university, also the connection of private residences and other buildings, through other property, with the mains of an established sewer system in any such city, city and county, town or village. Sewers

9. Roads for transportation by traction engines or road locomotives. Engine roads

10. Oil pipe lines. Pipe lines.

11. Railroads, roads and flumes for quarrying, logging or lumbering purposes. Quarrying or logging roads.

12. Canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes and outlets natural or otherwise for supplying, storing, and discharging water for the operation of machinery for the purpose of generating and transmitting electricity for the supply of mines, quarries, railroads, tramways, mills, and factories with electric power; and also for the applying of electricity to light or heat mines, quarries, mills, factories, incorporated cities and counties, villages, towns, or irrigation districts; and also for furnishing electricity for lighting, heating or power purposes to individuals or corporations; together with lands, buildings and all other improvements in or upon which to erect, install, place, use or operate machinery for the purpose of generating and transmitting electricity for any of the purposes or uses above set forth. Canals, reservoirs, dams.

13. Electric power lines, electric heat lines, electric light lines, electric light, heat and power lines, and works or plants, lands, buildings or rights of any character in water, or any other character of property necessary for generation, transmission or distribution of electricity for the purpose of furnishing or supplying electric light, heat or power to any county, city and county or incorporated city or town, or irrigation district, or the inhabitants thereof, or necessary for the property development and control of such use of such Heat, light and power

electricity, either at the time of the taking of said property, or for the future proper development and control thereof.

Cemeteries.

14. Cemeteries for the burial of the dead, and enlarging and adding to the same and the grounds thereof.

Abstract and title companies.

15. The plants, or any part thereof, or any record therein of all persons, firms or corporations heretofore, now or hereafter engaged in the business of searching public records, or publishing public records or insuring or guaranteeing titles to real property, including all copies of, and all abstracts or memoranda taken from, public records, which are owned by, or in the possession of, such persons, firms or corporations or which are used by them in their respective businesses; provided, however, that the right of eminent domain in behalf of the public uses mentioned in this subdivision may be exercised only for the purposes of restoring or replacing, in whole or in part, public records, or the substance of public records, of any city, city and county, county or other municipality, which records have been, or may hereafter be, lost or destroyed by conflagration or other public calamity; and provided, further, that such right shall be exercised only by the city, city and county, county or municipality whose records, or part of whose records, have been, or may be, so lost or destroyed.

Fairs.

16. Expositions or fairs in aid of which the granting of public moneys or other things of value has been authorized by the Constitution.

Gas works.

17. Works or plants for supplying gas, heat, refrigeration or power to any county, city and county, or incorporated city or town, or irrigation district, or the inhabitants thereof, together with lands, buildings and all other improvements in or upon which to erect, install, place, maintain, use or operate machinery, appliances, works and plants for the purpose of generating, transmitting and distributing the same and rights of any nature in water, or property of any character necessary for the purpose of generating, transmitting and distributing the same, or necessary for the proper development and control of such use of such gas, heat, refrigeration, or power, either at the time of the taking of said property, or for the future proper development and control thereof.

Trees along highways.

18. Standing trees and ground necessary for the support and maintenance thereof, along the course of any highway, within a maximum distance of three hundred feet on each side of the center thereof; and ground for the culture and growth of trees along the course of any highway, within the maximum distance of three hundred feet on each side of the center thereof.

Fish propagation and conservation.

19. Propagation, rearing, planting, distribution, protection or conservation of fish.

CHAPTER 570.

An act to amend the Vehicle Code by amending sections 253, 257, 267, 268, 269, 270, 272, 273, 314, 315, 316, and 338; by repealing sections 350, 351, 352, 353, and 354; by adding sections 254, 271.5, 350, 351, 352, 353, and 354, relating to vehicles.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 571.

An act to add a new section to the Probate Code, to be numbered 1558, providing for allowances by the court to next of kin of an insane or incompetent person out of surplus income of said insane or incompetent person.

Stats. 1931, p. 587, amended

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Probate Code, to be numbered 1558, to read as follows:

New section

1558. On the application of the guardian or next of kin of an insane or incompetent person, the court may direct the guardian to pay and distribute surplus income, not used for the support and maintenance of the ward, or any part of such surplus income, to the next of kin whom the ward would, in the judgment of the court, have aided, if said ward had been of sound mind. The granting of such allowance and the amounts and proportions thereof shall be discretionary with the court, but the court shall give consideration to the amount of surplus income available after due provision has been made for the proper support and maintenance of the ward, to the circumstances and condition of life to which the ward and said next of kin have been accustomed and to the amount which the ward would, in the judgment of the court, have allowed said next of kin, had said ward been of sound mind. Notice of the hearing on said application shall be given as provided in section 1557 of this code.

Distribution of surplus income of incompetent

CHAPTER 572.

An act to amend section 1053 of the Penal Code, relating to substitution of judges in criminal actions.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1911, p. 365.

SECTION 1. Section 1053 of the Penal Code is hereby amended to read as follows:

Proceedings when judge dies or is disabled during criminal proceeding

1053. If after the commencement of the trial of a criminal action or proceeding the judge shall die, become ill, or for any other reason be unable to proceed with the trial, any other judge of the superior court in and for the county, or city and county, in which the case is pending may proceed with and finish the trial; or, if there be no other judge of such superior court, then the clerk or sheriff shall adjourn the court and continue the case from day to day until such time as the chairman of the Judicial Council shall designate and assign a judge of the superior court from some other county to proceed with and complete the trial, or until such time as, by stipulation in writing between the district attorney and the attorney for the defendant, filed with the clerk, a judge shall be agreed upon by them to complete said trial. The judge authorized by the provisions of this section to proceed with and complete the trial shall have the same power, authority and jurisdiction as if the trial had been commenced before such judge.

CHAPTER 573.

An act to amend section 1029 of the Penal Code, relating to trial of a judge of the superior court.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Code amdts, 1880, p 6

SECTION 1. Section 1029 of the Penal Code is hereby amended to read as follows:

Proceedings when judge of superior court is charged with crime.

1029. When an indictment is found or an information filed in the superior court against a judge thereof, a certificate of that fact must be transmitted by the clerk to the chairman of the Judicial Council, who shall thereupon designate and assign a judge of the superior court of another county to preside at the trial of such indictment or information, and hear and determine all pleas and motions affecting the defendant thereunder before and after judgment.

CHAPTER 574.

An act to provide means for making applicable to judges of the superior courts the provisions of section 26 of Article VI of the Constitution of this State, relating to the method of selecting judges.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Adoption of Sec 26, Art. VI, Constitution.

SECTION 1. The electors of any county may adopt the provisions of section 26 of Article VI of the Constitution of this State as applicable to the judge or judges of the superior court of such county if a majority of the electors of such county, voting on the question of the adoption of said provisions at an election at which such question shall be submitted, shall vote in favor thereof.

Resolution of supervisors

SEC. 2. The said provisions may be adopted (a) in pursuance of an ordinance or resolution adopted by the board of supervisors of such county, declaring that the public interest requires the submission at an election of the proposal to adopt the said provisions as applicable to the judge or judges of the superior court of such county; or (b) in pursuance of a petition of qualified electors of said county as hereinafter provided.

Petition of electors

Contents of petition

SEC. 3. Any such petition must state the name and address of a person or persons to whom notice of the insufficiency of the petition shall be sent in the event that the petition shall not have the required number of signatures of the qualified electors signed thereto. Such petition, signed by ten per cent of the qualified electors of the county, computed upon the total number of votes cast therein for all candidates for Governor at the last preceding general election at which a Governor was elected, praying for the adoption of the said provisions as applicable to the judge or judges of the superior court of such county, shall be filed in the office of the county clerk.

Duties of clerk.

SEC. 4. It shall be the duty of the county clerk, within twenty days after the filing of the petition, to examine the same and to ascertain from the record of the registration of the electors of the county whether the petition is signed by the requisite number of qualified electors. If required by the clerk, the board of supervisors shall authorize him to employ persons to assist him in the work of examining the petition, and the board shall provide for their compensation. Upon the completion of such examination, the clerk shall forthwith attach to the petition his certificate, duly dated, showing the results of his examination, and if the certificate shows that the petition is signed by the requisite number of qualified electors he shall immediately present the petition to the board of supervisors, if it is in session, otherwise at its next meeting.

Supplemental signatures.

SEC. 5. If it appears by the certificate that the petition has not the required number of signatures, the clerk shall so

notify the person or persons designated as the person or persons to whom notification of the insufficiency of the petition shall be sent; whereupon the petitioners shall have thirty days from and after the date of receiving such notice of insufficiency to present and file a supplement bearing additional signatures. Upon the receipt of the supplement the clerk shall proceed forthwith to examine the same, and must complete such examination within ten days from the date of its receipt by him. If it appears that the additional signatures and those which have not been legally rejected upon the original petition total the requisite number, the clerk shall forthwith attach to the petition his certificate, duly dated, showing that the petition has been signed by the requisite number of qualified electors, and shall present said petition to the board of supervisors as aforesaid.

Election.

SEC. 6. Upon the adoption of such ordinance or resolution or the presentation of such petition, the board of supervisors shall submit the said proposal to the electors of said county at the next succeeding general election, presidential primary, or county-wide special election, occurring subsequent to ninety days after the adoption of such ordinance or resolution or the presentation of such petition. If the proposal is approved by a majority of the votes cast thereon, the board of supervisors shall cause a certificate, signed by the chairman of the board and duly dated, to be filed with the Secretary of State, reciting that the proposal to adopt the provisions of said section 26 as applicable to the judge or judges of the superior court of such county was approved by a majority of the votes cast thereon at such election. Upon the filing of such certificate the provisions of said section 26 shall thereupon be applicable to such judge or judges, and effective as to all vacancies in the office of judge of the superior court of said county accruing after the date of filing of said certificate.

Registrar of voters.

SEC. 7. In any county where the office of registrar of voters exists, the provisions of this act referring to the county clerk shall apply to the registrar of voters.

CHAPTER 575.

An act to add sections 476, 477, 478 and 479 to the Political Code, relating to the powers and duties of the Attorney General.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the Political Code, to be numbered 476, and to read as follows:

476. For the purpose of enabling the Attorney General better to perform the duties imposed upon him by Section 21 of Article V of the Constitution, it is hereby provided that: Powers of Attorney General.

The Attorney General may appoint such special agents and investigators, not exceeding ten in number as he may deem necessary for the proper performance of the duties of his office. The Attorney General shall not be required to divulge their identities. They may be employed either on a monthly basis or by the day. In either event, they shall serve at the pleasure of the Attorney General. Each such special agent or investigator shall take an oath of office, the record of which shall be kept in the private files of the Attorney General, and when serving under the direction of the Attorney General each such special agent or investigator shall be a peace office of this State. The compensation of each such special agent or investigator shall be such as is fixed by the Attorney General and whenever the Attorney General deems it advisable to keep the identity of any special agent or investigator secret, claims for compensation and expenses of such special agent or investigator may be presented by the Attorney General in his own name with no further description than that such charges have been incurred under the provisions of this section, and when so presented such claims shall be full authority for their payment out of any fund in the State treasury allocated for the use of the Attorney General; provided, however, that upon the completion of each investigation and, in any event, within not more than one year after the payment of any such claim, the Attorney General shall file with the State Controller vouchers in support of such claim; provided, further, that the Controller shall not divulge any information conveyed by such vouchers, except upon the order of the Legislature, or upon the order of a court of record in cases where such information would be relevant and material evidence.

Special agents.

Oath.

Compensation.

Secret fund.

SEC. 2. A new section is hereby added to the Political Code, to be numbered 477, and to read as follows: New section.

477. The Attorney General shall exercise direct supervision over the district attorneys of the several counties of the State, and, from time to time, require of them written reports as to the condition of public business entrusted to their charge. When he deems it advisable or necessary in the public interest, or when directed to do so by the Governor, he shall assist any district attorney in the discharge of his duties, and shall have power, where he deems it necessary, to take full charge of any investigation or prosecutions of violations of law in which the superior court shall have jurisdiction, and, in this respect, shall have all the powers of a district attorney, including the power to issue or cause to be issued subpenas or other court process.

May supervise district attorneys.

SEC. 3. A new section is hereby added to the Political Code, to be numbered 478, and to read as follows: New section.

478. Whenever the Attorney General considers the public interest requires such action, he may, with or without the con- May require grand jury investigation.

currence of the district attorney, direct the county grand jury to convene for the investigation and consideration of such matters of a criminal nature as he desires to submit to it, and may take full charge of the presentation of such matters to the grand jury, issue subpenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney might otherwise do. In the event that a county grand jury is not in existence, he may demand the impaneling of a grand jury by those charged with the duty to do so, and upon such demand by him, it shall be their duty to do so. The Attorney General shall also have the power to file informations.

May file information.

New section.

SEC. 4. A new section is hereby added to the Political Code, to be numbered 479, and to read as follows:

May supervise sheriffs.

479. The Attorney General shall exercise direct supervision over the sheriffs of the several counties of the State, and from time to time require of them written reports concerning the investigation, detection and punishment of crime in their respective jurisdictions. He shall have power and it shall be his duty whenever he deems it necesary in the public interest to direct the activities of any sheriff relative to the investigation or detection of crime within the jurisdiction of such sheriff, and to direct the service of subpenas, warrants of arrest or other processes of court in connection therewith. He shall also have power and it shall be his duty whenever he deems it necessary in the public interest to appoint some competent person to perform the duties of such sheriff with respect to the investigation or detection of a particular crime and cause the arrest of persons in connection therewith, and any person so appointed shall thereby have and exercise all the powers of a sheriff with respect to such particular matter.

May appoint person to act in place of sheriff.

CHAPTER 576.

An act to amend section 669 of the Penal Code, relating to terms of imprisonment.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p. 1052.

SECTION 1. Section 669 of the Penal Code is hereby amended to read as follows:

Terms of imprisonment upon conviction for two or more crimes

669. When any person is convicted of two or more crimes, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same judge or by different judges, the second or other subsequent judgment shall direct whether the terms of imprisonment or any of them to which he is sentenced shall run concurrently or whether the imprisonment to which he is or has been sentenced upon the second or other subsequent conviction shall commence at the termination of the first term of

imprisonment to which he has been sentenced, or at the termination of the second or subsequent term of imprisonment to which he has been sentenced, as the case may be. In the event that the court at the time of pronouncing the second or other judgment upon such person had no knowledge of a prior existing judgment or judgments, then, upon such prior judgment or judgments being brought to the attention of the court at any time prior to the expiration of sixty days from and after the actual commencement of imprisonment upon the said second or other subsequent judgment, the court shall determine how the term of imprisonment upon said second or other subsequent judgment shall run with reference to the prior incompleted term or terms of imprisonment. The State Board of Prison Directors shall advise the court pronouncing the second or other subsequent judgment of the existence of all prior judgments against the defendant, the terms of imprisonment upon which have not been completely served.

Duty of State Board of Prison Directors

CHAPTER 577.

An act to amend section 2620 of the Political Code, relating to the width of highways.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 2620 of the Political Code is hereby amended to read as follows:

Stats 1933, p 16.

2620. The width of all city streets, except State highways, bridges, alleys, and lanes, and trails, shall be at least forty feet. The width of all private highways and by-roads, except bridges, shall be at least twenty feet; provided, however, that nothing in this act shall be so construed as to increase or diminish the width of city streets or private highways already established or used as such.

Width of streets, etc.

CHAPTER 578.

An act to amend section 473 of the Penal Code, relating to punishment for forgery.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 473 of the Penal Code is hereby amended to read as follows:

1872 code.

Punishment for forgery.

473. Forgery is punishable by imprisonment in the State prison for not less than one year nor more than fourteen years, or by imprisonment in the county jail for not more than one year.

CHAPTER 579.

An act to add section 1083c to the Political Code, relating to petitions.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 1083c is hereby added to the Political Code, to read as follows:

Recall petitions.

1083c. Petitions demanding the recall of an officer of a municipal corporation, or of a county or township officer, and petitions relating to the annexation of territory by a municipal corporation must indicate the date of each signature thereon.

Void after six months from first signature.

No such petition is valid for the purpose for which it was circulated after the expiration of six months from the date the first signature was affixed thereto, unless such petition has been filed with the officer or officers with whom such petition must be filed in accordance with the provisions of law relating to the filing of such petitions.

CHAPTER 580.

An act ceding to the United States of America certain tide and submerged lands of the State of California upon certain trusts and conditions.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Cession of certain tide and submerged lands to United States.

SECTION 1. All the right and title of the State of California in and to the parcel of land lying contiguous and adjacent to lot 1, section 6, township 2 north, range 2 west, Mount Diablo meridian, and above the present line of high-water mark and which was a part of the bed of Suisun Bay on September 28, 1850, when the Swamp Land Act was extended to the State of California, and also all the right and title of the State of California in and to the parcel of land extending from high-water mark out to three hundred yards beyond low-water mark lying adjacent and contiguous to the lands acquired by the United States as an addition to Benicia Arsenal Military Reservation by deeds from the Southern Pacific Railroad Company and Southern Pacific Company dated March 8, 1929, and March 26, 1931, and to the lands

hereinabove described in front of lot 1, section 6, and between the northerly line of the lands ceded as a part of that reservation by the act of the Legislature of California approved March 9, 1897, entitled, "An act relinquishing to the United States of America the title of this State to certain lands" (Statutes of California, 1897, page 74), and the northerly boundary line of the present reservation prolonged easterly to an intersection with the line three hundred yards beyond low-water mark are hereby granted, released and ceded to the United States of America; provided, that the title to each parcel of land hereby granted, released and ceded to the United States shall be and remain in the United States only so long as the United States shall continue to own and hold the adjacent lands now belonging to the United States; provided further, that the cession of the hereinbefore described lands is made subject to the reservations to the people contained in the Constitution of California.

SEC. 2. The State of California hereby cedes to the United States exclusive jurisdiction over the parcels of land described in section 1 of this act and also over that part of Benicia Arsenal Military Reservation reserved from the public domain by Executive Order No. 5465, dated October 20, 1930, as an addition to that reservation, said addition being described as lot 1, section 6, township 2 north, range 2 west, Mount Diablo meridian; provided, that this State reserves the right to serve and execute on said lands all civil process, not incompatible with this cession, and such criminal process as may lawfully issue under the authority of this State against any person or persons charged with crimes committed without said lands.

Benicia Arsenal Military Reservation

CHAPTER 581.

An act to amend section 338 of the Code of Civil Procedure, relating to limitation of actions.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 338 of the Code of Civil Procedure is hereby amended to read as follows:

Stats 1933, p. 878.

338. Within three years:

1. An action upon a liability created by statute, other than a penalty or forfeiture.

Limitation of actions: Three years.

2. An action for trespass upon or injury to real property.

3. An action for taking, detaining, or injuring any goods, or chattels, including actions for the specific recovery of personal property.

4. An action for relief on the ground of fraud or mistake. The cause of action in such case not to be deemed to have

accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

Amendment not to apply to pending actions.

SEC. 2. This amendment shall not be applicable to or any wise prejudice or affect any action heretofore commenced or now pending in any of the courts of this State.

CHAPTER 582.

Stats. 1931, p. 587, amended.

An act to amend section 600 of the Probate Code, relating to inventory and appraisement of estates.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p. 1515.

SECTION 1. Section 600 of the Probate Code is hereby amended to read as follows:

Inventory and appraisement.

600. Within three months after his appointment, or within such further time as the court or judge for reasonable cause may allow, the executor or administrator must file with the clerk of the court an inventory and appraisement of the estate of the decedent which has come to his possession or knowledge together with a copy of the same which copy shall be transmitted by said clerk to the county assessor. The inventory must include the homestead, if any, and all the estate of the decedent, real and personal, particularly specifying all debts, bonds, mortgages, deeds of trust, notes and other securities for the payment of money belonging to the decedent, with the name of each debtor, the date, the sum originally payable, the indorsements thereon, if any, with their dates, and a statement of the interest of the decedent in any partnership of which he was a member, to be appraised as a single item. It must include an account of all moneys belonging to the decedent.

When appraisement unnecessary.

If the whole estate consists of money in the hands of the executor or administrator, there need not be an appraisement, but an inventory must be made and returned as in other cases.

CHAPTER 583.

An act to amend section 200 of the Code of Civil Procedure, relating to exemptions from jury duty.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1931, p. 2487

SECTION 1. Section 200 of the Code of Civil Procedure is hereby amended to read as follows:

200. A person is exempt from liability to act as a juror if he be: Exemptions from jury service.

1. A judicial, civil, naval or military officer of the United States, or of this State while on active duty;

2. A person holding a county, city and county, city, town or township office of profit;

3. An attorney at law, or the clerk, secretary, or stenographer of an attorney at law;

4. A minister of the gospel, or a priest of any denomination following his profession;

5. A teacher in a university, college, academy, or school;

6. A practicing physician, or practicing licensed dentist, or practicing registered optometrist, or druggist, actually engaged in the business of dispensing medicines;

7. An officer, keeper or attendant of an almshouse, hospital, or other charitable institution;

8. Engaged in the performance of duty as officer or attendant of the State prison or of a county jail;

9. Employed on board of a vessel navigating the waters of this State;

10. An express agent, mail carrier, or a superintendent, employee, or operator of a telegraph or telephone company, doing a general telegraph or telephone business in this State, or keeper of a public ferry or tollgate;

11. An active member of the National Guard of California, or an active member of a paid fire department of any city and county, city, town or village in this State, or any exempt member of a duly authorized fire company;

12. A superintendent, engineer, fireman, brakeman, motorman, or conductor on a railroad;

13. A person drawn as a juror in any court of record in this State, upon a regular panel, who has served as such within a year, or a person drawn or summoned as a juror in any such court, who has been discharged as a juror within a year as hereinafter provided; or a person who is incompetent under subdivision three of the preceding section; provided, however, that in counties having less than five thousand population the exemption provided by this subdivision shall not apply; or,

14. A practitioner who treats the sick by prayer in the practice of the religion of any well recognized church or denomination, or a reader whose duty is to conduct regular religious services of such church or denomination.

CHAPTER 584.

Stats. 1913, p. 698, amended.

An act to amend section 4 of an act entitled "An act to permit the consolidation of elections and to provide a procedure therefor," approved June 11, 1913, relating to canvassing returns.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1913, p. 517.

SECTION 1. Section 4 of the act mentioned in the title hereof is amended to read as follows:

Consolidation of elections.

Sec. 4. Within the territory affected by such order of consolidation, the election precinct, polling places and voting booths shall, in every case, be the same and there shall be only one set of election officers in each of such precincts. When the returns of elections consolidated under this act are required to be canvassed by different canvassing boards, such elections shall be conducted separately in the same manner as if they had not been consolidated, except as in this section provided. In case of the consolidation of any election called by the legislative body of a city, district or other political subdivision with an election held in the county or counties in which such city, district, or other political subdivision is situated, the governing body of such city, district, or other political subdivision in the ordinance or notice calling or consolidating such election, may authorize such board of supervisors to canvass the returns of such election, and such election shall be held in all respects as if there were only one election, and only one ticket or ballot shall be used thereat; and the returns of such election need not be canvassed by the legislative body of such city, district or other political subdivision. When the returns of any two or more elections consolidated under this act are required to be canvassed by the same body, such elections shall be held in all respects as if there were only one election, and only one ticket or ballot shall be used thereat. Elections may be consolidated and conducted in accordance with the provisions of this act notwithstanding the fact that the absent voter law may apply to less than all of the elections so consolidated and whenever only one ticket or ballot is used at such consolidated election the ballots cast by absent voters shall be counted only in connection with elections to which absent voter privileges have been extended by law.

Absent voters.

CHAPTER 585.

An act to add section 9½ to "An act to provide for the aid and relief of indigents," approved June 5, 1933, relating to the sale of personal property of such persons upon their death.

Stats. 1933, p. 2005, amended

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the act cited in the title hereof, to be numbered section 9½ and to read as follows:

New section

Sec. 9½. If there be in the hands of any officer of said county, or there be surrendered to any officer of said county, upon the death of any such indigent person, any personal property of a total of less than twenty-five dollars in value, belonging to said person, the board of supervisors of said county may by resolution order such property to be sold, and if the proceeds thereof do not exceed the sum of twenty-five dollars, they shall be applied to the payment of the claim of said county, or city and county, against the said person. If the value of such property or the proceeds received from its sale exceeds the sum of twenty-five dollars, or exceeds the indebtedness due to the county, such property or the proceeds of the sale thereof in excess of twenty-five dollars or the amount of the claims of the county, shall be delivered to the public administrator of such county or other legal representative of the deceased for administration.

Disposition of property of deceased indigent.

CHAPTER 586.

An act to amend section 515 of the Vehicle Code, relating to motor vehicles.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 587.

An act to amend section 4 of an act entitled "An act to promote the better education of nurses and the better care of the sick in the State of California, to provide for and regulate the examination and registration of graduate nurses, and to provide for the issuance of certificates of registration as registered nurses to qualified applicants by the State Board of Health, and to repeal an act approved

Stats. 1913, p. 613, amended.

March 20, 1905, entitled "An act to promote the better education of the practice of nursing the sick in the State of California, to provide for the issuance of certificates of registration as a registered nurse, to qualified applicants of the Board of Regents of the University of California, and to provide penalties for violation thereof," approved June 12, 1913, relating to schools of nursing.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1921, p. 981.

SECTION 1. Section 4 of the act cited in the title is hereby amended to read as follows:

Nurses

Sec. 4. Applicants for examination for certificate as registered nurse must be at least twenty-one years of age and must present to the board satisfactory evidence of having received and completed in an accredited school of nursing a course including instruction covering a period of not less than thirty-six months in the actual care of medical, surgical, obstetrical patients and sick children, as required by the board, except that as to an applicant who has matriculated in such a school on or before the effective date of this amendment, said period shall be not less than twenty-eight months. After July, 1923, applicants must also present evidence of preliminary education which is satisfactory to the board. An accredited school of nursing is hereby defined to be a school for the education and training of nurses attached to or operated in connection with a hospital or hospitals, approved by the board, giving a course of instruction in theoretical teaching and practical work covering not less than thirty-six months. Theoretical teaching shall consist of the required number of hours of instruction in such subjects, and arranged in such order as the board may from time to time determine. Practical teaching and experience shall consist of the required number of hours in the care of medical, surgical, obstetrical patients and sick children, as may be determined by the board. Schools maintaining a course of instruction in addition to the thirty-six months' course as herein provided must be connected with a hospital or hospitals approved by the board, having a daily average of not less than one hundred patients, and shall provide, for such additional course, theoretical and practical teaching in such subjects and arranged in such order of instruction as the board may determine.

CHAPTER 588.

An act to amend section 911 of the Insurance Code, relating to insurance practice regarding financial statements of insurers, and matters incidental thereto.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 589.

An act to amend section 135 of the Vehicle Code, relating to the California Highway Patrol.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 590.

An act to amend sections 459, 465 and 471 of, and to add a new section to be numbered 466 to, the Vehicle Code, relating to highways and the regulation thereof.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 591.

An act to amend the Vehicle Code by adding thereto section 416, relating to vehicles.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 592.

An act to amend sections 468, 474, 515, 516, 713 and 714 of, and to add a new section to be numbered 693 to, the Vehicle Code, relating to highways, bridges and structures thereon, and the regulation of speeds and weight of vehicles.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 593.

An act to add section 5.28 to the School Code, relating to vacations of teachers, officers and employees of State teachers colleges, State colleges, the California School for the Deaf, the California School for the Blind and the California Polytechnic School.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 5.28 is hereby added to the School Code to read as follows:

Vacations of certain teachers.

5.28. The length of, and the time for, vacations of teachers, officers and employees of State teachers colleges, State colleges, the California School for the Deaf, the California School for the Blind and the California Polytechnic School shall be prescribed by the director of education.

SEC. 2. The provisions of this act shall supersede and prevail over any other provisions of law relating to the vacations of persons employed by the State, whether such provisions are amendments to the State Civil Service Act or occur in other statutes. It is the intention of the Legislature that the provisions of this act be exclusive and constitute the only expression of the will of the Legislature in relation to the subject of vacations for teachers, officers and employees of State teachers colleges, State colleges, the California School for the Deaf, the California School for the Blind and the California Polytechnic School.

Legislative intent.

CHAPTER 594.

Stats. 1931, p. 483, amended.

An act to amend the Building and Loan Association Act by amending section 12.06 thereof, relating to advertising by building and loan associations.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p. 533.

SECTION 1. Section 12.06 of the act cited in the title hereof is hereby amended to read as follows:

Restrictions on advertising.

12.06. Restrictions on advertising. No association shall issue or publish or cause or permit to be issued or published, any advertisement that it is doing or permitted to do any business which is prohibited by law to an association, or any advertisement which shall misrepresent the nature of the shares, stock or investment certificates of such association, or the rights of investors in respect thereto. Any association whose corporate name does not include the words "building

and loan" or "building-loan" shall in all advertisements state "This is a building and loan association" or words to that effect. The commissioner shall have power to require any or all associations, before issuing, circulating or publishing any advertisement, to file a true copy of the proposed text thereof in the office of the commissioner at least one day prior thereto; and if the commissioner shall have made the aforesaid requirement as to any association, such association shall comply therewith and shall not issue, circulate or publish any advertisement after notice in writing from the commissioner that in his opinion the same is unauthorized, false, misleading or otherwise likely to deceive a reader or hearer thereof. No association in any advertisement shall state or refer to the fact that investment certificates are a legal investment for the funds of executors, administrators, guardians, receivers or trustees, or for the funds of insurance companies, unless it shall also state, at least as conspicuously, that such fact does not constitute a recommendation or endorsement thereof by the State of California. No association in any advertisement shall state that it is under State supervision or control, or shall include in any advertisement or in any instrument used by it, a replica of the Great Seal of the State of California.

Supervision by commissioner.

Statement as to legal investment.

Use of Great Seal of State of California.

CHAPTER 595.

An act to amend section 4242 of the Political Code, and to add thereto sections 4242.1, 4242.2, 4242.3, relating to the compensation of county and township officers in counties of the thirteenth class.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4242 of the Political Code is hereby amended to read as follows:

Stats. 1933, p. 1615.

4242. Supervisors. Each member of the board of supervisors, two thousand four hundred dollars ($2,400) per annum for personal services performed by him as supervisor, member of the board of equalization and road commissioner. There is hereby allowed to each supervisor a sum not to exceed twenty-five per cent of his monthly salary for expenses necessarily incurred in the conduct of his office. Each supervisor shall file an itemized statement, supported by receipts or vouchers, on the first day of each and every month, designating the actual expenditure on his part of expenses necessarily incurred in the conduct of his said office for the preceding month, and no allowance shall be made to any supervisor for expenses necessarily incurred in the conduct of his said office unless the same shall be itemized and designated in said claim filed by him as herein provided.

Contra Costa County: Salaries. Supervisors.

New section.

SEC. 2. Section 4242.1 is hereby added to the Political Code, to read as follows:

District attorney.

4242.1. District Attorney. The district attorney shall receive a salary of five thousand dollars ($5,000) per annum. He shall receive the compensation herein designated as full compensation for any and all services performed by him, and is hereby prohibited from engaging in the private practice of the law and is prohibited from accepting any fees, post, or position with any municipal, district, or public corporation whatsoever.

New section.

SEC. 3. Section 4242.2 is hereby added to the Political Code, to read as follows:

Auditor.

4242.2. Auditor. The auditor shall receive a salary of three thousand five hundred dollars ($3,500) per annum.

New section.

SEC. 4. Section 4242.3 is hereby added to the Political Code, to read as follows:

Officers and employees allowed no other compensation than salary.

4242.3. Compensation, Generally. No official, deputy, or employee drawing pay as a county official, deputy, or employee is permitted to draw wages, pay, or compensation from said county in any other capacity, but the salaries and expenses herein set forth shall be in full compensation for the services required of them by law, or by virtue of their offices, and all other fees, mileage, or other remuneration or compensation of any kind or character received by such officers or their deputies, for or by reason of any duty imposed by law on such officers, or by virtue of their offices, except such as are specifically allowed to be retained by them by county ordinance, shall be by such officers paid into the county treasury at such times and in such manner as required by law; provided, however, that until such time as the county provides for such officers and makes available to their use such numbers of automobiles as are reasonably necessary to carry out the duties of their respective offices, such officers shall be allowed to retain for their own use and benefit such mileage as may be allowed by ordinances of such counties of the thirteenth class.

Mileage for privately owned automobiles

CHAPTER 596.

Stats. 1933, p. 394.

An act to amend section 618 of the "Fish and Game Code," approved April 11, 1933, relating to fish and game and other wild life.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 452.

SECTION 1. Section 618 of the Fish and Game Code is hereby amended to read as follows:

Trout and whitefish in District 23

618. Except as otherwise provided in this section, in any stream in district 23 flowing into the State of Nevada, not including its tributaries, nor any lake from which said stream

may flow, all varieties of trout and whitefish may be taken from May 15 to October 31. In the Truckee River, its tributaries, and in Lake Tahoe and in Donner Lake, trout and whitefish may be taken between May 1 and October 15.

CHAPTER 597.

An act to amend section 2 of the "Sacramento and San Joaquin Drainage District Refunding Act," approved May 26, 1927, as amended, relating to the operation and maintenance of certain units or portions of the flood control work within the Sacramento and San Joaquin Drainage District.

Stats 1927, p 1503, amended.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 2 of Sacramento and San Joaquin Drainage District Refunding Act, as amended, is hereby amended to read as follows:

Stats 1933, p. 655.

Sec. 2. From and after the date upon which this act as hereby amended becomes effective, the operation and maintenance of the units or portions of the flood control work within the Sacramento and San Joaquin Drainage District, hereinafter enumerated, shall be under the direction and control of the Department of Public Works, and the cost of such operation, control and maintenance shall be defrayed by the State:

Work transferred to Department of Public Works.

(1) The east levee of the Sutter by-pass north of Nelson Slough.

(2) The levees and channels of the Wadsworth Canal, the intercepting canals draining into the same, and all structures incidental thereto.

(3) The collecting canals, sumps, pumps and structures of the drainage system of project number six east of the Sutter by-pass.

(4) The by-pass channels of the Butte Slough by-pass, the Sutter by-pass, the Tisdale by-pass, the Yolo by-pass and the Sacramento by-pass with all cuts, canals, bridges, dams, and other structures and improvements contained therein and in the borrow pits thereof.

(5) The levees of the Sacramento by-pass.

(6) The channels and overflow channels of the Sacramento River and its tributaries within the Sacramento and San Joaquin Drainage District.

(7) The Sacramento River outlet enlargement project below Cache Slough to the extent of the State's liability therefor.

(8) The Knights Landing ridge cut flowage area.

(9) The flood relief channels controlled by the Moulton and Colusa weirs and the training levees thereof.

(10) The levee on the left bank of the Sacramento River adjoining Butte Basin, from the Butte Slough outfall gates upstream to a point four miles northerly from the Moulton weir, after completion.

The Sacramento and San Joaquin Drainage District and the Reclamation Board and the members thereof are hereby relieved of all responsibility or liability for the operation or maintenance of all levees, overflow channels, by-passes, weirs, cuts, canals, pumps, drainage ditches, sumps, bridges, basins, or other flood control works within or belonging to the Sacramento and San Joaquin Drainage District.

CHAPTER 598.

Stats. 1915, p. 1, amended.

An act to repeal sections 4a and 4b of an act entitled "An act to provide for the government of irrigation districts having an area of more than five hundred thousand acres and to enable such irrigation districts to construct levees and to protect the lands within such districts from damage resulting from floods and the overflow of rivers and for that purpose to provide additional powers for boards of directors within such irrigation districts," approved January 21, 1915, relating to elections and to qualification of electors, this act to take effect immediately.

[Approved by the Governor July 15, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Stats. 1933, p. 2028, repealed.

SECTION 1. Sections 4a and 4b of the act cited in the title hereof are hereby repealed.

Urgency.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California and therefore shall take effect immediately. The following is a statement of the facts constituting such necessity:

It is necessary that an election or elections be held under said act for the purpose of submitting to the voters of the district affected certain proposed contracts with the government of the United States and a proposal or proposals for the issuance of district bonds, which election or elections must be called and held prior to ninety days after the final adjournment of the Legislature at this session if the district is to avail itself of Federal aid for certain district purposes within the time limited therefor by the Federal government. Pending litigation concerning the effect and operation of the sections hereby repealed renders uncertain the procedure governing the conduct of such election or elections, which uncertainty it is the purpose of this act to avoid.

CHAPTER 599.

An act to repeal sections 3664, 3664a, 3664a-1, 3664aa, 3664c 3664d, 3664e, 3665a, 3665b, 3665c, 3666, 3666b, 3667, 3667a, 3667b, 3669c, 3670, 3670b, 3670bb, 3670c, 3670cc, 3670d, 3671, 3671a, and 3671b of the Political Code, Chapter 154 of the Statutes of 1921, to amend sections 3664b, 3664b-1, 3664b-4, 3668, 3668a, 3668b, 3668c, 3669, and 3669c of the Political Code, all relating to the carrying into effect of the provisions of section 14 of Article XIII of the Constitution of the State of California.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Sections 3664, 3664a, 3664a-1, 3664aa, 3664c, 3664d, 3664e, 3665a, 3665b, 3665c, 3666, 3666b, 3667, 3667a, 3667b, 3669c, 3670, 3670b, 3670bb, 3670c, 3670cc, 3670d, 3671, 3671a, and 3671b of the Political Code and Chapter 154 of the Statutes of 1921 are hereby repealed. Repeals.

SEC. 2. Section 3664b of the Political Code is hereby amended to read as follows: Stats. 1921, p. 21.

3664b. Every insurance company or association doing business in this State shall annually pay to the State a tax of two and sixty hundredths per cent upon the amount of the gross premiums other than gross premiums from ocean marine insurance, received upon its business done in this State, less return premiums and reinsurance in companies or associations authorized to do business in this State; provided, that there shall be deducted from said two and sixty hundredths per cent upon the gross premiums the amount of any taxes paid by such companies on real estate owned by them in this State. This tax shall be in lieu of all other taxes and licenses, State, county, and municipal, upon such companies or their property, except taxes upon their real estate; provided, that when by the laws of any other State or country, any taxes, fines, penalties, licenses, fees, deposits of money, or of securities, or other obligations or prohibitions, are imposed on insurance companies of this State, doing business in such other State or country, or upon their agents therein, in excess of such taxes, fines, penalties, licenses, fees, deposits of money or securities or other obligations or prohibitions, imposed upon insurance companies of such other State or country, so long as such laws continue in force, the same obligations and prohibitions of whatsoever kind must be imposed by the Insurance Commissioner upon insurance companies of such other State or country doing business in this State. Tax on gross premiums of insurance companies.

SEC. 3. Section 3664b-1 of the Political Code is hereby amended to read as follows: Stats 1931, p. 56.

3664b-1. Every insurer transacting the business of ocean marine insurance in this State shall annually pay to the State a tax, measured by that portion of the underwriting Tax on ocean marine insurance companies.

profit of such insurer from such insurance written in the United States, which the gross premiums of the insurer from such insurance written in this State bear to the gross premiums of said insurer from such insurance written within the United States at the rate of five per centum, which tax shall be in lieu of all other taxes and licenses, State, county and municipal, upon such insurer, except taxes upon real estate, and such other taxes as may be assessed or levied against such insurer on account of any other class of insurance written by it.

Stats. 1917, p. 351.

SEC. 4. Section 3668 of the Political Code is hereby amended to read as follows:

Assessment and levy of taxes.

3668. The State Board of Equalization shall between the first Monday in March and the third Monday before the first Monday in July of each year assess and levy the taxes upon insurance companies as and in the manner provided for in section 14 of Article XIII of the Constitution of this State, and sections of this code enacted to carry the same into effect.

Clerical errors occurring or appearing in the name of any company, person or association subject to any tax assessed by the board, or in the making or extension of any assessment upon the records of the board which do not affect the substantial rights of the taxpayer, shall not invalidate the assessment.

Publication of notice.

On the third Monday before the first Monday in July the board shall publish a notice in one daily newspaper of general circulation published at the State capital, in one daily newspaper of general circulation published in the City and County of San Francisco, and in one daily newspaper of general circulation published in the city of Los Angeles, that the assessment of insurance companies has been completed, and that the record of assessments of such companies will be delivered to the Controller on the first Monday in July, and that if any company, person, or association is dissatisfied with the assessment made by the board, it may, at any time before the taxes thereon shall become due and payable, apply to the board to have the same corrected in any particular. The board shall have power at any time on or before the first Monday in July to correct the record of assessments of such companies and may increase or decrease any assessment therein if in its judgment the evidence presented or obtained warrants such action.

Stats. 1917, p. 353.

SEC. 5. Section 3668a of the Political Code is hereby amended to read as follows:

"Record of Assessments of Insurance Companies."

3668a. The State Board of Equalization must prepare each year a book to be called the "Record of Assessments of Insurance Companies" in which must be entered, either in writing or printing, or by both writing and printing, each assessment made by said board pursuant to section 3668 of this code.

On the first Monday in July the secretary of the State Board of Equalization must deliver to the Controller of State the record of assessments of insurance companies certified to by the chairman and secretary of the board.

SEC. 6. Section 3668b of the Political Code is hereby amended to read as follows: Stats. 1917, p. 354.

3668b. The taxes upon insurance companies assessed and levied as provided in section 14 of Article XIII of the Constitution of this State, and in and by the provisions of this code enacted to carry the same into effect, shall be due and payable on the first Monday in July in each year, and one-half thereof shall be delinquent on the sixth Monday after said first Monday in July at six o'clock p.m., and unless paid prior thereto, fifteen per cent shall be added to the amount thereof, and unless paid prior to the first Monday in February next thereafter at six o'clock p.m., an additional five per cent shall be added to the amount thereof; and the unpaid portion, or the remaining one-half of said taxes shall become delinquent on the first Monday in February next succeeding the day upon which they became due and payable, at six o'clock p.m.; and if not paid prior thereto five per cent shall be added to the amount thereof; provided, that all such taxes which are not fully secured by real property are due and payable at the time the assessment is made. Time of payment of taxes.

When in the opinion of the State Board of Equalization any of the taxes provided for in this section are not a lien upon real property sufficient to secure the payment of the taxes, said board may direct the Controller, or his duly authorized representative, to collect the same at any time before the first Monday in August thereafter, and the Controller may collect the taxes by seizure and sale of any property owned by the company against whom the tax is assessed. Proceedings when taxes not lien on realty.

The sale of any property so seized shall be made at public auction and of a sufficient amount of the property to pay the taxes, penalties and costs, and be made after one week's notice of the time and place of such sale given by publication in a newspaper of general circulation published in the county where the property seized is situate, or if there be no newspaper of general circulation published in such county, then by posting of such notice in three public places in such county. Sale.

Said notice shall contain a description of the property to be sold together with a statement of the amount of the taxes, penalties and costs due thereon and the name of the owner of said property and a further statement that unless the taxes, penalties and costs are paid on or before the day fixed in said notice for such sale of said property, or so much thereof as may be necessary to pay said taxes, penalties and costs, said property will be sold in accordance with law and said notice. Notice of sale.

On payment of the price bid for any property sold, the delivery thereof with bill of sale executed by the Controller vests the title in the purchaser. The unsold portion of any property so seized, may be left at the place of sale at the risk of the owner. All of the proceeds of any such sale in excess of the taxes, penalties, and costs, must be returned to the owner of the property sold, and until claimed must be deposited with Bill of sale

the State Treasurer, as trustee for such owner, and subject to the order of the owner thereof, his heirs, or assigns.

Stats. 1917, p. 355.

SEC. 7. Section 3668c of the Political Code is hereby amended to read as follows:

Taxes lien on property and franchises

3668c. The taxes levied upon insurance companies under the provisions of section 14 of Article XIII of the Constitution of this State and sections of this code enacted to carry the same into effect shall constitute a lien upon all the property and franchises of every kind and nature belonging to such companies, which lien shall attach on the first Monday in March of each year. Every tax herein provided for has the effect of a judgment against the company, and every lien has the effect of an execution duly levied against all property of the delinquent; the judgment is not satisfied nor the lien removed until such taxes, penalties, and costs are paid, or the property sold for the payment thereof. No final discharge in bankruptcy or decree of dissolution shall be made and entered by any court, nor shall the county clerk of any county or the Secretary of State file any such discharge or decree, or file any other document by which the term of existence of any corporation shall be reduced or terminated until all taxes, penalties, and costs due on assessments made under the constitutional and statutory provisions aforesaid shall have been paid and discharged.

Stats. 1917, p. 356.

SEC. 8. Section 3669 of the Political Code is hereby amended to read as follows:

Taxes payable to State Treasurer.

3669. All taxes assessed and levied upon insurance companies under the provisions of section 14 of Article XIII of the Constitution of this State and sections of this code enacted to carry the same into effect shall be paid to the State Treasurer, upon the order of the Controller. The Controller must mark the date of payment of any tax on the record of assessments of insurance companies.

Receipt of Controller.

The Controller must give a receipt to the person paying any tax, or any part of any tax, specifying the amount of the assessment and the tax, or part of tax, paid, and the amount remaining unpaid, if any, with a description of the property assessed; provided, that the receipt for the second half of the taxes may refer, by number or in any other intelligible manner, to the receipt given for the first half of said taxes, in lieu of a description of the property assessed.

Taxes erroneously collected.

Whenever any taxes, penalties, or costs collected and paid to the State Treasurer as hereinbefore provided, shall have been paid more than once, or shall have been erroneously or illegally collected, or when any taxes shall have been collected and paid pursuant to said provisions of law upon a computation erroneously made by reason of clerical mistake of the officers or employees of the State Board of Equalization, or shall have been computed in a manner contrary to law, the State Board of Equalization shall certify to the State Board of Control the amount of such taxes, penalties, or costs, collected in excess of what was legally due, from whom they were

collected or by whom paid, and if approved by said Board of Control, the same shall be credited to the company or person to whom it rightfully belongs, at the time of the next payment of taxes. No claim for such credit shall be so audited, approved, allowed, or paid unless presented within one year after the payment sought to be refunded.

Cancellation

In case the assessment of any company is duplicated upon the record of assessments of insurance companies, or there appears thereon the assessment of any company whose charter has been forfeited or right to do business in this State has been forfeited, or the assessment of any company which, for any reason, could not be legally assessed, the State Board of Equalization or the Controller shall certify such fact to the State Board of Control and said Board of Control shall authorize the cancellation of such assessment.

Stats 1933, p. 298.

SEC. 9. Section 3669c of the Political Code is hereby amended to read as follows:

Notice of suspension of corporate powers.

3669c. Within ten days after the first Monday in February, the Controller shall send by mail to the last known address of any company whose taxes are delinquent a notice of the amount of said taxes, penalties and costs, and that if the said taxes, penalties, and costs are not paid on or before the Saturday preceding the first Monday in March next thereafter at six o'clock p.m. of said day, the corporate powers, rights and privileges of such delinquent company, if it be a domestic corporation, will be at that time suspended and thereafter incapable of exercise, and that if the delinquent company be a foreign corporation it will thereupon forfeit its right to do intrastate business in this State.

Suspension of corporate powers.

If the taxes, penalties, and costs are not paid within the time specified in said notice, the Controller shall, on said Saturday preceding the first Monday in March at six o'clock p.m. of said day, mark on the record of assessments of insurance companies opposite the assessment of the delinquent corporation the words "corporate powers suspended," if the delinquent corporation be a domestic corporation, and thereupon said corporate powers shall be suspended and incapable of exercise until restored as hereinafter provided; and if the delinquent corporation be a foreign corporation, the Controller shall mark said record of assessments opposite the assessment of such delinquent corporation the words "right to do intrastate business forfeited" and thereupon said right to do such business shall be so forfeited. He shall at once report to the Secretary of State the name and number of charter of each corporation whose corporate powers have been suspended or right to do business has been forfeited for nonpayment of taxes.

List of defaulting corporations sent to county clerk and recorder.

On or before the first Monday in April of each year the Controller shall make a list of all corporations which have failed to pay the taxes imposed upon insurance companies under the provisions of section 14 of Article XIII of the Constitution and the sections of this code enacted to carry the

same into effect, and transmit a certified copy thereof to each county clerk and county recorder in this State. Said county clerks and county recorders shall file such certified copies in their respective offices in such manner that the same shall be preserved in the form of a permanent record of such office and easily identified by and available to the public. Said copies so certified by the Controller and filed as herein provided shall in the case of each corporation state whether such corporation is a domestic or foreign corporation and specify the penalty which each corporation has incurred for failure to pay the tax imposed by this act. Such certified copies so filed with either of said county officers, or any copy thereof certified by the Controller shall be received in evidence in any court in lieu of the original record on file with the Controller and shall be prima facie evidence of the truth of all statements contained therein.

Rights of corporation whose powers suspended.

After six o'clock p.m. of the Saturday preceding the first Monday in March in any year, the corporate rights, privileges and powers of every domestic corporation which has failed to pay said tax and money penalty shall, from and after said hour of said day, be suspended, and incapable of being exercised for any purpose or in any manner, except to defend any action brought in any court against such corporation, until said tax with all accrued penalties, and all taxes and charges due the State under the corporation license act are paid as hereinafter provided. The right and privilege of every foreign corporation to transact intrastate business in this State shall, for failure to pay said tax and money penalty, be forfeited at said hour of said day, and the Controller shall make a record of such forfeiture. In the case of foreign corporations such forfeiture may be relieved and the corporation's privilege to transact intrastate business in this State restored in the manner hereinafter provided.

Penalties.

After said hour of said day and until such taxes, penalties and charges are paid, every person who attempts or purports to exercise any of the rights, privileges or powers of any delinquent corporation, or, who transacts or attempts to transact any intrastate business in this State in behalf of any forfeited foreign corporation, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars and not exceeding one thousand dollars, or by imprisonment in the county jail not less than fifty days or more than five hundred days, or by both such fine and imprisonment. The jurisdiction of such offense shall be held to be in any county in which any part of such attempted exercise of such powers, or any part of such transaction of business was had or occurred. Every contract made in violation of this section is hereby declared to be void.

Revival and restoration.

All corporate powers, rights and privileges suspended or forfeited may be revived and restored to full force and effect by the payment of all accrued taxes and penalties due to the State under sections 3664b and 3634b-1 of this code and also, in

addition thereto, a sum of money equal to the tax last assessed under the provisions of said sections of this code, for each year succeeding the year in which such tax was levied, and to the time of such revivor. "Year" within the meaning of the preceding sentence is hereby defined as the period between the first Monday in March of any calendar year and the first Monday in March of the following calendar year.

Certificate of restoration

Upon payment of all such taxes and penalties the State Controller shall issue a certificate under his seal evidencing such payment and restoration, which certificate when recorded in the office of any county recorder shall constitute a release of all existing liens for such taxes upon the property of such corporation. Each county recorder shall keep an index of all such Controller's certificates recorded by him. Upon presentation of such Controller's certificate of revivor to any county clerk said officer shall make a record thereof in his office in a book kept for such purpose. The record so made by said county clerk shall be prima facie evidence of the restoration to such corporation of all previously suspended or forfeited rights, powers and privileges unless it appears from the records in the office of such county clerk or of the Secretary of State that subsequent to the date of such certificate of revivor the powers of said corporation have been suspended or its right to do intrastate business forfeited.

Action to collect delinquent taxes

The Controller may, on or before the thirtieth day of April next following said delinquency and suspension or forfeiture, bring an action in a court of competent jurisdiction in the county of Sacramento in the name of the people of the State of California, to collect any delinquent taxes, together with any penalties, or costs, which have not been paid in accordance with the provisions of this code and appearing delinquent upon the record of assessments for State taxes hereinbefore mentioned, and such actions shall be tried in the county of Sacramento unless the court, with the consent of the Attorney General, order a change of place of trial.

Duty of Attorney General.

The Attorney General must prosecute such action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. In such action a writ of attachment may be issued, and no bond or affidavit previous to the issuing of said attachment is required.

Service of summons.

In the case of companies whose right to do business has been forfeited or corporate powers suspended, service of summons may be made upon the persons provided for by law to be served as agents or officers of any of such companies and such persons shall be deemed to be the agents of such companies for all purposes necessary in order to prosecute such action. In the case of corporations whose powers have been suspended, the persons constituting the board of directors thereof shall have the power and right to defend such action. Payment of the taxes and penalties, or amount of the judgment recovered in such action must be made to the State Treasurer.

Evidence of unpaid taxes.

In such actions the record of assessments of insurance companies, or a copy of so much thereof as is applicable in said action, duly certified by the Controller, or by the secretary of the State Board of Equalization, showing unpaid taxes against any company, person or association assessed by the State Board of Equalization, is prima facie evidence of the assessment upon the property and franchises, the delinquency, the amount of the taxes, penalties, and costs due and unpaid to the State, and that the company, person, or association is indebted to the people of the State of California in the amount of taxes and penalties therein appearing unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with.

CHAPTER 600.

Stats. 1923, p. 571, amended.

An act to amend sections 1, 2, 10, 13a and 14 of the "Motor Vehicle Fuel License Tax Act," approved May 30, 1923, as amended, relating to definitions of terms and phrases, applications for licenses and fees required in connection therewith, nontaxable sales and exemption certificates in connection therewith, revolving funds, penalties for violation of said act, and providing that this act shall take effect immediately.

[Approved by the Governor July 15, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1632.

SECTION 1. Section 1 of the "Motor Vehicle Fuel License Tax Act," approved May 30, 1923, as amended, is hereby amended to read as follows:

Definitions.

Section 1. The following words, terms and phrases shall, whenever used in this act, have the meaning set forth in this section.

Motor vehicle.

(a) "Motor vehicle" shall mean and include every self propelled vehicle operated or suitable for operation on the highway.

Motor vehicle fuel.

(b) "Motor vehicle fuel" shall mean and include gasoline, natural gasoline, and any inflammable liquid, by whatever name such liquid may be known or sold, which is used or is usable for propelling motor vehicles operated by the explosion type of engine; provided, however, that kerosene shall not be considered motor vehicle fuel for the purpose of this act.

Distributor.

(c) "Distributor" shall mean and include every person, firm association or corporation refining, manufacturing, producing, blending, or compounding motor vehicle fuel in this State and, within the meaning of section 7 of this act, distributing such fuel; also every person, firm association or corporation importing any motor vehicle fuel into this State and, within the meaning of section 7 of this act, distributing such

fuel in this State, whether in the original package or container in which it is imported or otherwise than in such original package or container; also every person, firm, association or corporation who, having acquired in this State in the original package or container motor vehicle fuel which has been imported into this State, shall, within the meaning of section 7 of this act, distribute such fuel, whether in such original package or container in which the same was imported or otherwise than in such original package or container.

(d) "Producer" shall mean and include every person, firm, association or corporation, other than a distributor, engaged in the business of producing or manufacturing any petroleum product or products used in, or which may be used in, the blending, compounding or manufacturing of motor vehicle fuel; provided, however, that crude oil which must be refined before it may be used in such blending, compounding or manufacturing shall not be considered a petroleum product within the meaning of this definition. Producer.

(e) "Broker" shall mean and include every person, firm, association or corporation, other than a distributor, engaged in business as a broker, jobber or wholesale merchant dealing in motor vehicle fuel or any petroleum product or products used in or which may be used in the blending, compounding or manufacturing of motor vehicle fuel; provided, however, that crude oil which must be refined before it may be used in such blending, compounding or manufacturing shall not be considered a petroleum product within the meaning of this definition. Broker.

(f) "Service station" is a place operated primarily for the purpose of delivering motor vehicle fuel into the fuel tanks of motor vehicles. Service station.

(g) "In this State" or "in the State" means within the exterior limits of the State of California, and includes all territory within such limits owned by or ceded to the United States of America. "In this State."

SEC. 2. Section 2 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933, p. 1633.

Sec. 2. Every distributor before April 1, 1931, and after this act becomes effective every person, firm, association or corporation before becoming a distributor shall make an application to the State Board of Equalization for a license authorizing such distributor, person, firm, association or corporation to engage in business as a distributor. Applications for such licenses must be made to the State Board of Equalization on forms to be prescribed, prepared and furnished by said board. It shall be unlawful from and after April 1, 1931, for any person, firm, association or corporation to be a distributor without first securing from the State Board of Equalization a license for which provision is made in this section. Before granting any license authorizing any person, firm, association or corporation to engage in business as a distributor, the State Board of Equalization must require such person, firm, association or Distributor's license. Application.

corporation to file with said board, in such form as shall be prescribed by said board, a bond duly executed by such person, firm, association or corporation as principal and a corporation such as is mentioned in section 1056 of the Code of Civil Procedure of this State, as surety, payable to the people of the State of California, conditioned upon faithful performance of all the requirements of this act and expressly providing for the payment of all license taxes, penalties and other obligations of such person, firm, association or corporation arising out of this act.

Bond.

Amount of bond.

The total amount of the bond or bonds required of any distributor shall be fixed by the State Board of Equalization and may be increased or reduced by said board at any time subject to the limitations herein provided. In fixing the total amount of the bond or bonds required of any distributor, the State Board of Equalization must require a bond or bonds equivalent in total amount to twice his estimated monthly license tax determined in such manner as said board may deem proper; provided, however, that, subject to such terms and conditions as the State Board of Equalization may prescribe, any distributor may undertake to pay on each Tuesday the license tax accruing on all of his distributions of motor vehicle fuel during the week ending the Saturday next preceding, and, if any distributor shall so bind himself, said board shall fix his bond or bonds in a total amount equivalent to twice the license tax accruing on account of his estimated weekly distributions determined in such manner as said board may deem proper; and further provided that the total amount of the bond or bonds required of any distributor shall never be less than one thousand dollars nor more than one hundred thousand dollars. No recoveries on any bond or any execution of any new bond shall invalidate any bond and no revocation of any license shall affect the validity of any bond.

Weekly payments permitted.

Deposit in lieu of bond.

In lieu of any such bond or bonds in total amount as fixed hereunder, any distributor may deposit with the State Treasurer, under such terms and conditions as said board may prescribe, a like amount of lawful money of the United States, or bonds or other obligations of the United States, the State of California, or any county or city and county of this State, of an actual market value not less than the amount so fixed by said board. All licenses issued to distributors under this section shall be valid until revoked by the State Board of Equalization.

Monthly statement

Nothing in this section shall be construed as relieving any distributor of the duty of filing the sworn monthly statement required by section 6 of this act. The assessment of any distributor who makes weekly payments shall be shown on the assessment roll prepared under said section 6 in the same manner as the assessments of other distributors are shown thereon, and the Controller shall apply such payments to the credit of such distributor on the assessment roll for the month during which the distributions covered by such payments were made.

Whenever any distributor undertaking to pay his license tax in weekly installments, as provided in this section, shall fail to pay the full amount thereof in accordance with the terms and conditions prescribed by the State Board of Equalization, his license may be revoked forthwith, unless he complies immediately with the requirement of this section relating to the filing of a bond or bonds equivalent in total amount to twice the estimated monthly license tax. In the event of nonpayment of any weekly installment of the license tax, or any part thereof, pursuant to the undertaking of any distributor, the full amount of the license tax accrued against such distributor shall become immediately due and payable and the Controller and the Attorney General shall proceed forthwith to collect the license tax due from such distributor in the manner prescribed by section 4 of this act with reference to delinquency in the payment of the monthly license tax. All provisions of said section 4 shall apply with full force and effect to collections required to be made under this section; provided, however, that the ten per cent penalty for delinquency for which provision is made under section 4 hereof shall accrue only as provided in said section, and there shall be added to any weekly installment of license tax remaining unpaid at five o'clock in the afternoon of the Tuesday following the close of such week, a penalty of five per cent on account of such delinquency; the accrual of any such penalty of five per cent shall not in anywise affect the ten per cent penalty for delinquency imposed under section 4 hereof, but such ten per cent penalty shall not be computed upon any amount added to such weekly license tax as a penalty under this section.

Default in weekly payments.

Penalty for delinquency.

The license issued hereunder to any distributor shall not be transferable. Whenever a distributor ceases to engage in business as a distributor within the State of California by reason of the discontinuance, sale or transfer of such business, he shall give notice in writing thereof to the State Board of Equalization on or before the date of such discontinuance, sale or transfer. Such notice shall give the date of discontinuance and, in the event of a sale or transfer of the business, the date thereof and the name and address of the purchaser or transferee. All taxes and penalties under this act, not yet due and payable under other provisions hereof, shall become due and payable concurrently with such discontinuance, sale or transfer, and the distributor shall forthwith make a report and pay all such taxes and penalties, and shall surrender to the State Board of Equalization the license theretofore issued. Unless such notice shall have been given as hereinbefore provided, such purchaser or transferee shall be liable for all taxes and penalties under this act accrued against the vendor or transferor to the date of such sale or transfer, but only to the extent of the value of the property and business thereby acquired.

License not transferable.

Sale or transfer of business.

Every producer and every broker before April 1, 1931, and thereafter every person, firm, association or corporation before

Registration.

becoming a producer or broker shall register as such with the State Board of Equalization and make application for a license on forms to be prepared and furnished by the State Board of Equalization. Each such application shall be accompanied by a registration fee of ten dollars.

Fee.

License.

Upon the receipt of the application of any such producer or broker, accompanied by such license fee, the State Board of Equalization shall issue to every such applicant a license to engage in such business from the date of the issuance thereof, until and including the following December 31, and on or before January 1, of each and every year and before any such producer or broker shall engage in business, an application shall be filed and a license obtained for the calendar year. If any producer or broker shall fail to apply for the license hereby required and to pay the fee hereby specified prior to January 1 of each year, then there shall be added to the amount of such fee a penalty of twenty-five per cent on account of such delinquency. Any license so issued shall not be transferable and may be revoked by the State Board of Equalization as hereinafter provided. All registration fees collected under the provisions of this section shall be credited to the "Motor vehicle fuel fund" hereinafter created.

Penalty.

Disposition of fees.

Stats. 1933, p. 1638.

SEC. 3. Section 10 of said act is hereby amended to read as follows:

Exemptions

Sec. 10. The provisions of this act requiring the payment of license taxes shall not be held or construed to apply to motor vehicle fuel imported into this State in interstate or foreign commerce and intended to be sold in the original and unbroken tank cars or other original receptacles, containers or packages and so sold while the same are in interstate or foreign commerce, nor to any motor vehicle fuel exported from this State by the distributor or delivered by the distributor to any vessel clearing from a port of this State for a port outside of this State and actually exported from this State in such vessel, nor to any motor vehicle fuel sold to the government of the United States or any department thereof for official use of said government, but every distributor shall be required to report such exports and sales to the State Board of Equalization in such detail as that board may require, otherwise the exemption herein granted shall be null and void and all such fuel shall be considered distributed in this State subject fully to the provisions of this act.

Export certificates.

In support of any exemption from license taxes claimed under this section on account of the exportation of motor vehicle fuel, every distributor must execute an export certificate in such form as shall be prescribed, prepared and furnished by the State Board of Equalization, containing a sworn statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the State of California, and giving such details with reference to such shipment as said board may

require. All export certificates must be completed and on file in the office of the State Board of Equalization within sixty days after the close of the calendar month in which the shipments to which they relate are made, and no certificate not completed and filed within such period shall be recognized for any purpose by the State of California or any agency thereof. The State Board of Equalization may demand of any distributor such additional data as are deemed necessary by said board in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate.

Sales to United States.

Any claim for exemption based on a sale to the United States government or any department thereof may be made by the distributor at any time within six months from the date of sale by filing such claim in the office of the State Board of Equalization, but no claim made after the expiration of said period of six months shall be recognized for any purpose by the State or any agency thereof.

Stats 1933, p 1642.

SEC. 4. Section 13a of said act is hereby amended to read as follows:

Revolving fund

Sec. 13a. The State Board of Equalization may, without at the time furnishing vouchers and itemized statements, draw from the "Motor vehicle fuel fund," a sum not to exceed five thousand dollars; and the Department of Public Works, Division of Highways, may, in like manner, draw five hundred thousand dollars from the "State highway fund." The sum or sums so drawn shall be used as a revolving fund where cash advances are necessary.

Stats 1933, p 1642

SEC. 5. Section 14 of said act is hereby amended to read as follows:

See Stats. 1935, Ch 607

Sec. 14. Any person, firm, association or corporation or any officer or agent thereof failing to pay the license tax as herein provided, or violating any of the other provisions of this act, or unlawfully making any false statement, or concealing any material fact in any record, report, affidavit or claim provided for herein, shall be guilty of a misdemeanor, unless such act is by any other law of this State declared to be a felony, and upon conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

Penalties

Revocation of license

The State Board of Equalization shall have power to revoke the license of any distributor, producer, or broker, refusing or neglecting to comply with the provisions of this act.

Notice

Before revoking any license issued hereunder, said board shall send notice by registered mail directed to said licensee at his last known address ordering him to show cause, before said board at Sacramento or such other place in this State as may be designated by said board, at a time not less than ten days after the mailing of such notice, why his license issued hereunder should not be revoked. Said board shall allow such distributor, producer or broker an opportunity to be heard in

pursuance of such notice and thereafter shall have full power to revoke his license issued hereunder.

Expenses.

The State Board of Equalization is hereby authorized to pay out of the "Motor vehicle fuel fund" all expenses incurred in the prosecution before any court of this State of any person, firm, association or corporation charged with the violation of any of the provisions of this act.

Effective date

SEC. 6. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of section 1, of Article IV of the Constitution, take effect immediately.

CHAPTER 601.

An act to add a new section to the Political Code to be numbered 3720, relating to the filing by county clerks with county assessors and the State Board of Equalization of certifications of new districts and changes in the boundaries of existing districts.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section to be numbered 3720 is hereby added to the Political Code to read as follows:

Statements of creation or change of boundaries of certain taxing agencies.

3720. Whenever there is hereafter created any city, town or district authorized under the laws of this State to levy and collect taxes or assessments upon property according to the value thereof as assessed by the county assessor, city and county assessor, city assessor or State Board of Equalization, and the tax levy of which is carried on the regular county or city and county assessment roll, or whenever the boundaries of any such city, town or district heretofore created are changed, it shall be the duty of the tax or assessment levying authority of such city, town or district to file or cause to be filed on or before the first of February with each assessor whose roll is used for the levy and with the State Board of Equalization a statement of the creation of such city, town or district or the change of boundaries thereof setting forth the legal description of the boundaries of such city, town or district so created, or as the same have been changed, together with a map or plat indicating such boundaries.

CHAPTER 602.

An act to amend section 644 of the Penal Code, relating to habitual criminals.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 644 of the Penal Code is hereby amended to read as follows: Stats 1931, p 1052.

644. Every person convicted in this State of any felony who shall have been previously twice convicted upon charges separately brought and tried, and who shall have served separate terms therefor in any State prison and/or Federal penitentiary, either in this State or elsewhere, of the crime of robbery, burglary, burglary with explosives, rape with force or violence, arson, murder, assault with intent to commit murder, grand theft, bribery of a public official, perjury, subornation of perjury, train wrecking, feloniously receiving stolen goods, felonious assault with a deadly weapon, extortion, kidnaping, mayhem, escape from a State prison, forgery, conspiracy to commit any one or more of the aforementioned felonies, shall be adjudged an habitual criminal and shall be punished by imprisonment in the State prison for life and shall not be eligible for release on parole until he shall have served a minimum of at least twelve years. Every person convicted in this State of any felony who shall have been previously three times convicted, upon charges separately brought and tried, and who shall have served separate terms therefor in any State prison and/or Federal penitentiary, either in this State or elsewhere, of the crime of robbery, burglary, burglary with explosives, rape with force or violence, arson, murder, assault with intent to commit murder, grand theft, bribery of a public official, perjury, subornation of perjury, train wrecking, feloniously receiving stolen goods, felonious assault with a deadly weapon, extortion, kidnaping, mayhem, escape from a State prison, forgery, conspiracy to commit any one or more of the aforementioned felonies, or any of the aforementioned felonies, shall be punished by imprisonment in the State prison for life and shall not be eligible for release on parole; provided that in exceptional cases, at any time not later than sixty days after the actual commencement of imprisonment, the court may, in its discretion, provide that the defendant is not an habitual criminal, and in such case the defendant shall not be subject to the provisions of this section. Nothing in this act shall abrogate or affect the punishment by death in any and all crimes now or hereafter punishable by death. Habitual criminals

CHAPTER 603.

An act to amend section 1168 of the Penal Code and to add thereto sections 969c and 1158a, relating to crimes.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 2156.

SECTION 1. Section 1168 of the Penal Code is hereby amended to read as follows:

Imprisonment.

1168. (1) Imprisonment. Every person convicted of a public offense, for which imprisonment in any reformatory or State prison is now prescribed by law shall, unless such convicted person be placed on probation, a new trial granted, or the imposing of sentence suspended, be sentenced to be imprisoned in a State prison, but the court in imposing the sentence shall not fix the term or duration of the period of imprisonment.

Term

It is hereby made the duty of the warden of any of the State prisons to receive such person, who shall be imprisoned until duly released as provided for in this section. The term of imprisonment shall not exceed the maximum or be less than the minimum term of imprisonment provided by law for the public offense of which such person was convicted.

Determination of term.

The State Board of Prison Directors, or any board or commission that may be hereafter given authority so to do, may determine and redetermine after the expiration of the minimum term of imprisonment provided by law, except that in cases in which the minimum term of imprisonment is more than six months, the State Board of Prison Directors may determine after the expiration of six months from and after the actual commencement of such imprisonment, what length of time, if any, such person shall be imprisoned, unless the sentence be sooner terminated by commutation or pardon by the Governor of the State. When a prisoner has imposed upon him two or more cumulative or consecutive sentences, the State Board of Prison Directors may determine after the expiration of six months of his first sentence, what length of time he shall serve on all such cumulative or consecutive sentences.

Cumulative or consecutive sentences

Change of order of determination.

In case any convicted person undergoing sentence in any of the State prisons commits any infraction of the rules and regulations of the prison board, or escapes while working outside such prison under the surveillance of prison guards, the Board of Prison Directors may revoke any order theretofore made determining the length of time such convicted person shall be imprisoned, and make a new order determining such length of time not exceeding the maximum penalty provided by law for the offense for which he was convicted, unless the sentence be sooner terminated by commutation or pardon by the Governor of the State. Such revocation and redetermination shall not be had except upon a hearing upon the question of such infrac-

tion or escape and an adjudication by the board that such prisoner was guilty thereof, which adjudication shall be final. At such hearing such prisoner, unless outside the walls of the prison as an escape and fugitive from justice, shall be present and entitled to be heard and may present evidence and witnesses in his behalf.

Release upon serving minimum term.

Any convicted person undergoing sentence in any of the State prisons, not sooner released under the provisions of this section shall, in accordance with the provisions of existing law, be discharged from custody on serving the maximum punishment provided by law for the offense of which such person was convicted.

Certain minimum penalties.

(2) Certain Minimum Penalties. The following shall be the minimum term of sentence and imprisonment in certain cases, notwithstanding any other provisions of this code, or any provision of law specifying a lesser sentence:

(a) For a person not previously convicted of a felony, but armed with a deadly weapon either at the time of his commission of the offense, or a concealed deadly weapon at the time of his arrest, five years;

(b) For a person previously convicted of a felony either in this State or elsewhere, and armed with a deadly weapon, either at the time of his commission of the offense, or a concealed deadly weapon at the time of his arrest, ten years;

(c) For a person previously convicted of a felony either in this State or elsewhere, but not armed with a deadly weapon at the time of his commission of the offense, or a concealed deadly weapon at the time of his arrest, five years;

(d) For a person convicted at one trial of more than one felony, and upon whom are imposed cumulative or consecutive sentences the aggregate of the minimum terms of which exceed ten years, ten years;

(e) Such minimum penalties shall apply only when such possession of a deadly weapon or previous conviction of a felony as above specified has been charged and admitted or found to be true in the manner provided by law.

"Deadly weapon" defined.

The words "deadly weapon" as used in this section are hereby defined to include any instrument or weapon of the kind commonly known as a blackjack, slung shot, billy, sand club, sandbag, metal knuckles, any dirk, dagger, pistol, revolver or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade and any metal pipe or bar used or intended to be used as a club.

Good credits.

(3) Good Credits. The State Board of Prison Directors shall require of every able-bodied prisoner imprisoned in any State prison as many hours of faithful labor in each and every day during his term of imprisonment as shall be prescribed by the rules and regulations of the prison.

In all cases there may be allowed to apply upon the term of imprisonment fixed such credits for meritorious conduct and diligent labor as are or may be authorized by law.

Reductions from term for good behavior.

Except as otherwise provided in this section, every prisoner who has committed no infraction of the rules or regulations of the prison, or the laws of the State, and who performs in a faithful, diligent, industrious, orderly and peaceable manner the work, duties and tasks assigned to him to the satisfaction of the prison officials, and in whose behalf the warden of the prison shall file a report certifying that his conduct and work have been meritorious and recommending allowance of time credits to him, shall upon, but not until, the adoption of such recommendation by the State Board of Prison Directors, be allowed time credit reductions from the end of his term of confinement as fixed by the board of directors (instead of and in lieu of such time credits as were heretofore allowed by law) a deduction of two months in each of the first two years, four months in each of the next two years, and five months in each of the remaining years of said term, and correspondingly for any part of the year, where such term of confinement is for more or less than a year. The mode of reckoning credits, recommended by the warden and allowed by the Board of Prison Directors, shall be as shown by the following table:

Table.

Number of Years of sentence	Good time that may be earned	Total good time that may be earned		Time to be served if full credits are earned and allowed	
1st year	2 months	2 months			10 months
2d year	2 months	4 months		1 year	8 months
3d year	4 months	8 months		2 years	4 months
4th year	4 months	1 year		3 years	
5th year	5 months	1 year	5 months	3 years	7 months
6th year	5 months	1 year	10 months	4 years	2 months
7th year	5 months	2 years	3 months	4 years	9 months
8th year	5 months	2 years	8 months	5 years	4 months
9th year	5 months	3 years	1 month	5 years	11 months
10th year	5 months	3 years	6 months	6 years	6 months

And so on, through as many years as may be the time of confinement.

Forfeiture of credits.

If any convict shall assault any keeper, guard, foreman, officer, convict or other person, or threaten or endanger the person or life of anyone, or violate or disregard any prison rule or regulation, or neglect or refuse to do the work to which he is assigned, or be guilty of any misconduct, or violate any of the rules or regulations governing parole, the Board of Prison Directors may declare a forfeiture of all time credits theretofore earned by or allowed to him before the commission of such offense, and/or all time credits which he may thereafter earn, or the Board of Prison Directors may forfeit such part of such time credits as they may determine; such forfeitures, however, shall be made only by the board of directors after due proof of the offense and notice to the offender unless such offender be outside the walls of the prison as an escape and fugitive from justice, and the board may restore time

credits forfeited for good cause shown, and may allow extra credits for extra meritorious conduct and industry.

Parole.

(4) Parole. The State Board of Prison Directors shall have power to establish rules and regulations under which any prisoner who is now, or who hereafter may be imprisoned in any of the State prisons, and who has served the period of time prescribed by this section, may be allowed to go upon parole outside the prison buildings and inclosures.

Minimum term.

No prisoner may be paroled in any case until he has served the minimum term of imprisonment provided by law for the offense of which he was convicted, except that in cases of parole not otherwise specifically provided by this section, or if this section does not specifically provide such minimum sentence, then by other provisions of law, in which the minimum term of imprisonment is more than one year, he may be paroled at any time after the expiration of one-half the minimum term of imprisonment provided by law for the offense of which he was convicted, with benefit of credits, but in no case shall he be paroled until he has served one calendar year, and in any case the matter of parole may be determined by the board at any time after the expiration of six months from and after the actual commencement of such imprisonment.

Second termer.

No prisoner who has served a previous sentence in a State prison in this or any other State or in a Federal penitentiary may be paroled until he has served at least two calendar years.

Cumulative or consecutive sentences

No prisoner who has had imposed upon him two or more cumulative or consecutive sentences may be paroled until he has served at least two calendar years of the aggregate time of such cumulative or consecutive sentences.

Escape or attempt to escape

No prisoner confined in the State prison and no prisoner under sentence to the State prison who is convicted of an escape or an attempt to escape from the prison or the guards may be paroled until he has served at least two calendar years from and after the date of his return to the prison after such conviction.

Parole of life termer.

No prisoner imprisoned under a life sentence may be paroled until he has served at least seven calendar years.

Parole of person sentenced to fixed term.

If neither a maximum nor a minimum term of imprisonment is imposed by law for the offense of which the prisoner was convicted, but a fixed and definite term is imposed by the court, he may be paroled after serving one calendar year of his term.

Notice to judge.

At least thirty days before the State Board of Prison Directors shall meet to consider the granting of a parole to any prisoner or to fix and determine the length of time any prisoner shall be confined, the said board shall send written notice thereof to the judge of the superior court before whom the prisoner was tried and convicted, and to the district attorney and the sheriff of the county from which the prisoner was sentenced.

Custody of prisoners on parole.

Prisoners on parole shall remain under the legal custody and control of the State Board of Prison Directors and shall be subject at any time to be taken back within the inclosure of the prison.

Permission to leave State.

If any parole prisoner shall leave the State without permission of the State Board of Prison Directors, he shall be held as an escaped prisoner and arrested as such.

Conditions of parole.

The State Board of Prison Directors upon granting any parole to any prisoner may impose on the parole such conditions as it may deem proper, and may impose as a condition of the parole, that all or a portion of his credits earned, or to be earned, may be forfeited by order of the State Board of Prison Directors in the event that such prisoner shall break his parole or violate any law of the State, or rule or regulation of the prison, or of the State Board of Prison Directors, or any of the conditions of his parole.

Hearing.

Such forfeiture of credits shall not be had except upon a hearing upon the question of such violation and an adjudication by the board that such prisoner was guilty thereof, which adjudication shall be final. At such hearing such prisoner, unless outside the walls of the prison as an escape and a fugitive from justice, shall be present and entitled to be heard and may present evidence and witnesses in his behalf.

Power over paroles.

Full power to make and enforce rules and regulations relating to the parole of prisoners, to grant paroles thereunder, to suspend, cancel and/or revoke paroles without notice, and to retake and imprison any prisoner so upon parole, is hereby conferred upon the State Board of Prison Directors. The written order of the board certified by the president of the board shall be a sufficient warrant for all officers named therein to authorize such officers to return to actual custody any conditionally released or paroled prisoner.

Duty of police, etc.

It is hereby made the duty of all chiefs of police, marshals of cities and villages, sheriffs of counties, and all police, prison and peace officers, and constables to execute any such order in like manner as ordinary criminal process.

Power of Governor.

The Governor of the State shall have like power to cancel and revoke the parole of any prisoner. The written authority of the Governor shall likewise be sufficient to authorize any of the officers named therein to retake and return said prisoner to the State prison. His written order canceling or revoking the parole shall have the same force and effect and be executed in like manner as the order of the State Board of Prison Directors.

Cause for revocation of parole

No parole shall be revoked and no credits forfeited without cause, which cause must be stated in the order revoking the parole or forfeiting the credits.

From and after the suspension, cancellation, or revocation of the parole of any prisoner and until his return to custody he shall be deemed an escape and fugitive from justice and no part of the time during which he is an escape and fugitive from justice shall be part of his term.

(5) Rules and Regulations. The State Board of Prison Directors shall make all necessary rules and regulations to carry out the provisions of this section not inconsistent therewith, and may provide the forms of all documents necessary therefor. Rules and regulations

(6) The provisions of this section are to apply to all prisoners now serving sentence in the State prison, to the end that at all times the same provisions relating to sentences, imprisonments and paroles of prisoners shall apply to all the inmates thereof. Application of section.

SEC. 2. Section 969c is hereby added to the Penal Code, to read as follows: New section.

969c. Whenever a defendant is armed with a firearm or other weapon under such circumstances as to bring said defendant within the operation of subdivision 2 of section 1168 of the Penal Code relating to "Certain Minimum Penalties" or of section 3 of an act entitled: "An act to control and regulate the possession, sale, and use of pistols, revolvers and other firearms capable of being concealed upon the person; to prohibit the manufacture, sale, possession or carrying of certain other dangerous weapons within this State; to provide for registering all sales of pistols, revolvers or other firearms capable of being concealed upon the person; to prohibit the carrying of concealed firearms except by lawfully authorized persons; to provide for the confiscation and destruction of such weapons in certain cases; to prohibit the ownership, use, or possession of any of such weapons by certain classes of persons; to prescribe penalties for violations of this act and increased penalties for repeated violations hereof; to authorize, in proper cases, the granting of licenses or permits to carry firearms concealed upon the person; to provide for licensing retail dealers in such firearms and regulating sales thereunder; and to repeal chapter one hundred forty-five of California Statutes of 1917, relating to the same subject," approved June 13, 1923, as amended, the fact that the defendant was so armed shall be charged in the indictment or information or complaint. This charge shall be added to and be a part of the count or each of the counts of the indictment or information or complaint which charge the offense at the time of the commission of which or at the time of the arrest for which the defendant was armed with a weapon. That portion of any count which charges that the defendant was armed shall be sufficient if it can be understood therefrom that at the time of his commission of the offense set forth in the count, the defendant was armed with a weapon, or that at the time of his arrest therefor he was armed with a concealed deadly weapon. The nature of the weapon must be set forth but it shall be sufficient if this is done substantially in the wording of either of the above mentioned statutes, as a blackjack or a razor with an unguarded blade, or a pistol capable of being concealed upon the person without having a license or permit to carry such pistol. One such charge may name more than one weapon

Charge in complaint of fact that defendant armed.

Stats 1923, p. 695.

Nature of weapon.

and may allege that the defendant was armed both at the time of his commission of the offense and at the time of his arrest.

Trial

If the defendant pleads not guilty of the offense charged in any count which alleges that the defendant was armed either at the time of this commission of the offense or at the time of his arrest, or both, the question whether or not he was armed as alleged must be tried by the court or jury which tries the issue upon the plea of not guilty. If the defendant pleads guilty of the offense charged the question whether or not he was armed as alleged must be determined by the court before pronouncing judgment.

Plea of not guilty.

New section.

SEC. 3. Section 1158a is hereby added to the Penal Code, to read as follows:

Verdict as to whether defendant armed.

1158a. Whenever the fact that a defendant was armed with a weapon either at the time of his commission of the offense or at the time of his arrest, or both, is charged in accordance with section 969c of this code, in any count of the indictment or information to which the defendant has entered a plea of not guilty, the jury, if they find a verdict of guilty of the offense with which the defendant is charged, or of any offense included therein, must also find whether or not the defendant was armed as charged in the count to which the plea of not guilty was entered. The verdict of the jury upon a charge of being armed may be: "We find the charge of being armed contained in the ------ count true," or "We find the charge of being armed contained in the ------ count not true," as they find that the defendant was or was not armed as charged in any particular count of the indictment or information. A separate verdict upon the charge of being armed must be returned for each count which alleges that the defendant was armed.

CHAPTER 604.

An act to amend section 1203 of, and to add sections 1203.1 to 1203.12, inclusive to of the Penal Code, relating to probation and probation officers.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p. 1633.

SECTION 1. Section 1203 of the Penal Code is hereby amended to read as follows:

Summary determination of probation.

1203. After the conviction by plea or verdict of guilty of a public offense in cases where discretion is conferred on the court or any board or commission or other authority as to the extent of the punishment the court, upon application of the defendant or of the people or upon its own motion, may summarily deny probation, or at a time fixed may hear and determine in the presence of the defendant the matter of pro-

bation of the defendant and the conditions of such probation, if granted; if probation is not denied, the court must immediately refer the matter to the probation officer to investigate and to report to the court at a specified time, upon the circumstances surrounding the crime and concerning the defendant and his prior record, which may be taken into consideration either in aggravation or mitigation of punishment; the probation officer must thereupon make an investigation of circumstances surrounding the crime and the prior record and history of the defendant and make a written report to the court of the facts found upon such investigation and must accompany said report with his written recommendations as to the granting or withholding of probation to the defendant and as to the conditions of probation if it shall be granted and the report and recommendations must be filed with the clerk of the court as a record in the case. At such time or times fixed by the court, the court must hear and determine such application and in connection therewith must consider any report of the probation officer, and must make a statement that it has considered such report which must be filed with the clerk of the court as a record in the case. And if it shall determine that there are circumstances in mitigation of punishment prescribed by law, or that the ends of justice would be subserved by granting probation to the defendant, the court shall have power in its discretion to place the defendant on probation as hereinafter provided; if probation is denied, the clerk of the court must forthwith send a copy of the report and recommendations to the Board of Prison Directors; further provided, however, that probation shall not be granted to any defendant who shall have been convicted of robbery, burglary, burglary with explosives, rape with force or violence, arson, murder, assault with intent to commit murder, attempt to commit murder, grand theft, train wrecking, feloniously receiving stolen goods, felonious assault with a deadly weapon, kidnapping, mayhem, escape from a State prison, conspiracy to commit any one or more of the aforementioned felonies, or any of the aforementioned felonies, and who at the time of the perpetration of said crime or any of them or at the time of his arrest was armed with a deadly weapon (unless at the time he had a lawful right to carry the same), nor to a defendant who used or attempted to use a deadly weapon in connection with the perpetration of the crime of which he was convicted, nor to one who in the perpetration of the crime of which he was convicted inflicted great bodily injury or torture, nor to any defendant unless the court shall be satisfied that he has never in any place been previously convicted of a felony, nor to any public official or peace officer of the State, county, city, city and county, or other political subdivision who, in the discharge of the duties of his public office or employment, accepted or gave or offered to accept or give any bribe or embezzled public money or was guilty of extortion.

Investigation by probation officer.

Probation.

New section.

SEC. 2. Section 1203.1 is hereby added to the Penal Code, to read as follows:

Court's power.

1203.1. The court, judge or justice thereof, in the order granting probation, may suspend the imposing, or the execution of the sentence and may direct that such suspension may continue for such period of time not exceeding the maximum possible term of such sentence, except as hereinafter set forth, and upon such terms and conditions as it shall determine.

Conditions

The court, judge or justice, in the order granting probation and as a condition thereof may imprison the defendant in the county jail for a period not exceeding the maximum time fixed by law in the instant case; may fine the defendant in such sum not to exceed the maximum fine provided by law in such case; or may in connection with granting probation, impose either imprisonment in county jail, or fine, or both, or neither; may provide for reparation in proper cases; and may require bonds for the faithful observance and performance of any or all of the conditions of probation. In counties or cities and counties where road camps, farms, or other public work is available the court may place the probationer in such camp, farms, or other public work instead of in jail, and section 4041.12 of the Political Code shall apply to probation and the court shall have the same power to require adult probationers to work, as prisoners confined in the county jail are required to work, at public work as therein provided; and supervisors of the several counties are hereby authorized to provide public work and to fix the scale of compensation for such adult probationers in their respective counties. In all cases of probation the court is authorized to require as a condition of probation that the probationer go to work and earn money for the support of his dependents or to pay any fine imposed or reparation condition, to keep an account of his earnings, to report the same to the probation officer and apply such earnings as directed by the court.

Additional conditions.

The court may impose and require any or all of the above-mentioned terms of imprisonment, fine and conditions and other reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from such breach and generally and specifically for the reformation and rehabilitation of the probationer. Upon the defendant being released from the county jail under the terms of probation or sooner by order of the court, and in all cases where he is not confined in the county jail at the time of granting probation, the court shall place the defendant in and under the charge of the probation officer of the court, during such suspension or period of probation; provided, however, that upon the payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the discretion of the court. In counties and cities and counties in which there are facilities

for taking fingerprints, such marks of identification of each probationer must be taken and a record thereof kept and preserved.

SEC. 3. Section 1203.2 is hereby added to the Penal Code to read as follows: New section.

1203.2. At any time during the probationary period of the person released on probation in accordance with the provisions of these sections, any probation or peace officer may without warrant, or other process, at any time until the final disposition of the case, rearrest any person so placed on probation under the care of a probation officer, and bring him before the court, or the court may in its discretion issue a warrant for the rearrest of any such person and may thereupon revoke and terminate such probation, if the interests of justice so require, and if the court in its judgment, shall have reason to believe from the report of the probation officer, or otherwise, that the person so placed upon probation is violating any of the conditions of his probation, or engaging in criminal practices, or has become abandoned to improper associates or a vicious life. Upon such revocation and termination the court may, if the sentence has been suspended, pronounce judgment after said suspension of the sentence for any time within the longest period for which the defendant might have been sentenced, but if the judgment has been pronouced and the execution thereof has been suspended, the court may revoke such suspension, whereupon the judgment shall be in full force and effect, and the person shall be delivered over to the proper officer to serve his sentence, less any credits herein provided for. Rearrest and revocation of probation.

SEC. 4. Section 1203.3 is hereby added to the Penal Code to read as follows: New section

1203.3. The court shall have power at any time during the term of probation to revoke or modify its order of suspension of imposition or execution of sentence. It may at any time when the ends of justice will be subserved thereby, and when the good conduct and reform of the person so held on probation shall warrant it, terminate the period of probation and discharge the person so held, but no such order shall be made without written notice first given by the court or the clerk thereof to the proper probation officer of the intention to revoke or modify its order, and in all cases, if the court has not seen fit to revoke the order of probation and impose sentence or pronounce judgment, the defendant shall at the end of the term of probation or any extension thereof, be by the court discharged subject to the provisions of these sections. Termination of probation and discharge.

SEC. 5. Section 1203.4 is hereby added to the Penal Code to read as follows: New section

1203.4. Every defendant who has fulfilled the conditions of his probation for the entire period thereof, or who shall have been discharged from probation prior to the termination of the period thereof, shall at any time prior to the expiration of the maximum period of punishment for the offense of which Change of plea on termination of probation

he has been convicted, dating from said discharge from probation of said termination of said period of probation, be permitted by the court to withdraw his plea of guilty and enter a plea of not guilty; or if he has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and in either case the court shall thereupon dismiss the accusation or information against such defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he has been convicted. The probationer shall be informed of this right and privilege in his probation papers. The probationer may make such application and change of plea in person or by attorney authorized in writing; provided, that in any subsequent prosecution of such defendant for any other offense such prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed.

New section

SEC. 6. Section 1203.5 is hereby added to the Penal Code to read as follows:

Adult probation officers.

1203.5. The offices of adult probation officer, assistant adult probation officer, and deputy adult probation officer are hereby created; provided, that except as hereinafter specified the probation officers, assistant probation officers and deputy probation officers appointed under an act known as the Juvenile Court Law and entitled "An act to be known as the Juvenile Court Law, and concerning persons under the age of twenty-one years; and in certain cases providing for their care, custody and maintenance; providing for the probationary treatment of such persons, and for the commitment of such persons to the Whittier State School and the Preston School of Industry, the California School for Girls and other institutions; establishing probation officers and a probation committee to deal with such persons and fixing the salary thereof; providing for the establishment of detention homes for such persons; fixing the method of procedure and treatment or commitment where crimes have been committed by such persons; providing for the punishment of those guilty of offenses with reference to such persons, and defining such crimes; and repealing the juvenile court law approved March 8, 1909, as amended by an act approved April 5, 1911, and as amended by an act approved June 16, 1913, and all amendments thereof and all acts or parts of acts inconsistent herewith," approved June 5, 1915, or under any laws amending or superseding the same shall be ex officio adult probation officers, assistant adult probation officers and deputy adult probation officers respectively except in the case of offenses committed in any city and county and in any county or counties not operating under a freeholders' charter and having a population of more than three hundred thousand and under five hundred thousand and also in any county or counties having a population of more than one hundred thousand and under one hundred ten thousand, as the same is determined by the Federal census

Stats 1915, p. 1225.

taken in the year anno Domini 1920, in which counties and cities and counties the adult probation officers, assistant and deputy adult probation officers appointed under section 1203.7 shall serve under these sections; provided, however, that in all cases of offenses defined by section 21 of said act, known as the Juvenile Court Law and by section 270 of the Penal Code, the same probation officers, assistants and deputies, shall serve under these sections as are appointed under said Juvenile Court Law.

SEC. 7. Section 1203.6 is hereby added to the Penal Code to read as follows: New section

1203.6. In any county having a population of more than nine hundred thousand in any city and county, and in any said county or counties having a population of more than three hundred thousand and under five hundred thousand and also in any county or counties having a population of more than one hundred thousand and under one hundred ten thousand, the judges presiding in the departments designated for the hearing and disposition of criminal cases and proceedings by a majority vote shall by order entered in the minutes of the court in the criminal department or departments thereof, appoint seven citizens of good moral character to be known as the adult probation board and shall fill all vacancies occurring in such board. The clerk of said court shall immediately notify each person appointed on said board and thereupon said persons shall appear before a judge of the superior court and qualify by taking an oath, which shall be entered in said record, to perform faithfully the duties of such adult probation board. Adult probation board.

The members of such adult probation board shall hold office for four years and until their successors are appointed and qualified; provided, that of those first appointed, one shall hold office for one year, two for two years, two for three years and two for four years, the terms for which the respective members shall hold office to be determined by lot as soon after their appointment as may be. When any vacancy occurs in any adult probation board by expiration of the term of office of any member thereof, the successor shall be appointed to hold office for the term of four years. When any vacancy occurs for any other reason the appointee shall hold office for the unexpired term of his predecessor. Any member of the probation board may be removed for cause at any time by an affirmative vote of four members of said board at a meeting called for the special purpose of considering the question of said removal and the subsequent written approval of a majority of said judges designated for the hearing and disposition of criminal cases and proceedings, said written approval to be filed with the clerk of the court within thirty days after the written report of the said board has been received by said judges. Written notice as to said special meeting shall be served on each of the members of said board at least ten days prior to the date therefor and shall specify the purpose thereof. Term of office. Vacancy

The member sought to be removed shall be informed in writing of the charges against him and be given an opportunity to be heard.

Duties of board.

It shall be the duty of the members of such adult probation board to work in cooperation with the adult probation officer to meet at stated times, to familiarize themselves with the charges against the probationers under the charge of the adult probation officer and the conditions of such probation, to exercise a friendly supervision of probationers when so directed by the court, to furnish the court and the adult probation officer information, and to render special assistance when requested by the court, and from time to time to advise and recommend to the court any changes or modification of the order made in the case of a probationer, as may be for the best interests of such person. Members of the adult probation board shall serve without compensation.

New section.

SEC. 8. Section 1203.7 is hereby added to the Penal Code to read as follows:

Salaries of adult probation officers

1203.7. In any county having a population of more than nine hundred thousand there shall be one adult probation officer and eight assistant adult probation officers who shall receive salaries as follows: One adult probation officer three hundred dollars per month; one assistant adult probation officer two hundred twenty-five dollars per month; and seven assistant adult probation officers each one hundred seventy-five dollars per month. In any city and county there shall be one adult probation officer and nine assistant adult probation officers who shall receive salaries as follows: The adult probation officer three hundred fifty dollars per month; one assistant adult probation officer two hundred seventy-five dollars per month; seven assistant adult probation officers each two hundred ten dollars per month; and one assistant adult probation officer who shall act as cashier and clerk, one hundred ninety dollars per month.

In any county or counties of more than three hundred thousand and under five hundred thousand, there shall be one adult probation officer, one assistant adult probation officer and two deputy probation officers who shall receive salaries as follows: The adult probation officer two hundred fifty dollars per month; one assistant probation officer two hundred dollars per month; one deputy adult probation officer one hundred seventy-five dollars per month and one deputy adult probation officer fifty dollars per month. One deputy adult probation officer in such county shall be a woman and shall be a competent stenographer and typist of sufficient ability to perform the clerical and stenographic work of the office in addition to her other duties.

In any county or counties of more than one hundred thousand and under one hundred ten thousand, there shall be one adult probation officer and one deputy adult probation officer who shall receive salaries as follows: The adult probation officer two hundred dollars per month and one deputy

adult probation officer one hundred twenty-five dollars per month; provided, however, that if in the judgment of the majority of the judges regularly sitting in or assigned to the criminal department or department of superior court in any county or city and county herein mentioned, the services of any assistant adult probation officer or deputy adult probation officer are not required, such assistant or deputy shall not be appointed until the efficiency of the probation system and number of probationers in such county or city and county require such appointment.

The salaries of the adult probation officer, assistant and deputies herein provided shall be paid out of the treasury of the county or city and county in which they are appointed in the same manner as the salaries of other county or city and county officers. The adult probation officer, assistants and deputies and members of the adult probation board shall be allowed such necessary incidental expenses incurred in the performance of their duties as required by any law of the State of California as may be authorized by a judge designated for the hearing and disposition of criminal cases and proceedings, or by the judge of a department to which criminal actions and proceedings are assigned, and the same shall be a charge upon the county or city and county and said expenses shall be paid out of the county or city and county treasury upon the written order of said judge, directing the county auditor to deliver his warrant upon the treasurer for the specified amount of such expenses and the adult probation officer shall keep a list of expenses and file a copy monthly with the board of supervisors.

SEC. 9. Section 1203.8 is hereby added to the Penal Code to read as follows: New section.

1203.8. In counties and cities and counties herein mentioned the adult probation officer, assistants and deputies herein provided shall be nominated by the adult probation board and shall be appointed by a majority vote of the judges presiding in the departments designated for the hearing and disposition of criminal cases. The term of office of the adult probation officer, assistants and deputies herein provided for shall be two years from the date of their appointment. The said officers may at any time be suspended or removed by an order of a majority of the judges presiding in the department designated for the hearing and disposition of criminal cases and proceedings for good cause shown and on the filing of written charges by the said judge or judges by a written resolution of the adult probation board or by the chief probation officer. Upon filing such charges, said judge or judges shall make an order setting the same for hearing at a specified time and place not less than ten days nor more than twenty days after filing such charges. Notice shall be served upon the person against whom such charges are made at least five days before such hearing together with a copy of such charges.

Appointment.

Term.

Bond.

Each adult probation officer, assistant and deputy shall give a bond in the sum of not more than two thousand dollars and approved by the judges of the superior court presiding in the departments designated for the hearing and disposition of criminal cases, conditioned for the faithful discharge of the duties of said office. If said bonds are furnished by a surety company licensed to transact business in the State of California, the premium thereon shall be paid out of the county treasury.

Deputies

The adult probation officer may appoint as many additional deputies as he may desire; provided, however, that such deputy shall not have authority to act until their appointment shall be approved by a majority vote of the adult probation board and by a majority vote of the judges presiding in departments designated for the hearing and disposition of criminal cases. The term of office of such deputies shall expire with the term of the adult probation officer making such appointment, but the adult probation officer may at any time in his discretion revoke and terminate such appointment. Such deputies, except as herein provided, shall serve without compensation.

Offices

Boards of supervisors of counties and cities and counties herein mentioned shall provide and maintain at the expense of such county or city and county in a location in the vicinity of the county jail, suitable offices and quarters for the adult probation officer. Nothing contained in this subdivision shall apply to offenses defined by section 21 of the said juvenile court law.

New section

SEC. 10. Section 1203.9 is hereby added to the Penal Code to read as follows:

Transfer of cases to other courts

1203.9. Whenever any person is released upon probation under the provisions of these sections, the case may be transferred to any court of the same rank in any other county, or city and county, of this State in which such person resides, or to which such person may remove, and such court shall thereupon commit such person to the care and custody of the probation officer of the county or city and county, to which such person has been transferred; such court shall thereafter have entire jurisdiction over such cases, with like power to make transfer whenever to such court such transfer may seem proper.

New section.

SEC. 11. Section 1203.10 is hereby added to the Penal Code to read as follows:

Report on character, etc., of prisoner

1203.10. At the time of the plea or verdict of guilty of any person over eighteen years of age, the probation officer of the county of the jurisdiction of said criminal shall, when so directed by the court, inquire into the antecedents, character, history, family environment, and offense of such person, and must report the same to the court and file his report in writing in the records of such court. When directed, his report shall contain his recommendation for or against the release for such person on probation. If any such person

Recommendation of probation officer

shall be released on probation and committed to the care of the probation officer, such officer shall keep a complete and accurate record in suitable books or other form in writing of the history of the case in court, and of the name of the probation officer, and his act in connection with said case; also the age, sex, nativity, residence, education, habit of temperance, whether married or single, and the conduct, employment and occupation, and parents' occupation, and condition of such person committed to his care during the term of such probation and the result of such probation. Such record of such probation officer shall be and constitute a part of the records of the court, and shall at all times be open to the inspection of the court or of any person appointed by the court for that purpose, as well as of all magistrates, and the chief of police, or other heads of the police, unless otherwise ordered by the court. Said books of records shall be furnished for the use of said probation officer of said county, and shall be paid for out of the county treasury.

New section.

SEC. 12. Section 1203.11 is hereby added to the Penal Code to read as follows:

Semiannual reports of probation officers.

1203.11. Every probation officer, within fifteen days after the thirtieth day of June, and within fifteen days after the thirty-first day of December, of each year, shall make in writing and file as a public document with the county clerk a report to the superior court of the county or city and county in which such probation officer is appointed to serve, and shall furnish a copy of such report to each judge in said county or city and county who has released any person on probation, who at the time of such report remains on probation, and a further copy to the secretary of the State Department of Public Welfare. Such report shall state, without giving names, the exact number of persons, segregating male and female, and segregating misdemeanors and felonies, who have been released on probation to such probation officer as such number exists, deducting all cases of expiration, discharge, dismissal, and restoration of rights, on said thirtieth day of June, and said thirty-first day of December; and such report shall further segregate such person as having been released on probation, as the case may be, in 1903, 1904, 1905, and so on, up to and including the calendar year in which such report is made and filed.

New section

SEC. 13. Section 1203.12 is hereby added to the Penal Code to read as follows:

Statement of terms of probation.

1203.12. The probation officer shall furnish to each person who has been released on probation, and committed to his care, a written statement of the terms and conditions of his probation unless such a statement has been furnished by the court, and shall report to the court, judge or justice, releasing such person on probation, any violation or breach of the terms and conditions imposed by such court on the person placed in his care.

Additional powers.

Such probation officer shall have, as to the person so committed to the care of said probation officer, the powers of a peace officer.

CHAPTER 605.

An act to amend the Vehicle Code by amending sections 223, 225, 226, 306 and 308; by repealing sections 292, 293, and 304; by adding sections 292, 298, and 304, relating to vehicles.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 606.

An act to amend sections 4.52 and 4.942 of the School Code, relating to junior college districts.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 2698.

SECTION 1. Section 4.52 of the School Code is hereby amended to read as follows:

Transfer of money to State junior college fund.

4.52. If the amount so received by the State Treasurer shall be insufficient to provide the amount required to be apportioned to junior college districts, as provided in this code, the State Controller shall transfer during the school year from the general fund of the State to the State junior college fund such amounts as when added to the balance already in the State junior college fund shall equal ninety dollars for each unit of average daily attendance during the preceding school year in junior colleges maintained by junior college districts, and in addition thereto two thousand dollars for each junior college maintained by a junior college district during such preceding school year.

Stats 1931, p 2591

SEC. 2. Section 4.942 of the School Code is hereby amended to read as follows:

Average daily attendance apportionment.

4.942. He shall apportion the balance in the State junior college fund to the several junior college districts of the State pro rata on the total average daily attendance therein during the preceding school year.

CHAPTER 607.

An act to amend sections 13 and 13a of the Motor Vehicle Fuel License Tax Act, relating to the disposition of funds received under said act.

Stats 1923, p 571, amended

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 13 of the Motor Vehicle Fuel License Tax Act is hereby amended to read as follows:

Stats 1933, p. 1640

Sec. 13. All money received by the State Controller in payment of license taxes under the provisions of this act shall be by him deposited in the State treasury and credited to the "Motor vehicle fuel fund," which fund is hereby created. The moneys in said fund are hereby appropriated, subject to the provisions of any budget bill heretofore or hereafter enacted and section 661 of the Political Code, as follows:

See Stats 1935, Ch 624

Motor vehicle fuel fund: Appropriations

Stats 1929, p 451

(a) To pay the refunds authorized in this act.

(b) To the State Controller, to carry out any duties imposed upon him by this act.

(c) To the State Board of Equalization, to carry out any duties imposed upon it by this act, and the duties of said board arising out of the provisions of section 15 of Article XIII of the Constitution and legislation enacted pursuant thereto.

(d) To the counties of the State as hereinafter provided.

(e) To the State highway fund, as hereinafter provided.

(f) To pay the pro rata share of the overhead and general administrative expense of the State Controller and the State Board of Equalization attributable to duties imposed by this act or under the provisions of section 15 of Article XIII of the Constitution, and legislation enacted pursuant thereto. Such pro rata share shall be payable upon presentation of claim against any appropriation from the motor vehicle fuel fund for the support of the State Controller or the State Board of Equalization, as the case may be.

(g) To pay refunds as may be due on account of judgments for the return of license taxes illegally collected, as provided in section 16 of this act.

One-third of all moneys in said "Motor vehicle fuel fund" after the biennial appropriations to the State Controller and the State Board of Equalization have been deducted and the refunds herein provided for shall have been paid, shall be paid to the counties as hereinafter provided.

Apportionment to counties.

Out of said appropriation, each county and city and county shall first be paid five thousand dollars for each quarter of a year. The balance remaining in said appropriation, after making said apportionment of five thousand dollars quarterly shall be apportioned to all of the counties and cities and counties of this State in the proportion that the registration of vehicles in each of such counties and cities and counties bears to the total number of vehicles registered in this State.

All such amounts so paid to the several counties shall be paid into a special road improvement fund and expended as provided by law.

In the event that any such county has not established such a road fund, its proportion of such fund shall be retained by the State until provision for such a road fund has been made, and it shall then be paid over to such county.

Payment to counties

In the months of January, April, July and October of each year, the Controller shall ascertain the gross amounts received and the net receipts remaining after deducting the amounts withdrawn for the support of the Controller and the Board of Equalization and the payment of the refunds for which provision is made in section 11 of this act during the preceding three months, and thereupon the Controller shall draw his warrant upon the "Motor vehicle fuel fund" in favor of each county in the State for the amount to which each such county is entitled. The Controller shall not draw such warrant in favor of any county which shall not have established such a road fund as is herein required or which shall be delinquent in its annual report to the State Department of Public Works as required by law.

Annual report.

Whenever the annual report by each board of supervisors shall not have been duly filed in the manner and form provided by law and at or before the time specified by law, the State Controller shall not draw his warrant in favor of the treasurer of such county until such report has been filed.

"State highway fund"

All moneys in the "Motor vehicle fuel fund" other than those hereinbefore appropriated, are hereby appropriated to and shall by the State Treasurer be paid into the "State highway fund," which fund is hereby created.

Department of Public Works

All money thus paid into the State highway fund is appropriated to the Department of Public Works to be expended in accordance with law for the payment of all necessary charges incurred in carrying out the provisions of the Streets and Highways Code, and of any other law relating to the acquisition of real property for and the construction, maintenance or improvement of highways.

Stats 1935, Ch. 600.

SEC. 2. Section 13a of said act is hereby amended to read as follows:

Revolving fund

Sec. 13a. The State Board of Equalization may, without at the time furnishing vouchers and itemized statements, draw from the "Motor vehicle fuel fund," a sum not to exceed five thousand dollars. The sum or sums so drawn shall be used as a revolving fund where cash advances are necessary.

CHAPTER 608.

Stats 1915, p. 575, amended

An act to amend section 15a of and to add sections 15aa and 25 to an act entitled "An act to provide a central bureau for the preservation of records of marriages, births and deaths, and to provide for the registration of all births and deaths,

the establishment of registration districts under the superintendence of the State Bureau of Vital Statistics; the issuance and registration of burial and disinterment permits and certificates of births and deaths; the appointment of State and local registrars of vital statistics; to prescribe the powers and duties of registrars, coroners, physicians, undertakers, sextons and other persons in relation to such registration and to fix penalties for violation of this act; to create the offices of State and local registrars of vital statistics, to provide for the salary and fees of same; to repeal all act and parts of acts in conflict herewith," approved May 19, 1915, relating to vital statistics.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 15a of the act cited in the title hereof is hereby amended to read as follows: Stats 1933, p 1265

Sec. 15a. Whenever a decree of adoption has been entered declaring a child legally adopted in any superior court in the State of California a certificate of the decree shall be recorded by the clerk of the court with the State Registrar of Vital Statistics upon a form provided for that purpose. This shall be filed with the original record of birth, which shall remain as a part of the records of the State Bureau of Vital Statistics. Upon receipt by the State Registrar of Vital Statistics of such certificate of the decree of adoption, a certificate of birth shall be issued bearing the name of the child as shown in the decree of adoption, the names of the foster parents of said child, the age of the foster parents, the sex, date of birth and place of birth, but no reference in any birth certificate shall have reference to the adoption of said child. Such birth certificate shall supplant any birth certificate previously issued for said child and shall be the only birth certificate open to public inspection. In respect to form and nature of contents, it shall be identical with a birth certificate issued to natural parents for the birth of a child. All records and information specified in this section, other than the birth certificate to be issued hereunder, shall be available upon the order of a court of record. Decree of adoption

SEC. 2. A new section to be numbered 15aa is hereby added to said act, to read as follows: New section.

Sec. 15aa. Whenever a child becomes legitimate by the subsequent marriage of its parents an affidavit of such fact may be filed by such parents with the State Registrar of Vital Statistics upon a form provided for that purpose. This shall be filed with the original record of birth which shall remain as a part of the records of the State Bureau of Vital Statistics. Upon receipt by the State Registrar of Vital Statistics of such affidavit, a certificate of birth shall be filed bearing the name of the child as shown in the affidavit, the names of the parents of such child, the age of the parents, sex, date of birth and Affidavit when child becomes legitimate. Birth certificate

place of birth. Such birth certificate shall supplant any birth certificate previously issued for said child and shall be the only birth certificate open to public inspection. In respect to form and nature of contents, it shall be identical with a birth certificate issued to parents for the birth of a legitimate child. All records and information specified in this section, other than the birth certificate to be issued hereunder, shall be available upon the order of a court of record.

New section.

SEC. 3. Section 25 is hereby added to the act cited in the title hereof to read as follows:

Short title.

Sec. 25. This act shall be known, and may be cited and referred to, as the "Vital Statistics Registration Act."

CHAPTER 609.

An act to add a new section to the Civil Code to be numbered 2934a, relating to substitution of trustees in trust deeds.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the Civil Code to be numbered 2934a, and to read as follows:

Substitution of trustees in certain cases.

2934a. The trustee under a trust deed upon real property given to secure an obligation to pay money and conferring no other duties upon the trustee than those which are incidental to the exercise of the power of sale therein conferred, may be substituted by the recording in the county in which the property is located of a substitution executed and acknowledged by all of the beneficiaries under such trust deed, or their successors in interest.

Manner of recording.

The beneficiary or beneficiaries who elect to substitute trustees hereunder shall cause a copy of such substitution to be mailed, prior to the recording thereof, in the manner provided in section 2924b of this code, to all persons to whom a copy of the notice of default would be required to be mailed by the provisions of section 2924b of this code. The substitution must contain the date of execution of the trust deed, the name of the trustee, trustor and the beneficiary, the book and page where the trust deed is recorded and the name of the new trustee, and affidavit attached to said substitution to the effect that notice has been given to the persons and in the manner above required. The substitution shall also contain an acknowledgment signed and acknowledged by the trustee named in the trust deed of a receipt of a copy thereof, or an affidavit of service of a copy thereof. From the time the substitution is filed for record, the new trustee shall succeed to all the powers, duties, authority and title of the trustee named in the deed of trust.

Stats 1935, Ch 650

CHAPTER 610.

An act to add Article VIa to Chapter I of Part III of Division IV of the School Code, embracing sections 4.355 to 4.359, inclusive, relating to an optional plan for payments from district funds.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new article to be numbered VIa is hereby added to Chapter I of Part III of Division IV of the School Code to read as follows:

New article

Article VIa—Optional Plan for Payments from District Funds.

Optional plan for payments from district funds.

4.355. In lieu of the provisions of Article V and Article VI of this chapter, any county or city and county may by resolution of its board of supervisors and with the approval of the county superintendent of schools adopt the provisions of this article for payments from district funds.

Warrants

4.355a. Payments from school district funds shall be made by warrant, based upon the requisition of the governing board of the district. The requisition form shall be prescribed by the county superintendent of schools and approved by the State Superintendent of Public Instruction. Said forms shall be printed and furnished to the school districts by the board of supervisors of the county.

Forms

Signature and approval of requisitions

4.355b. The requisition must be signed by a majority of the board of trustees or by the official or officials authorized to sign requisitions by the board of education. The county superintendent shall examine the requisition and shall approve and sign the requisition; provided, in his judgment the payment is a just and legal claim against the funds of the district. The requisition when so signed and approved and when allowed and signed by the county auditor shall constitute a warrant on the treasury.

Order of approval

4.355c. Requisitions must be approved by the county superintendent of schools and allowed by the county auditor in the order in which they are received.

Purpose and fund.

4 355d. Each requisition must specify the purpose for which it is drawn and the fund from which it is to be paid.

Requisitions for personal service.

4.355e. Each requisition drawn for personal service shall state the monthly, daily or hourly rate and specify the time for which such service is due.

Itemized bills.

4.356. Each requisition drawn against the funds of the district except for personal service shall be accompanied by an itemized bill showing the separate items and the price of each, in payment of which the requisition is drawn.

Bill and requisiton numbers

4.357. When the auditor allows any requisition which has a bill attached, he shall give the bill the same number that he gives the warrant and shall detach and file the bill.

Open records.

4.357a. It is the duty of the auditor of each county, or city and county, to keep open to the inspection of the public the records of the financial operation of each school district in his county.

Examination and allowance

4.357b. The county superintendent of schools, after examining and approving any requisition, shall transmit the same directly to the county auditor who, after allowing such requisition, shall transmit the same to the county superintendent of schools who shall thereupon transmit the same to the governing board of the school district, which shall deliver said requisition to the claimant or to his order.

Procedure when warrants not paid for want of funds.

4.358. When any warrant drawn on any school fund is presented to the treasurer and is not paid for want of funds, it shall be indorsed, registered, advertised and paid, with interest at the rate of five per cent per annum, in the manner prescribed, as nearly as may be, for county warrants in sections 4105, 4106, 4107, 4108 and 4110 of the Political Code.

Order of payment

4.358a. Should such warrants not be again presented for payment within sixty days from the time the notice provided for in section 4106 of the Political Code is given, the fund set aside for the payment of the same must be by the treasurer applied to the payment of unpaid warrants next in order of registry.

Reports on amount of interest.

4.359. Within ten days after the end of each month, the county auditor shall report to the superintendent of schools the amount of interest added to registered warrants and paid during the preceding month; such report shall show each district to whose registered warrants, paid during the month covered by such report, interest was added and the amount of such interest for such district. The superintendent of schools shall immediately report, in writing, to the clerk or secretary of each district for which interest was so paid, the amount of such interest so paid for such district.

CHAPTER 611.

Stats 1931, p. 587, amended

An act to amend sections 830, 834 and 1533 of the Probate Code, relating to the borrowing of money by executors, administrators and guardians and the execution by them of mortgages, deeds of trust and pledges to secure the same and the limitation upon recovery on deficiency judgments in such cases.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p 642

SECTION 1. Section 830 of the Probate Code is hereby amended to read as follows:

830. Whenever it shall appear to be to the advantage of the estate to borrow money upon a note or notes, either unsecured, or to be secured by a chattel mortgage or other lien upon the personal property of the decedent, or any part thereof, or to be secured by a mortgage or deed of trust upon the real property of the decedent, or any part thereof, or to mortgage or give a deed of trust upon, or to pledge or give other lien upon, such property or any part thereof, in order to pay the debts of the decedent, or legacies, or expenses or charges of administration, or to pay, reduce, extend or renew some lien or mortgage or deed of trust already subsisting upon property of the estate, and as often as occasion therefor shall arise in the administration of the estate, the court may authorize, empower and direct the executor or administrator to borrow the money and to execute such note or notes, and, in a proper case to execute such mortgage, or deed of trust, or to give other security by way of pledge or other lien or may authorize in a proper case the execution of an extension agreement. When property of the estate consists of an undivided fractional interest in real or personal property and it shall appear to be to the advantage of the estate to borrow money in order to improve, utilize, operate or preserve such property jointly with the other co-owner or co-owners, or in order to pay, reduce, extend or renew some pledge, lien, mortgage or deed of trust already subsisting upon all such property, including the other undivided interest or interests therein, the court may authorize, empower, and direct the executor or administrator to borrow the money required for such purposes and to join with the owner or owners of the other undivided interest or interests in the property, or their duly authorized representatives or agents, in the execution of such joint and several note or notes as may be necessary, and to join with the owner or owners of the other undivided interest or interests in the property, or their duly authorized representatives or agents, in the execution of such pledge, lien, mortgage or deed of trust as may be required to secure the payment of such note or notes. To obtain such orders, the proceedings to be taken and the effect thereof shall be as provided in the following sections of this article.

Authorization to borrow money, etc

SEC. 2. Section 834 of the Probate Code is hereby amended to read as follows:

Stats. 1931, p. 643.

834. Every mortgage, pledge or deed of trust so made shall be effectual to mortgage, pledge or subject to the deed of trust all right, title, interest and estate which the decedent had in the property described therein at the time of his death or prior thereto, and any right, title or interest in said property acquired by the estate of such decedent by operation of law or otherwise, since the time of his death. Jurisdiction of the court to administer the estate of such decedent shall be effectual to vest the court with jurisdiction to make the order for the note or notes, and mortgage, pledge or deed of trust, and such jurisdiction shall conclusively inure

Effect of proceedings

to the benefit of the mortgagee named in the mortgage, pledgee or the trustee and beneficiary in the deed of trust, his or their heirs and assigns. No omission, error or irregularity in the proceedings shall impair or invalidate the same or the note or notes, mortgage, pledge or deed of trust given in pursuance thereof, and the mortgagee, pledgee or the trustee and beneficiary, their heirs and assigns, shall have and possess the same rights and remedies on the note or notes and mortgage, pledge or deed of trust as if it had been made by the decedent prior to his death, except that upon any foreclosure, or sale under the pledge or deed of trust, if the proceeds of the sale of the encumbered property are insufficient to pay the note or notes, the mortgage, pledge or deed of trust, and the costs or expenses of sale, no judgment or claim for any deficiency shall be had or allowed, except in cases where the note or notes, mortgage, pledge or deed of trust were given to pay, reduce, extend or renew a lien or mortgage, pledge, or deed of trust subsisting at the time of the death of the decedent and the indebtedness secured thereby was an allowed and approved claim against the estate, in which case the part of the indebtedness remaining unsatisfied must be classed and paid with other allowed claims against the estate.

Stats 1931, p. 677.

SEC. 3. Section 1533 of the Probate Code is hereby amended to read as follows:

Borrowing money, refinancing and repairing property.

1533. A guardian may borrow money, with or without giving security, when it will benefit his ward, and, in addition to the contingencies mentioned in section 1530, of this code, may mortgage real or personal property, or give a deed of trust upon real property, of the ward, in order to pay, reduce, extend or renew some lien or mortgage or deed of trust already subsisting on property of the ward, or to erect, alter or repair buildings or other structures upon, or otherwise to improve, the property proposed to be mortgaged or subjected to a deed of trust, or some part thereof. When property of the ward consists of an undivided fractional interest in real or personal property, and it shall appear to be to the advantage of the ward to borrow money in order to improve, utilize, operate or preserve the same jointly with the other co-owner or co-owners or in order to pay, reduce, extend or renew some lien, mortgage or deed of trust already subsisting upon all such property, the guardian may join with the owner or owners of the other undivided interest or interests in the property or their duly authorized representatives or agents in the borrowing of the money and in the execution of such joint and several note or notes for such sum or sums as may be required for such purposes, and join with the owner or owners of the other undivided interest or interests in the property or their duly authorized representatives or agents in the execution of such lien, mortgage or deed of trust as may be required to secure the payment of such note or notes. Upon any foreclosure or sale under any such lien, mortgage or deed of trust, if the proceeds of the sale of the encumbered property are insuffi-

cient to pay the note or notes, the lien, mortgage or deed of trust, and the costs or expenses of sale, no judgment or claim for any deficiency shall be had or allowed against the ward or his property.

CHAPTER 612.

An act to amend section 2337 of the Political Code, relating to the care of children.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 2337 of the Political Code is hereby amended to read as follows: Stats. 1927, p. 856.

2337. No person, association or corporation shall without first having obtained a license or permit therefor, in writing, from the State Department of Public Welfare, or from an inspection service approved or accredited by such State Department of Public Welfare: Licenses required.

1. Maintain or conduct any institution, boarding home or other place for the reception or care of aged persons, nor receive nor care for any such person;

2. Maintain or conduct any institution, boarding home, day nursery or other place for the reception or care of a child or children under sixteen years of age, nor engage in the business of receiving or caring for such a child or children, nor receive nor care for any such child or children in the absence of its parents or guardian, either with or without compensation;

3. Engage in the finding of a home or homes for a child or children under sixteen years of age, or place any such child or children in any home or other place, either for temporary or permanent care or for adoption.

CHAPTER 613.

An act to amend sections 5.802, 5.804, 5.890, 5.891, 5.894, 5.900, 5.901, 5.904, 5.910, 5.911, 5.962, 5.970, 5.980, 5.990, 5.993, 5.1009, 5.1023, 5.1030, 5.1031, 5.1032, 5.1040, 5.1041, 5.1047, 5.1048, 5.1060, 5.1061, 5.1062, 5.1080 and 5.1083 of the School Code; to amend the titles of Chapter III, of Articles IV, V and VII of Chapter III, of Chapter VI, of Articles II, III and V of Chapter VI, all of Part IV of Division V of said code; to repeal sections 5.1042 to 5.1046, both inclusive, of said code and to repeal Article IV of Chapter VI of Part IV of Division V of said code; to add eight new sections to said code to be numbered 5.886, 5.971, 5.972, 5.981, 5.986, 5.1004½, 5.1010

and 5.1011 and to add to Chapter III of Part IV of Division V of said code a new article to be known as Article VIII; to add to Chapter V of Part IV of Division V of said code a new article to be known as Article V; and to add to Chapter VI of Part IV of Division V of said code a new article to be known as Article IV, all relating to the payment of retirement salaries and retirement annuities to persons serving the State, counties and school districts in positions having to do with teaching or other employment in, and/or the superintending, administration and supervision of colleges, schools, and classes maintained by the State and/or the school districts thereof.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Sch. C., 1929, p. 369.

Application of this part.

SECTION 1. Section 5.802 of the School Code is hereby amended to read as follows:

5.802. Librarians employed full time in elementary or secondary schools, or who serve full time partly as librarian and partly as a teacher, also county superintendents of schools, and certificated employees working under the direction of county superintendents of schools, shall be subject to the burdens and entitled to the benefits of the provisions of this part, on the same basis as other teachers.

Sch. C., 1929, p. 369

Service of employees holding credentials

SEC. 1a. Section 5.804 of the School Code is hereby amended to read as follows:

5.804. The service of all employees employed in the public schools of this State who hold valid and unrevoked credentials issued by the State Board of Education and who are employed for the major part of each school month in work authorized by their credentials, and service of county superintendents and certificated employees under the direction of county superintendents, shall be equivalent to service as a teacher under a legal certificate in a day or evening school. The time of such service shall be reckoned in determining the right of such employees to retirement salaries under the provisions of this part.

Sch. C., 1929, p. 257.

Retirement

SEC. 1b. Section 5.890 of the School Code is hereby amended to read as follows:

5.890. Every person subject to the burdens and entitled to the benefits of the provisions of this part who shall have complied with all the requirements of this part, and who shall have served under a legal certificate as a legally qualified teacher in public day or evening schools or partly as such teacher and partly as superintendent or supervising executive or educational administrator or librarian for at least thirty school years, at least fifteen of which shall have been in the public schools of this State including the last ten years of service immediately preceding retirement, shall be entitled to retire; or if physically or mentally incapacitated for the proper performance of the duties of teacher, may be compelled

to retire by the board of education, school trustees, or other school authorities employing such teacher.

SEC. 1c. Section 5.891 of the School Code is hereby amended to read as follows: Sch C., 1929, p 257

5.891. Teaching outside of the United States of America and its Territories and its possessions, except teaching in Canada and teaching in any foreign country as an exchange teacher, shall not be accepted for purposes of retirement under the provisions of this article. Teaching acceptable

SEC. 1d. Section 5.894 of the School Code is hereby amended to read as follows: Sch C., 1929, p. 258.

5.894. Upon retirement, voluntary or involuntary, a person qualifying under this article shall be entitled to receive, during life, an annual retirement salary of six hundred dollars, payable in equal installments monthly by warrant drawn as provided in this part. All retirement salaries granted under this article prior to the adoption of this section shall be adjusted to conform with the terms of this section, subject to the provisions of Chapter VI of this part, provided that no retirement salary granted prior to the adoption of this section shall be reduced by reason of the provisions hereof. Life salary

SEC. 1e. Section 5.900 of the School Code is hereby amended to read as follows: Sch C., 1929, p. 258.

5.900. Every person subject to the burdens and entitled to the benefits of the provisions of this part who shall have complied with all the requirements of this part, and who shall have served under a legal certificate as a legally qualified teacher in public day or evening schools, or partly as such teacher and partly as superintendent or supervising executive or educational administrator or librarian, for fifteen or more years, at least fifteen of which shall have been in the public schools of this State, including the last ten years of service immediately preceding retirement, and who shall have by reason of bodily or mental infirmity become physically or mentally incapacitated for further school service shall be entitled to retire, or may, by the board of education, school trustees or other school authorities employing such person be compelled to retire. Retirement conditions.

Any permanent employee of a school district who is required by this part to contribute to the public school teachers permanent fund and who is dismissed from the service of a school district under any provision of this code by reason of having reached an age at which the classification of such person as a permanent employee of such district ceases and who at the time of such dismissal has not become entitled to receive a retirement salary under the provisions of Article III of this chapter shall, for the purposes of this part, be deemed to have been retired by reason of being physically incapacitated and notwithstanding anything in this article to the contrary shall be entitled to an annual retirement salary computed as hereinafter provided for in this article; provided such person Dismissal

shall have served in the public schools of California for at least ten years immediately preceding his retirement.

Sch. C., 1929, p. 258.

SEC. 1f. Section 5.901 of the School Code is hereby amended to read as follows:

Teaching in foreign countries

5.901. Teaching outside of the United States of America and its Territories and its possessions, except teaching in Canada or teaching in any foreign country as an exchange teacher, shall not be accepted for purposes of retirement under the provisions of this article. In the case of any person who is compelled by the board of education, school trustees, or other school authorities to retire under the provisions of this article, and who is sixty-five years of age or older at date of retirement, the last ten years of whose service has been in the State of California, teaching within the United States of America and its Territories shall be accepted for purposes of eligibility for retirement as the equivalent or service in the public schools of this State.

Sch. C., 1929, p. 259.

SEC. 2. Section 5.904 of the School Code is hereby amended to read as follows:

Annual salary.

5.904. Upon retirement, voluntary or involuntary, a person qualifying under the provisions of this article shall be entitled to receive an annual retirement salary, payable in equal installments monthly by warrant drawn as provided in this part, which shall be the same fraction of the maximum retirement salary of six hundred dollars as said teacher's time of service is of thirty years. Such annual retirement salary shall be payable during the period of such disability; provided, however, that if a person qualify under the provisions of this article by reason of having attained age of sixty-five, the retirement salary shall be payable during life. All retirement salaries granted under this article prior to the adoption of this section shall be adjusted to conform with the terms of this section, subject to the provisions of Chapter VI of this part.

Sch. C., 1929, p. 259.

SEC. 3. Section 5.910 of the School Code is hereby amended to read as follows:

Persons heretofore retired after service.

5.910. All persons heretofore retired after thirty years of service under the provisions of the act of the Legislature of the State of California, approved March 26, 1895, entitled "An act to create and administer a public school teachers' annuity and retirement fund in the several counties and cities and counties in this State," and acts amendatory thereof, or under the provisions of Chapter 694, Statutes of 1913, and acts amendatory thereof, or under the provisions of this part, shall be entitled to an annual retirement salary of six hundred dollars, payable in installments monthly by warrants drawn as provided in this part.

Stats 1895, p. 170.

Stats 1913, p. 1423.

Sch. C., 1929, p. 259

SEC. 4. Section 5.911 of the School Code is hereby amended to read as follows:

Persons heretofore retired through infirmity

5.911. Each person who by reason of incapacity due to bodily or mental infirmity shall have heretofore retired under the aforesaid act approved March 26, 1895, and acts amenda-

tory thereof, or under the provisions of Chapter 694, Statutes of 1913, and acts amendatory thereof, or under the provisions of this part, after fifteen years' service, shall receive upon the taking effect of this part and during the period of disability, an annual retirement salary which shall be the same fraction of the maximum retirement salary of six hundred dollars as said person's time of service is of thirty years.

SEC. 5. Section 5.962 of the School Code is hereby amended to read as follows: Sch C., 1929, p 261

5.962. To require the boards of education, school trustees, and other public authorities, and all officers having duties to perform in respect to the contributions by teachers and school districts and other employing agencies to the public school teachers' permanent fund and public school teachers' annuity deposit fund, to report to the board from time to time as to such matters pertaining to the payment of such contributions, as it may deem advisable. Power of teachers retirement salary fund board

SEC. 6. Section 5.980 of the School Code is hereby amended to read as follows: Sch C., 1929, p 262

5.980. There are hereby established three funds in the State treasury to be known, respectively, as the public school teachers' retirement salary fund, the public school teachers' permanent fund and the public school teachers' annuity deposit fund. Establishment of funds.

SEC. 7. Section 5.990 of the School Code is hereby amended to read as follows: Sch C., 1929, p. 262

5.990. The Public School Teachers' Retirement Salary Fund Board, subject to the provisions of this part, shall have power, and it shall be its duty through its president or other officer designated by it for that purpose to audit all claims and demands for money expended or authorized to be expended by it, and certify all claims and demands against the public school teachers' permanent fund and the public school teachers' retirement salary fund, including all retirement salary demands, and the public school teachers' annuity deposit fund, to the State Controller, who shall draw his warrant therefor upon the State Treasurer, payable out of said fund. Care of funds

SEC. 8. Section 5.993 of the School Code is hereby amended to read as follows: Sch C., 1929, p. 262

5.993. Establish a system of accounts showing the condition of the public school teachers' permanent fund, the public school teachers' retirement salary fund, and the public school teachers' annuity deposit fund, and receipts and disbursements for and on account of said funds. System of accounts

SEC. 8a. A new section is hereby added to the School Code to be numbered 5.1004½, and to read as follows: New section

5.1004½. A semiannual contribution shall be made by each school district or other agency employing any persons subject to the burdens of this part, of a sum equal to six dollars for each person so employed. It is hereby made the duty of each county auditor to deduct from the apportionment of State funds received from the State Controller in the month Contribution by district

of April of each year a sum equal to six dollars for each person employed who is subject to the burdens of this part, and to make a deduction on the same basis from the apportionment of State funds received in the month of October of each year. The amounts so deducted shall immediately be paid by the county auditor to the State Treasurer for credit to the public school teachers' permanent fund. Remittances to the State Treasurer of six dollars for each person employed who is subject to the burdens of this part must be made in April and October of each year by each employing agency on whose behalf the county auditor does not receive apportionments of State funds. In the case of county superintendents of schools and certificated employees of county superintendents of schools, remittances to the State Treasurer of six dollars for each such person serving in any county must be made in April and October of each year by the county auditor of the county in which such person is serving and such remittances shall be paid from the general fund of the county. In cases where persons subject to the burdens of this part are employed by the State, remittances to the State Treasurer of six dollars for each person so employed must be made in April and October of each year by the disbursing officer of the institution where such persons are employed, and such remittances shall be made out of funds provided for the support of such institution. Amounts due the public school teachers' permanent fund under this section shall be calculated on the basis of the number of persons subject to the burdens of this part as shown by the last pay rolls prior to April fifteenth and October fifteenth respectively.

Sch. C, 1929, p. 263.

SEC. 8b. Section 5.1009 of the School Code is hereby amended to read as follows:

Investment of money.

5.1009. The Public School Teachers' Retirement Investment Board shall have power and it shall be its duty to invest the moneys in the permanent fund in securities, to deposit such securities with the State Treasurer, and to make the sale of such securities when in its judgment such sale will be advisable. The State Treasurer shall collect the income from investments of the fund and interest and dividends thereon.

None of the moneys in the public school teachers' permanent fund shall be invested in any securities except those in which the funds of savings banks may be legally invested.

The State Controller is authorized to draw his warrant upon the public school teachers' permanent fund in payment of duly audited claims arising out of investment of the moneys in said fund.

New section

SEC. 8c. A new section is hereby added to the School Code to be known as section 5 1010, and to read as follows:

Return of contributions

5.1010. Should any person who has made contributions to the public schools teachers' permanent fund from or after July 1, 1935, cease to be subject to the burdens of this part except by death or retirement under the provisions of this part, the total of all contributions which he has made to the

fund from and after July 1, 1935, shall be returned to him on demand in one sum, without interest. Should any person again become subject to the burdens of this part, after any of his contributions to the public school teachers' permanent fund have been returned to him as provided in this section, he shall thereupon repay to the fund the amount previously returned to him with interest at the rate of four per cent per annum, compounded annually, from the date on which he received the return of his contributions, and such repayment may be made in installments in accordance with rules and regulations established by the Public School Teachers' Retirement Salary Fund Board.

Repayment of returned contributions.

SEC. 8d. A new section is hereby added to the School Code to be numbered 5.1011, and to read as follows:

New section

5.1011. Upon receipt of proper proofs of the death of a person who has made contributions to the public school teachers' permanent fund from or after July 1, 1935, before a retirement salary has been granted to him, the total of all contributions which he has made to the fund from and after July 1, 1935, shall be returned in one sum, without interest, to his estate or to such person as he shall have nominated by written designation duly filed with the board.

Return of contributions in case of death

SEC. 8e. Section 5 1023 of the School Code is hereby amended to read as follows:

Sch. C., 1929, p. 264.

5.1023. The secretary of the Public School Teachers' Retirement Salary Fund Board shall report to the board at each quarterly meeting the amount necessary to pay the retirement salaries for the succeeding quarter, and thereupon the said board shall notify the State Controller and by resolution, duly adopted, shall direct him to make transfer of the needed amount from the public school teachers' permanent fund to the public school teachers' retirement salary fund.

Funds for payment of retirement salaries

It shall be the duty of the State Controller thereupon to make such transfer and to notify the State Treasurer in order that he may make corresponding entry in the records of his office.

SEC. 9. Section 5.1030 of the School Code is hereby amended to read as follows:

Sch. C., 1929, p. 264

5.1030. The Public School Teachers' Retirement Salary Fund Board, subject to the provisions of this part, shall have power, and it shall be its duty to require the boards of education, school trustees and other public authorities, and all officers having duties to perform in respect to the contributions by the teachers to the permanent fund, and the deposits of teachers in the annuity deposit fund, to report to the board from time to time as to such matters pertaining to the payment of such contributions and deposits as it may deem advisable.

Powers and duties

SEC. 10. Section 5.1031 of the School Code is hereby amended to read as follows:

Sch. C., 1929, p. 264.

5.1031. The board shall make rules and regulations not inconsistent with the provisions of this part, which shall have

Rules and regulations

the force and effect of law. Such rules and regulations shall regulate the duties of boards of education, school trustees and other school authorities, imposed upon them by this part, in respect to the contributions by teachers to the public school teachers' permanent fund, and the deposits of teachers in the public school teachers' annuity deposit fund, and the deduction of such contributions and deposits from the teachers' salaries.

Stats 1931, p 1977

SEC. 11. Section 5.1032 of the School Code is hereby amended to read as follows:

Refund of money erroneously paid

5.1032. The Public School Teachers' Retirement Salary Fund Board is hereby authorized to refund to the person paying the same, any contributions, sums or deposits paid into the public school teachers' permanent fund or annuity deposit fund through mistake, inadvertence or error.

Sch C., 1929, p 265.

SEC. 11a. Section 5.1040 of the School Code is hereby amended to read as follows:

Employees' contributions

5.1040. Each person subject to the burdens of this part shall contribute twenty-four dollars each school year to the public school teachers' permanent fund for such period of time as such person is subject to the burdens of this part, but for not less than thirty years.

Sch C, 1929, p. 265.

SEC. 11b. Section 5.1041 of the School Code is hereby amended to read as follows:

Salary deductions

5.1041. The contribution required by this article shall be deducted by the county auditor, school trustees or other disbursing officer from the salary of each person subject to the burdens of this part, and shall be paid semiannually by warrant of the district or other employing agency to the superintendent of schools of the county, who shall issue a receipt to the person from whose salary the deduction was made. A proportionate amount of the annual contribution shall be deducted from each salary payment, corresponding to the period covered by such salary payment.

Sch C, 1929, p 265

SEC. 11c. Section 5.1047 of the School Code is hereby amended to read as follows:

Additional contributions in certain cases

5.1047. Any teacher applying for retirement under this part offering service outside of this State, performed after January 1, 1914, shall be required to pay in addition to twenty-four dollars for each year of such service, an amount equal to five per cent interest per annum on the twenty-four dollars for each year of such service, beginning with the date upon which the final payment of each year would have been due had the teaching been done in this State, and the payment of such dues and interest may be made at any time before retirement, or, if not made before retirement may be made at the time of retirement, or may be withheld from the retirement salary after the manner provided in Article III of this chapter.

Sch C, 1929, p 265

SEC. 11d. Section 5.1048 of the School Code is hereby amended to read as follows:

5.1048. Any teacher who claims exemption from the provisions of this part and later applies for retirement under this part shall be required to pay in addition to twenty-four dollars for each year of service performed after January 1, 1914, an amount equal to five per cent interest per annum on the twenty-four dollars for each year of such service beginning with the date upon which the final payment of each year would have been due if the teacher had not claimed exemption and the payment of such dues and interest may be made at any time before retirement, or, if not made before retirement may be made at the time of retirement, or may be withheld from the retirement salary after the manner provided in Article III of this chapter.

Repeals

SEC. 11e. School Code sections 5.1042 to 5.1046, both inclusive, are hereby repealed.

Sch C, 1929, p 266.

SEC. 12. Section 5.1060 of the School Code is hereby amended to read as follows:

Ineligibility for nonpayment.

5.1060. The amounts which persons otherwise eligible to the benefits of this part are required to pay to secure the benefits of this part are as follows:

Stats 1895, p. 170.

Stats 1913, p. 1423

No person heretofore retired under the provisions of Chapter 166, Statutes of 1895, and acts amendatory thereof, or under the provisions of Chapter 694, Statutes of 1913, and acts amendatory thereof, or under the provisions of this part for other than physical or mental incapacity shall be eligible to receive the benefits of this part who has not paid into the public school teachers' permanent fund or partly into said fund and partly into the public school teachers' annuity and retirement fund maintained under the provisions of Chapter 166, Statutes of 1895, and acts amendatory thereof, an amount equal to twenty-four dollars for each year of service up to and including the thirtieth year.

No person heretofore retired on account of physical or mental incapacity under the provisions of any one of the laws hereinbefore referred to shall be entitled to the benefits of this part who has not paid into the fund or funds hereinbefore referred to an amount equal to twenty-four dollars per year for each year of service credited to such person at the time of his retirement.

No person hereafter eligible to retire under the provisions of Article III of Chapter III of this part shall be eligible to receive the benefits of this part who shall not have paid into the fund or funds herein referred to an amount equal to twenty-four dollars for each year of service, but for not less than thirty years.

No person hereafter eligible to retire under the provisions of Article IV of Chapter III of this part shall be entitled to the benefits of this part who shall not have paid into the fund or funds herein referred to an amount equal to twenty-four dollars for each year of service credited to such person at the time of his retirement.

Sch C., 1929, p. 266.

SEC. 13. Section 5.1061 of the School Code is hereby amended to read as follows:

Back payments.

5.1061. The difference between the amounts actually paid by such person and the amount that would have been paid by such person at the rates herein provided if such payments had been begun with the first year of teaching service and continued regularly thereafter, but not less than seven hundred twenty dollars, except in case of retirement by reason of physical or mental incapacity, may be paid into said fund by such person at the time of retirement, with the same effect as if such payments had been begun with the first year of teaching service and continued regularly thereafter, at the rates herein provided.

Sch C., 1929, p 266

SEC. 14. Section 5.1062 of the School Code is hereby amended to read as follows:

Payments withheld from retirement salary.

5.1062. Or the sum of five dollars per month, or in the case of persons retired on account of physical or mental incapacity, the sum of four dollars per month, may be withheld from the person's retirement salary until the amounts so withheld shall equal the difference between the amount that would have been paid by such person at the rates herein provided, if such payments had been begun with the first year of teaching service and continued regularly thereafter, and the amount theretofore paid into said permanent fund, or partly into said permanent fund and partly into the public school teachers' annuity and retirement fund, but not less than seven hundred twenty dollars except as otherwise provided in this part.

Repeal

SEC. 14a Article IV of Chapter VI of Part IV of Division V of the School Code, comprising School Code section 5.1070 and 5.1071 is hereby repealed.

Sch C., 1929, p. 267.

SEC. 15. Section 5.1080 of the School Code is hereby amended to read as follows:

Deposit of contributions

5.1080. The superintendent of schools of the county shall deposit the contributions and deposits weekly, or oftener, in the county treasury to the credit of the public school teachers' permanent fund, and the public school teachers' annuity deposit fund, and not later than the fifteenth day of July of each year, and semiannually thereafter, shall draw his requisition against the county auditor who shall draw his warrants in favor of the county treasurer for the full amount then on deposit to the credit of the said funds.

Sch C., 1929, p. 267.

SEC. 16. Section 5.1083 of the School Code is hereby amended to read as follows:

Deposit in State treasury.

5.1083. Upon receipt of the remittance the State Treasurer shall deposit the proceeds thereof in the State treasury to the credit of the public school teachers' permanent fund and the public school teachers' annuity deposit fund.

Sch C., 1929, p 256

SEC. 17. The title of Chapter III of Part IV of Division V of the School Code is hereby amended to read as follows:

CHAPTER III—GRANTING OF RETIREMENT SALARIES AND RETIREMENT ANNUITIES.

SEC. 18. The title of Article IV of Chapter III of Part IV of Division V of the School Code is hereby amended to read as follows: Sch C, 1929, p 258

Article IV—Granting of Retirement Salary to Incapacitated Teachers or to Teachers Who Have Attained Age Sixty-five Years.

SEC. 18a. The title of Article V of Chapter III of Part IV of Division V of the School Code is hereby amended to read as follows: Sch C, 1929, p. 259

Article V—Persons Retired Prior to Taking Effect of 1935 Amendments.

SEC. 19. The title of Article VII of Chapter III of Part IV of Division V of the School Code is hereby amended to read as follows: Sch. C., 1929, p 260.

Article VII—Balances Due Deceased Recipients of Retirement Salary.

SEC. 20. The title of Chapter VI of Part IV of Division V of the School Code is hereby amended to read as follows: Sch C, 1929, p. 264

CHAPTER VI—ANNUAL CONTRIBUTIONS AND DEPOSITS BY TEACHERS.

SEC. 21. The title of Article II of Chapter VI of Part IV of Division V of the School Code is hereby amended to read as follows: Sch C, 1929, p. 265.

Article II—Payment of Contributions to Permanent Fund.

SEC. 22. The title of Article III of Chapter VI of Part IV of Division V of the School Code is hereby amended to read as follows: Sch. C., 1929, p 266

Article III—Amount Which Must be Paid to Receive Benefits from Public School Teachers' Retirement Salary Fund.

SEC. 23. The title of Article V of Chapter VI of Part IV of Division V of the School Code is hereby amended to read as follows: Sch C., 1929, p 267.

Article V—Dispositions of Contributions and Deposits.

SEC. 24. Section 5.970 of the School Code is hereby amended to read as follows: Sch. C, 1929, p. 262.

5.970. Regulate the duties of boards of education, school trustees and other school authorities, imposed upon them by this part, in respect to the contributions by teachers to the public school teachers' permanent fund, and the contributions by school districts and other employing agencies to the public school teachers' permanent fund, and the deposits by teachers in the public school teachers' annuity deposit fund, and the Power of board

deduction of teachers' contributions and deposits from the teachers' salaries.

New section

SEC. 24a. A new section is hereby added to the School Code to be numbered 5.971 and to read as follows:

Interest rate

5.971. The board shall annually declare the rate of interest to be credited to the deposits of teachers in the public school teachers' annuity deposit fund, which shall not exceed the net interest earned on the assets held by the fund.

New section

SEC. 25. A new section is hereby added to the School Code to be numbered 5.972 and to read as follows:

Tables.

5.972. Before any retirement annuities are granted from the public school teachers' annuity deposit fund, the board shall adopt for the said fund such tables as are necessary to determine the actuarial equivalent of the accumulated deposits credited to members who are entitled to receive retirement annuities under the provisions of this part Before adopting such tables, the board shall secure the recommendation of a qualified actuary; an actuarial review of the tables shall be made at least once in each five years, and on the basis of such review the board may adopt new tables for fixing retirement annuities thereafter granted.

New section

SEC. 25a. A new section is hereby added to the School Code to be known as 5.981, and to read as follows:

Establishment of board

5.981. There is hereby established the Public School Teachers' Retirement Investment Board, which shall consist of the State Superintendent of Public Instruction, the State Director of Finance, the State Controller and two teachers appointed by the State Board of Education for a four-year term. The board shall annually elect two of its members as president and secretary respectively. Actual expenses incurred by members by reason of attending meetings of the Public School Teachers' Retirement Investment Board shall be paid from the public school teachers' permanent fund and the annuity deposit fund.

New article

SEC. 26. A new article is hereby added to Chapter III of Part IV of Division V of the School Code to be known as Article VIII and to read as follows:

Article VIII—Granting of Retirement Annuities from Annuity Deposit Fund.

Retirement annuity

5.935. Whenever any person who has a deposit to his credit in the public school teachers' annuity deposit fund qualifies for a retirement salary under the provisions of this part, he shall receive in addition to the retirement salary a retirement annuity which shall be the actuarial equivalent of his accumulated deposits in the annuity deposit fund at the time of his retirement. When his application for retirement salary is approved by the board, the board shall issue to him a certificate stating the amount of annuity which is the actuarial equivalent of his accumulated deposits.

Optional selections

5.936. With the provision that no optional selection shall be effective in case a retired person dies within thirty days

after retirement, and that for the purposes of the annuity deposit fund such a retired person shall be considered as an active teacher at the time of death, until the first annuity payment becomes due, any person may elect to receive his retirement annuity in an annuity payable throughout life, or he may elect to receive the actuarial equivalent at that time of his annuity in a reduced annuity payable throughout life with the provision that:

Option 1. If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the board; or

Option 2. Upon his death, his reduced annuity shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board at the time of his retirement; or

Option 3. Upon his death, one-half of his reduced annuity shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board at the time of his retirement.

New section

SEC. 26a. A new section is hereby added to the School Code to be numbered 5 986, and to read as follows:

Time of service

5.986. In reckoning the time of service of any person subject to the burdens of this part, all service rendered by such person on account of which he is compelled to make a contribution to the public school teachers' permanent fund under the provisions of this part shall be counted as part of the service required for retirement, but no person shall be credited with more than one year of such service in any school or calendar year.

New article

SEC. 27. A new article is hereby added to Chapter V of Part IV, Division V of the School Code to be known as Article V, and to read as follows:

Article V—The Public School Teachers' Annuity Deposit Fund.

Public school teachers' annuity deposit fund

5.1025. The public school teachers' annuity deposit fund shall be made up of all moneys received from the following sources, or derived in the following manner:

5.1026. All deposits made by teachers as hereinafter provided:

5.1027. The income and interest derived from the investment of the moneys contained in such fund;

5.1028. The Public School Teachers' Retirement Investment Board shall have power and it shall be its duty to invest the moneys in the public school teachers' annuity deposit fund in securities; to deposit such securities with the State Treasurer, and to make the sale of such securities when in its judgment such sale will be advisable. The State Treas-

urer shall collect the income from investments of the fund and interest and dividends thereon.

None of the moneys in the public school teachers' annuity deposit fund shall be invested in any securities except those in which the funds of saving banks may be legally invested.

The State Controller is authorized to draw his warrant upon the public school teachers' annuity deposit fund in payment of duly audited claims arising out of the investment of the moneys in said fund.

New article

SEC. 28. A new article is hereby added to Chapter VI of Part IV of Division V of the School Code to be known as Article IV and to read as follows:

Article IV—Deposits in the Annuity Deposit Fund.

Manner of making deposits

5.1063. Deposits in the annuity deposit fund shall be made as follows:

(a) A compulsory monthly deposit of a sum equal to two dollars less than four per cent of his compensation earned for the month, beginning with the month of July, 1935, or with the first month thereafter in which the compensation is earned, shall be made by each teacher elected or appointed to teach in the public schools of this State on or after July 1, 1935, and subject to the burdens of this part, and by each person otherwise becoming subject to the burdens of this part on or after July 1, 1935. This compulsory deposit shall not be required of any person who was subject to the burdens of this part at any time preceding July 1, 1935.

(b) Any person subject to the burdens of this part, but not subject to the compulsory monthly deposit, may elect to make monthly deposits in the annuity deposit fund of a sum equal to two dollars less than four per cent of his compensation earned for the month. Such election shall be made by written notice to the board, consenting and agreeing to the deduction which may not thereafter be revoked and stating the month in which such deposit is to commence.

Salary deductions

5.1064. Each deposit to be made by any person in the annuity deposit fund shall be deducted from his monthly compensation and shall be paid semiannually by warrant of the school district or other employing agency to the superintendent of schools of the county, who shall issue a receipt in duplicate to the teacher and to the clerk of the governing board of the school district, or in the case of any other employing agency, to the disbursing officer thereof.

Effect of deposit on contributions to permanent fund

5.1065. No deposit in the annuity deposit fund shall affect the obligation of the person to make contributions to the public school teachers' permanent fund as required by this part. Every person accepting employment and subject to the compulsory deposit shall be deemed to consent and agree to all deductions from his compensation as provided in this part.

Effect on other laws relating to salary.

5.1066. Notwithstanding any other law, rule or regulation affecting the salary, pay, compensation, other prerequisites or tenure of any person to whom this part applies, or shall apply,

and notwithstanding that the minimum salary, pay, compensation or other prerequisites, provided by law for such person shall be reduced thereby, payment less said deduction of the amount for deposit in the annuity deposit fund and the contributions to the public school teachers' permanent fund as provided herein shall be in full and complete discharge and acquittance of all claims and demands whatsoever for service rendered by such teacher during the period covered by such payment.

Individual accounts

5.1067. Deposits made by any person in the annuity deposit fund shall be credited to his individual account. Interest shall be credited to his individual account at the rate declared from time to time by the board, and the total of his deposits plus credited interest shall constitute his accumulated deposits.

Payment of person ceasing to be subject to provisions

5.1068. Should a person who has made deposits in the annuity deposit fund cease to be subject to the provisions of this part except by death or retirement under the provisions of this part he shall be paid on demand the accumulated deposits standing to the credit of his individual account in the annuity deposit fund.

Payment in case of death

5.1069. Upon the receipt of proper proofs of the death of a person who has made deposits in the annuity deposit fund, before a retirement salary has been granted to him, there shall be paid to his estate or such person as he shall have nominated by written designation duly filed with the board the amount of the accumulated deposits standing to the credit of his individual account in the annuity deposit fund.

Local retirement systems

5.1070. If any person who has made, or is required to make, deposits in the annuity deposit fund under the provisions of this article be employed by a school district or other employing agency which requires membership in, and contributions to, a local retirement system as a condition of employment, contributions to the annuity deposit fund shall not be required from him while he continues in such employment. At his option, however, he may continue to make deposits in the annuity deposit fund as provided in this article. Any accumulated deposits standing to his credit in the annuity deposit fund shall so remain and withdrawal of accumulated deposits shall not be permitted while he is subject to the burdens of this part.

New section

SEC. 29. A new section is hereby added to the School Code to be numbered 5.886, and to read as follows:

Return to membership

Stats. 1931, p. 1442

5.886. Every person who at the time he became a member of the State Employees Retirement System, established by Chapter 700 of the Statutes of 1931, as the same has been or may hereafter be amended, was subject to the provisions of Part IV of Division V of the School Code, shall, in the event he ceases to be a member of the State Employees Retirement System and again becomes subject to the provisions of Part IV of Division V of the School Code, have the service rendered by him as a member of the State Employees Retirement System counted by the Public School Teachers' Retirement Salary

Fund Board as part of the service required for retirement under Part IV of Division V of the School Code provided such person shall pay into the public school teachers' permanent fund the amounts he would have paid had he never been a member of the State Employees Retirement System.

CHAPTER 614.

An act to add a new section to the Code of Civil Procedure to be numbered 336a and to amend section 337 thereof, relating to the periods prescribed for the commencement of actions.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the Code of Civil Procedure to be numbered 336a, and to read as follows:

Actions which must be commenced within six years.

336a. Within six years. 1. An action upon any bonds, notes or debentures issued by any corporation or pursuant to permit of the Commissioner of Corporations, or upon any coupons issued with such bonds, notes or debentures, if such bonds, notes or debentures shall have been issued to or held by the public.

2. An action upon any mortgage, trust deed or other agreement pursuant to which such bonds, notes or debentures were issued. Nothing in this section shall apply to bonds or other evidences of indebtedness of a public district or corporation.

Stats 1933, p. 2116

SEC. 2. Section 337 of the Code of Civil Procedure is hereby amended to read as follows:

Actions which must be commenced in four years

337. Within four years. 1. An action upon any contract, obligation or liability founded upon an instrument in writing, except as provided in section 336a of this code; provided that the time within which any action for a money judgment for the balance due upon an obligation for the payment of which a deed of trust or mortgage with power of sale upon real property or any interest therein was given as security, following the exercise of the power of sale in such deed of trust or mortgage, may be brought shall not extend beyond three months after the time of sale under such deed of trust or mortgage.

2. An action to recover (1) upon a book account whether consisting of one or more entries; (2) upon an account stated; (3) a balance due upon a mutual, open and current account; provided, however, that where an account stated is based upon an account of one item, the time shall begin to run from the date of said item, and where an account stated is based upon an account of more than one item, the time shall begin to run from the date of the last item.

CHAPTER 615.

An act to amend an act entitled "An act to authorize irrigation districts to cooperate and contract with the United States under the provisions of the Federal reclamation laws for a water supply, or the construction, operation or maintenance of works, including drainage works, or for the assumption by the district of indebtedness to the United States on account of district lands; and to provide the manner and method of payments to the United States under such contract, and for the apportionment of assessments, and the levy thereof, upon the lands of the district to secure revenue for such payments, and to provide for the judicial revenue and determination of the validity of the proceedings in connection with such contract, and to provide for construction of works by the district; to provide for the borrowing or procuring of money from the United States or any agency thereof and the entering into contracts, and/or the issuance of bonds, warrants or other evidence of indebtedness for the repayment thereof, approved May 5, 1917, as amended, by amending the title thereof and amending sections 1 and 11 thereof, relating to powers and adding a new section, to be numbered 6a, thereto.

Stats. 1917, p. 243, amended

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The title to an act entitled "An act to authorize irrigation districts to cooperate and contract with the United States under the provisions of the Federal reclamation laws for a water supply, or the construction, operation or maintenance of works, including drainage work, or for the assumption by the district of indebtedness to the United States on account of district lands; and to provide the manner and method of payments to the United States under such contract, and for the apportionment of assessments, and the levy thereof, upon the lands of the district to secure revenue for such payments, and to provide for the judicial revenue and determination of the validity of the proceedings in connection with such contract, and to provide for construction of works by the district; to provide for the borrowing or procuring of money from the United States or any agency thereof and the entering into contracts, and/or the issuance of bonds, warrants or other evidence of indebtedness for the repayment thereof," is hereby amended to read as follows:

Title amended

An act to authorize irrigation districts to cooperate and contract with the United States under the provisions of the Federal reclamation laws or any other law of the United States for a water supply, or the construction, operation, or maintenance of works, including drainage works or works for the development and distribution of electrical energy, or for the

assumption by the district of indebtedness to the United States on account of district lands; and to provide the manner and method of payments to the United States under such contract, and for the apportionment of assessments, and the levy thereof, upon the lands in the district to secure revenue for such payments, and to provide for the judicial review and determination of the validity of the proceedings in connection with such contract, and to provide for construction of works by the district; to declare that certain county water districts shall be deemed irrigation districts for the purpose of assessment of public lands of the United States; to provide for the borrowing or procuring of money from the United States or any agency thereof and the entering into contracts, and/or the issuance of bonds, warrants or other evidence of indebtedness for the repayment thereof, and validating such contracts heretofore made.

Stats. 1933, p. 2394.

SEC. 2. Section 1 of said act is hereby amended to read as follows:

Irrigation districts may cooperate with United States.

Stats. 1897, p. 254.

Section 1. In addition to the powers with which irrigation districts have been vested under the act approved March 31, 1897, designated the California Irrigation District Act, and acts amendatory thereof or supplementary thereto, and acts of or to which said act is amendatory or supplementary, irrigation districts heretofore or hereafter organized under said acts shall have the following powers: To cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of Congress heretofore or hereafter enacted authorizing or permitting such cooperation, for the purposes of construction of works, whether for irrigation or drainage, or the development and distribution of electrical energy, or any or all of said purposes, or for the acquisition, purchase extension, operation or maintenance of constructed works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States on account of district lands; also to borrow or procure money from the United States or any agency thereof for the purpose of financing any of the operations of the district or for the purpose of financing or refinancing the obligations of the district, including any outstanding warrants or any other indebtedness, or the funding or refunding or purchase of the bonds of the district or for any of the purposes of the district authorized by law.

New section.

SEC. 3. A new section is hereby added to said act, as amended, to be numbered 6a and to read as follows:

Application to county water districts.

Stats. 1913, p. 1049.

Sec. 6a. All county water districts organized and existing under the County Water District Act of this State, as amended, which have heretofore executed or shall hereafter execute a contract or contracts with the United States for the construction of works, whether for irrigation, drainage, flood control or for the development of electric or other power or for the acquisition, purchase, extension, operation or main-

tenance of such works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States, are hereby declared to be and shall be deemed irrigation districts organized and created under the irrigation district laws of this State within the meaning of the act of Congress approved August 11, 1916, entitled "An act to promote the reclamation of arid lands" and of the act of Congress approved May 15, 1922, entitled "An act to provide for the application of the reclamation law to irrigation districts" and public lands of the United States within any such district shall be subject to assessment and taxation for all purposes of said district to the extent provided in said acts of Congress upon full compliance therewith by the district.

SEC. 4. Section 11 of said act is hereby amended to read as follows: Stats 1933, p. 2395.

Sec. 11. In addition to other powers in this act conferred, irrigation districts shall have authority to borrow or procure money from the United States or any agency thereof, for the purpose of financing any of the operations of the district or financing or refinancing any or all of the obligations of the district, including outstanding warrants or any other indebtedness, or the funding or refunding or purchase of the bonds of the district, or for any of the other purposes of the district authorized by the California Irrigation District Act, or acts amendatory thereof or supplementary thereto. As evidence of such loan or loans and the obligations of such district to repay the same to the United States or any agency thereof, any irrigation district, upon being authorized so to do as provided by section 3 of this act as hereinafter in this section modified, may make and enter into contract or contracts with the United States or any agency thereof, as a condition or requirement to the making of such loan or loans. Such district may issue bonds of such district as may be required by the contract last above provided for or without such contract, containing such terms and conditions and payable in such manner and from such source or sources of income and/or revenue as may be agreed upon between the district and the United States or agency and may obligate and bind the district for the payment of such bonds according to the terms thereof. Such bonds may be serial or sinking fund bonds and may be made callable either by number or by lot and may be made payable to bearer or to the United States or any agency thereof and shall be in the form and authorized and issued in the manner substantially as provided for in the California Irrigation District Act, for the form and issuance of funding and refunding bonds of irrigation districts. Notwithstanding any provision of this act, a proposal to enter into and execute any contract with the United States or any agency thereof as provided for by this section need not be submitted to the State Engineer and a majority vote shall be sufficient to authorize the execution thereof, and the notice of election and ballot need contain only the information required in the case

May borrow money from United States.

Stats 1897, p. 254

Contract with United States

Bonds

Stats 1897, p 254.

of ordinary bond election and that a proposal to enter into such contract and to issue bonds, if any, may be voted upon together as a single proposition. When the security underlying the indebtedness of any district has been or is hereafter appraised by the Reconstruction Finance Corporation or any agency of the United States, or said Corporation or any agency of the United States, with or without such appraisal, has loaned or hereafter loans any such district money to fund or refund any of its indebtedness or to finance any of its operations, such district shall have and is hereby given power and authority in contracting for such loan to enter into an agreement that it will not thereafter during the life of such loan levy any assessment for a less amount than required by the provisions of section 39 of the California Irrigation District Act or by the terms of such contract, and when such district shall have so contracted, the California Districts Securities Commission shall not thereafter have jurisdiction or authority to approve or give its consent to the levy of an assessment in any amount less than required to be levied by the provisions of section 39 of the California Irrigation District Act, or less than the amount required by the terms of such contract, and all contracts and agreements between such districts and the Reconstruction Finance Corporation, or any other agency of the United States, heretofore executed providing for such loans are hereby approved, ratified, and confirmed.

CHAPTER 616.

Stats. 1897, p. 254, amended

An act to repeal section 73a of the California Irrigation District Act, relating to the procedure by which property owners may be relieved from obligations of the district.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 806, repealed

SECTION 1. Sec. 73a of the California Irrigation District Act is hereby repealed.

CHAPTER 617.

An act to amend section 2.60 of the School Code, relating to the correction and relocation of boundaries of school districts.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Sch. C., 1929, p. 26

SECTION 1. Section 2.60 of the School Code is hereby amended to read as follows:

2.60. It shall be the duty of every county superintendent to inquire and ascertain whether the boundaries of the school districts in his county are definitely and plainly described in the records of the board of supervisors and to keep in his office a full and correct transcript of such boundaries. Boundaries of school districts

In case the boundaries of districts are conflicting or incorrectly described, or in case, by reason of the resubdivision of land or other change of property lines, the location of said boundaries becomes indefinite and/or conflicts with lines of assessment, the board of supervisors may correct and relocate the boundaries to follow definite, established property lines conforming as nearly as practicable to the general location of the former boundaries.

Where boundary lines are altered or changed as provided herein, the relocation of the new lines shall be made in such a manner that the majority of the area of the parcel or property affected shall determine the district in which such parcel or property shall be located. Nothing herein contained shall be construed as authorizing the board of supervisors, in relocating such boundaries, to substantially alter the former boundaries of such school districts.

CHAPTER 618.

An act to add a new article to Chapter IX of Part III of Division V of the School Code, to be known as Article IV, consisting of sections 5.792 to 5.799b inclusive, relating to a merit system for employees in positions other than those requiring certification qualifications.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new article to be numbered Article IV consisting of sections 5.792 to 5.799b, inclusive, is hereby added to Chapter IX of Part III of Division V of the School Code to read as follows: New article.

Article IV—Merit System Applied to Noncertificated Employees in Certain School Districts.

5.792. In any school district having an average daily attendance of eight hundred fifty or more except school districts lying wholly within a city or city and county which provides in its charter for a merit system of employment for employees not employed in positions requiring certification qualifications the governing board may, by affirmative vote of a majority of its members, adopt the procedure set forth in this article. In any district in which such procedure has been adopted the governing board shall have power and it shall be Adoption of article.

its duty to employ, pay, and otherwise control the services of persons in positions not requiring certification qualifications only in accordance with the provisions of this article unless otherwise directed by a majority vote of the qualified electors voting thereon at a general election for member or members of the governing board of the school district or districts concerned.

Termination.

The measure to terminate the merit system instituted under this article shall be placed on the ballot only on petition of not less than ten per cent of the voters within a given district as determined by the number voting in the last election for member or members of the governing board.

Personnel commission

5.793. In any district which has adopted the provisions of this article there shall be appointed a personnel commission, hereinafter called the commission, composed of three members; provided, that if two or more districts are under the jurisdiction of governing boards of identical personnel, only one such commission shall be appointed. In all such cases the provisions of this article shall apply alike to all of the said districts, and the expenses of the said commission shall be paid out of the general funds of all of the districts in proportion to the benefits derived therefrom as determined by the governing board.

Qualifications of members

Qualifications for membership on the commission shall be the same as those required for the members of the governing board; provided, that no member of the governing board shall be a member of the commission nor shall any commissioner during his service on the commission be employed by the governing board in any other capacity; and provided further, that appointees shall be known adherents to the principle of the merit system.

Organization.

Within thirty days after the provisions of this article become effective in any school district the State Superintendent of Public Instruction shall appoint a member of the personnel commission whose term of office shall be for one year from and after the first day of December, at noon, next succeeding his appointment; the county superintendent of schools in the county in which said district is situated shall appoint a member of the personnel commission whose term of office shall be two years from and after the first day of December, at noon, next succeeding his appointment; the executive officer of the State Personnel Board shall appoint a member of the personnel commission whose term of office shall be three years from and after the first day of December, at noon, next succeeding his appointment; annually thereafter, on or before the first day of December, or as frequently as vacancies shall occur, appointments to fill said vacancy or vacancies shall be made alternately by the State Superintendent of Public Instruction and by the executive officer of the State Personnel Board; provided, that the State Superintendent of Public Instruction shall appoint the member of the personnel commission to fill the first said vacancy; and provided further, that

appointments after the first year shall be for terms of three years from and after the first day of December, at noon, next succeeding the appointments, excepting interim appointments which shall be made only for the duration of the unexpired term of office.

Members of the commission may be paid five dollars per meeting but not over fifty dollars per month. Compensation

The governing board shall provide the commission with suitable office accommodations. The commission shall prepare an annual budget for its own office which, upon the approval of the county superintendent of schools, shall be included by the governing board in the regular budget of the school district or districts concerned. The county superintendent of schools may reject, but may not amend, the proposed budget. In the absence of agreement between the personnel commission and the county superintendent the budget of the preceding year shall determine the amount of the new budget, and the items of expenditure shall be determined by the commission. Office accommodations. Budget.

The budget for the first year shall be determined by the governing board, and pending receipt of money raised in the manner prescribed herein, the governing board is empowered to advance funds for the establishment of the work of the commission.

5.794. The commission shall classify all employees and positions within the jurisdiction of the governing board or of the commission and such employees and positions shall be known as the classified service; provided, that positions required by the School Code to have certification qualifications, and professional experts employed on a temporary basis for a specific project by the governing board or by the commission when so designated by the commission, shall not be included therein. Classification of employees and positions.

5.795. The commission shall prescribe and amend, subject to the provisions of this article, such rules as may be necessary to insure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness. Such rules shall be binding upon the governing board. Rules.

The said rules shall provide for the procedures to be followed by the governing board as they pertain to the classified service regarding applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, lay-offs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, service ratings, public advertisement of examinations, rejection of unfit applicants without competition, and any other matters necessary to carry out the provisions and purposes of this article.

The rules of the commission and copies of this article shall be printed and made available to employees in the classified service, the public, and those concerned with the enforcement of this article.

Personnel director.

5.796. The commission shall appoint a personnel director from an eligibility list established from a competitive examination given under the auspices of the commission. He shall be responsible to the commission for carrying out all procedures in the administration of the classified personnel in conformity with the provisions of this article and the rules of the commission. He shall also act as secretary of the commission and shall prepare, or cause to be prepared an annual report which shall be sent by the commission to the governing board.

Salary schedules.

5.797. The commission shall recommend to the governing board salary schedules for the classified service. The governing board may approve, amend or reject these recommendations; provided, that no amendment shall be adopted until the commission shall first have been given a reasonable opportunity to make a written statement of the effect such amendments will have upon the principle of like pay for like service. No such changes shall operate to disturb the relationship which compensation schedules bear to one another, as such relationship has been established in the classification made by the commission.

Permanent classified service.

5.798. Any person who has been continuously employed in a position which under this article is defined as a position in the classified service for a period of six months immediately preceding the date on which the governing board of the school district shall have adopted the procedure set forth in this article shall be deemed to be in the permanent classified service; provided, that no lay-off or suspension of service during the time when and because the schools of the district are not in session shall count as an interruption of such continuous service.

Probationary classification.

All persons who have been continuously employed by a school district for less than six months immediately preceding the date on which the governing board of the school district shall have adopted the procedure set forth in this article shall be deemed to hold their positions under probationary classification.

New employees

Eligibility lists

All new employees in the classified service shall be selected in accordance with the provisions of this act and the rules of the commission, from applicants on eligibility lists which, wherever practicable, as determined by the commission, shall be made up from promotional examinations; provided, that such applicants shall be placed on such eligibility lists in the order of their relative merit as determined by competitive examinations; and provided further, that appointments shall be made from the first two applicants on the eligibility list who are ready and willing to accept the position. When no eligibility list exists for a position in the classified service, new employees may be appointed for a period not to exceed ninety days and during said ninety days an examination shall be held for such classification. No successive temporary appointments may be made and no person shall be employed in temporary capacities under a given governing board for a total

Temporary appointments

of more than six months in any one year. No questions relating to political or religious opinions, affiliations, race, color, or marital status shall be asked of any candidate whose name has been certified for appointment, nor shall any discrimination be exercised therefor.

"Veteran" defined.

The term "veteran" as used in this article means and includes any person who has served in the United States Army, Navy, Marine Corps, Revenue Marine Service, or as an active nurse in the service of the American Red Cross, or in the Army and Navy Nurse Corps in time of war, or in any expedition of the armed forces of the United States, and received an honorable discharge or certificate of honorable active service, proof of which shall be submitted to the commission at the time of the examination.

"Disabled veteran" defined

The term "disabled veteran" as used in this article means and includes any person who has served in the United States Army, Navy or Marine Corps in time of war or in any expedition of the armed forces of the United States, and received an honorable discharge or certificate of honorable active service, proof of which shall be submitted to the commission at the time of the examination, and who was disabled as a result of such service. Proof of such disability shall be deemed conclusive if the same be of record in the United States Veterans Administration.

Additional credits to veterans

In the case of all entrance examinations, veterans with thirty days or more of service who become eligible for appointment by attaining the passing mark established for the examination, shall be allowed an additional credit of five points, provided that disabled veterans shall be allowed an additional credit of ten points, which shall be added to the percentages attained in such examinations by such veterans, and they shall be placed on eligible lists and be eligible for appointment in the order and on the basis of the percentages attained by them in examinations after such credit of five points, or ten points in the case of disabled veterans, shall have been added.

Lay-offs.

Persons laid off or suspended because of lack of work or lack of funds are eligible to reemployment for a period of three years and shall be reemployed in preference to new applicants.

Duration of lists

Eligibility lists shall be established for a period of not less than one year and may be extended for an additional period of one year in the discretion of the commission.

Status in permanent classified service.

5.798a. Any person who has served a probationary period not to exceed six months as prescribed by the rules of the commission for his classification shall be deemed to be in the permanent classified service. No person in the permanent classified service shall be demoted or removed except for reasonable cause designated by rule of the commission as detrimental to the efficiency of the service. This paragraph shall not be construed to prevent lay-offs for lack of work or lack of funds.

Suspension, demotion, or dismissal.

For reasonable causes the employee may be suspended without pay for not more than thirty days or may be demoted or dismissed. In any such case the personnel director shall within three days of such suspension, demotion or dismissal file written charges with the commission and give a copy of such charges to the employee.

Appeal

An employee who has been suspended, demoted, or dismissed may appeal to the commission within fourteen days after receipt of a copy of the written charges by filing a written answer to such charges.

Hearing.

The commission shall investigate the matter on appeal and may require further evidence from either party, and may, and upon request of an accused employee shall, order a hearing. The accused employee shall have the right to appear in person or with counsel and to be heard in his own defense. The decision shall not be subject to review by the governing board. If the commission sustains the employee, the commission may order paid all or part of his full compensation from the time of suspension, demotion, or dismissal, and it shall order his reinstatement. Upon notification of the commission's decision, the board shall reinstate the employee and authorize such compensation as the commission shall direct.

Warrants for compensation.

5.799. No warrant shall be drawn by or on behalf of the governing board of any district for the payment of any salary or wage to any employee in the classified service unless the assignment bears the certification of the personnel director that the person named in such assignment has been employed and assigned pursuant to the requirements of this article and the rules of the commission

Powers of commission

The commission shall have the power to subpena witnesses, to require the production of records or information pertinent to investigation, and to administer oaths. It may, at will, inspect any records of the governing board that may be necessary to satisfy itself that the procedures prescribed by the commission as authorized by this article have been complied with.

Counsel.

It shall be the duty of the counsel of the governing board to aid and represent the commission, when sued, in a legal capacity and should he refuse, the commission may employ its own attorney and the reasonable cost thereof shall constitute a legal charge against the general funds of the district concerned.

Political activities.

5.799a. No person who is in the classified service or who is upon any eligibility list shall be appointed, demoted, or removed, or in any way discriminated against because of his political acts, opinions, or affiliations; provided, that no such person shall engage in political activities during his assigned hours of employment.

Solicitation.

No member of the governing board in any district in which the procedure herein set forth shall have been adopted shall directly or indirectly solicit or be concerned in soliciting any assessment, contribution, or political service of any kind what-

soever for any political purpose from any person who is in the classified service or who is upon any eligibility list.

No officer or employee of any governing board of any district in which the procedure herein set forth shall have been adopted shall directly or indirectly coerce or attempt to coerce or in any way bring pressure or attempt to bring pressure upon any other such officer or employee, to support or refrain from supporting any political group for any political purpose whatever. Coercion.

5.799b. Any person who shall wilfully or through culpable negligence violate any of the provisions of this article shall be guilty of a misdemeanor. Violation.

SEC. 2. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared unconstitutional. Constitutionality.

SEC. 3. All acts and all parts of acts inconsistent herewith are hereby repealed. Repeal

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CHAPTER 619.

An act to amend sections 713, 715, 731, 733.5, 867 and 868 of, and to add section 717.5 to the Fish and Game Code, relating to the protection of fish. Stats 1933, p. 394.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 713 of the Fish and Game Code is hereby amended to read as follows: Stats. 1933, p. 460.

713. White sea bass (Cynoscion nobilis) may be taken with hook and line at any time. White sea bass.

SEC. 2. Section 715 of the Fish and Game Code is hereby amended to read as follows: Stats. 1933, p. 460.

715. More than 5 white sea bass of less than 28 inches in length may not be taken or possessed at any time.

SEC. 3. Section 731 of the Fish and Game Code is hereby amended to read as follows: Stats 1933, p. 461.

731. Barracuda not less than 3 pounds in weight may be taken with hook and line at any time. Barracuda

SEC. 4. Section 733.5 of the Fish and Game Code is hereby amended to read as follows: Stats 1933, p. 461.

733.5. Yellow-tail may be taken with hook and line at any time. Yellow-tail.

SEC. 5. Section 867 of the Fish and Game Code is hereby amended to read as follows: Stats 1933, p. 473

Yellow-tail from Mexican waters.

867. Yellow-tail may be used only for consumption as fresh food fish. The provisions of this part do not apply to yellow-tail taken in waters lying south of the international boundary line between the United States and Mexico, extended westerly in the Pacific Ocean. The commission is authorized to prescribe regulations governing the inspection and marking of yellow-tail imported into this State. The cost of such inspection and marking shall be paid by the importer of the yellow-tail.

Stats. 1933, p. 473

SEC. 6. Section 868 of the Fish and Game Code is hereby amended to read as follows:

Barracuda and white sea bass.

868. It is unlawful to use any net to take yellow-tail, barracuda or white sea bass between May 1 and August 31.

New section

SEC. 7. Section 717.5 is hereby added to the Fish and Game Code to read as follows:

Yellow-tail, white sea bass and barracuda: Limits

717.5. It is unlawful between May 1 and August 31 for any person to have in possession on any boat, barge or vessel, more than 500 pounds of yellow-tail, 500 pounds of white sea bass or 500 pounds of barracuda, per person. Between May 1 and August 31, not more than 2500 pounds of yellow-tail, barracuda or white sea bass may be possessed on any boat, barge or vessel at any one time.

CHAPTER 620.

An act to amend section 3669e of the Political Code of the State of California, relating to powers of State Board of Equalization.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1917, p. 363.

SECTION 1. Section 3669e of the Political Code of the State of California is hereby amended to read as follows:

Powers of State Board of Equalization.

3669e. In addition to the powers and duties prescribed elsewhere in this code, the State Board of Equalization, shall have the following powers:

Prescribe forms.

1. To prescribe the forms upon which the reports required by sections 3665c, 3666b and 3667 of this code shall be made, and the said board, or any employees designated by it, are hereby authorized and empowered to administer oaths in the making of affidavits to tax returns.

Inspect property.

2. Whenever deemed necessary, to visit as a board, or by the individual members thereof, or to send its secretary or duly appointed representative to any portion of this State for the purpose of inspecting property and learning the value thereof, and of collecting information to enable it to justly assess and levy the taxes provided for as aforesaid.

3. To call before it, or any member thereof, or before its secretary or duly appointed representative on such visit, any public official, and to require him to produce any public record, papers or documents in his custody. Call officials to produce documents

4 To issue subpenas for the attendance of witnesses or the production of books before the board, or any member thereof; which subpenas must be signed by a member of the board and may be served by any person. Issue subpenas

5. To require any person having knowledge of the business of any of the companies mentioned in section 14 of Article XIII of the Constitution of this State, or having the custody of the books and accounts of such companies, to attend before the board or any member thereof, or before the secretary or the duly appointed representative of said board and bring with him for inspection any books, or papers, of such company in his possession or under his control, and to testify under oath touching any matter relating to the assessment to be made under the provisions of the Constitution aforesaid. A member of the board, its secretary, or duly appointed representative is authorized to administer such oath. Require attendance of witnesses

6. Said Board of Equalization is hereby authorized and empowered to examine the books and accounts of all companies required by law to report to it and to employ an expert accountant or accountants to assist in the examination of the books and accounts of any such companies when in the judgment of said board the exigencies of the cause may so require. Examine books and accounts

7. It shall be unlawful for any member or ex-member of the State Board of Equalization, or for any agent employed by it, or for the Controller, or ex-Controller, or for any person employed by him or for any person who may at any time have obtained such knowledge from any of the foregoing officers or persons, to divulge or make known in any manner whatever not provided by law, any of the following items of information concerning the business affairs of companies reporting to the said board: Unlawful to divulge information

(a) Any information concerning the business affairs of any company which is gained during an examination of its books and accounts or in any other manner, and which information is not required to be reported to the State Board of Equalization in the reports or statements provided for in paragraphs numbered one to twelve of section 3665c and paragraphs numbered one to ten of section 3667 of this code.

(b) Any information, other than the assessment and the amount of taxes levied, obtained by the State Board of Equalization in accordance with the provisions of sections 3665c and 3667 of this code, from any company other than any of those enumerated in sections 3664a, 3664b and 3664c of this code.

(c) Any particular item or items of information relating to the disposition of its earnings contained in the report of a quasi-public corporation which any such corporation may, by written communication specifying the items and presented at

the time when it files its report, request shall be treated as confidential.

Power of Governor.

The Governor, however, may authorize examination of such reports by other State officers, in which event the information obtained by such officers shall not be made public, and he may also direct that any of the information herein referred to be made public, in which event it shall no longer be unlawful to divulge or make known the same.

Penalty.

Any violation of the provisions of subdivision 7 of this section shall be a misdemeanor and shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or both, at the discretion of the court.

CHAPTER 621.

Stats 1915, p. 1034, amended.

An act to amend section 2 of an act entitled "An act to create a reclamation district to be called 'Reclamation District No. 1660,' and providing for the control and management thereof," approved June 1, 1915, relating to the management and control of said district.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1931, p. 734.

SECTION 1. Section 2 of an act entitled "An act to create a reclamation district to be called 'reclamation district number sixteen hundred and sixty,' and providing for the control and management thereof," approved June 1, 1915, is hereby amended to read as follows:

District subject to Pol. Code.

SEC. 2. The management and control of said reclamation district is made subject to the provisions of the Political Code and other laws of the State of California relative to reclamation districts formed under the provisions of said Political Code, except as otherwise provided herein. From and after the election to be held at the time and in the manner provided in this section, the management and control of said district shall be vested in a board of five trustees. An election of said five trustees shall be held on the third Tuesday of October, 1935, and on the same date every four years thereafter. In case of any vacancy in the office of trustees of said district, the board of supervisors of the county of Sutter, State of California, shall fill such vacancy by appointment. Said trustees shall hold office for four years after the date of said election or until their successors are elected and qualified. The office and principal place of business of said district shall be in the city of Sacramento, or at a place in or near to said district, and the board of trustees may from time to time fix such office or place of business and change the same. The said election shall be held and the board of supervisors shall have jurisdiction of all matters concerning

Trustees.

Office.

said district to the same extent as if the said district was formed under the provisions of the Political Code of the State of California, except as otherwise provided in this act. All funds of said district shall be deposited in the county treasury of the county of Sutter and shall be disbursed by said treasurer of said county in payment of the warrants of said district.

Funds.

CHAPTER 622.

"Automobile Dealers' Anti-coercion Act.

An act to prohibit and declare void certain contracts, conditions, agreemenis and understandings in connection with the sale or contract to sell motor vehicles by manufacturers or wholesale distributors thereof, and prohibiting the giving or payment of any thing or service of value by any manufacturer or wholesale distributor of motor vehicles to any one engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles, and the acceptance or receipt thereof by any such person when competition in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles may be lessened or eliminated, or a monopoly created or tended to be created, and prohibiting from doing business in this State any one engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles who so accepts or receives any thing or service of value from any manufacturer or wholesale distributor of motor vehicles, and prescribing penalties, forfeitures, and recoveries for the violation thereof.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Certain acts unlawful in connection with sale of motor vehicles.

SECTION 1. It shall be unlawful for any person who is engaged, either directly or indirectly, in the manufacture or wholesale distribution of motor vehicles to sell or enter into a contract to sell motor vehicles, to any person who is engaged or intends to engage in the business of selling such motor vehicles at retail in this State, on the condition or with an agreement or understanding, either express or implied, that such person so engaged in selling motor vehicles at retail shall in any manner finance the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons or shall sell and assign the conditional sales contracts, chattel mortgages or leases arising from the sale of motor vehicles or any one or number thereof only to a desig-

nated person or class of persons, when the effect of the condition, agreement or understanding so entered into may be to lessen or eliminate competition, or create or tend to create a monopoly in the person or class of persons who are designated, by virtue of such condition, agreement or understanding to finance the purchase or sale of motor vehicles or to purchase such conditional sales contracts, chattel mortgages or leases, and any such condition, agreement or understanding is hereby declared to be void and against the public policy of this State.

Threats as evidence.

SEC. 2. Any threat, expressed or implied, made to any person engaged in the business of selling motor vehicles at retail in this State by any person engaged, either directly or indirectly in the manufacture or distribution of motor vehicles, that such person will discontinue or cease to sell, or refuse to enter into a contract to sell, or will terminate a contract to sell motor vehicles, to such person who is so engaged in the business of selling motor vehicles at retail, unless such person finances the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages, or leases arising from his retail sales of motor vehicles or any one or number thereof only to a designated person or class of persons shall be prima facie evidence of the fact that such person so engaged in the manufacture or distribution of motor vehicles has sold or intends to sell the same on the condition or with the agreement or understanding prohibited in section 1 of this act.

SEC. 3. Any threat, expressed or implied, made to any person engaged in the business of selling motor vehicles at retail in this State by any person, or any agent of any such person, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles in this State and is affiliated with or controlled by any person engaged, directly or indirectly in the manufacture or distribution of motor vehicles, that such person so engaged in such manufacture or distribution shall terminate his contract with or cease to sell motor vehicles to such person engaged in the sale of motor vehicles at retail in this State unless such person finances the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages or leases arising from his retail sale of motor vehicles or any one or any number thereof only to such person so engaged in financing the purchase or sale of motor vehicles or in buying conditional sales contracts, chattel mortgages or leases on motor vehicles, shall be presumed to be made at the direction of and with the authority of such person so engaged in such manufacture or distribution of motor vehicles, and shall be prima facie evidence of the fact that such person so engaged in the manufacture or distribution of motor vehicles has sold or intends to sell the same

on the condition or with the agreement or understanding prohibited in section 1 of this act.

Subsidies and discrimination.

SEC. 4. It shall be unlawful for any person who is engaged directly or indirectly in the manufacture or wholesale distribution of motor vehicles to pay or give or to contract to pay or give any subsidy to any person, other than an automobile dealer or automobile distributor, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail within this State or to discriminate in favor of or against any person, other than an automobile dealer or automobile distributor, engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail within this State, if the effect of any such subsidy or discrimination may be to lessen or eliminate competition or to create or tend to create a monopoly in the person or class of persons who receive such subsidy or who are benefited by such discrimination.

SEC. 5. It shall be unlawful for any person other than an automobile dealer or automobile distributor who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail within this State to accept or receive or contract or agree to accept or receive either directly or indirectly any subsidy or the benefit resulting from any discrimination as set forth in section 4 of this act from any person engaged directly or indirectly in the manufacture or wholesale distribution of motor vehicles if the effect of the acceptance or receipt of any such subsidy or benefit may be to lessen or eliminate competition or to create or tend to create a monopoly in the person or class of persons who receives such subsidy or who are thus benefited by such discrimination.

Finance after subsidy.

SEC. 6. It shall be unlawful for any person other than an automobile dealer or automobile distributor who hereinafter so accepts or receives either directly or indirectly any subsidy or the benefit resulting from any discrimination as set forth in section 5 of this act or hereafter so contracts either directly or indirectly to receive any such subsidy or benefit to thereafter finance or attempt to finance the purchase or sale of any motor vehicle or buy or attempt to buy any conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail in this State.

Forfeiture of charter rights, etc.

SEC. 7. For a violation of any of the provisions of this act by any corporation or association mentioned herein, it shall be the duty of the Attorney General or the district attorney of the proper county, to institute proper suits or quo warranto proceedings in any court of competent jurisdiction for the forfeiture of its charter rights, franchises or privileges and powers exercised by such corporation or association, and for

the dissolution of the same under the general statutes of the State.

Right to do business in State

SEC. 8. Duty of Secretary of State. Every foreign corporation, as well as every foreign association, exercising any of the powers, franchises or functions of a corporation in this State, violating any of the provisions of this act, is hereby denied the right and prohibited from doing any business in this State, and it shall be the duty of the Attorney General to enforce this provision by bringing proper proceedings by injunction or otherwise. The Secretary of State shall be authorized to revoke the license of any such corporation or association heretofore authorized by him to do business in this State.

Penalty.

SEC. 9. Any person who shall violate any of the provisions of this act, any person who is a party to any agreement or understanding, or to any contract prescribing any condition prohibited by this act, any employee, agent or officer of any such person who shall participate, in any manner, in making, executing, enforcing, performing or in urging, aiding or abetting in the performance of any such contract, condition, agreement or understanding and any person who shall pay or give or contract to pay or give any thing or service of value prohibited by this act, and any person who shall receive or accept or contract to receive or accept any thing or service of value prohibited by this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars ($500.00) or be imprisoned in a county jail not exceeding six months, or by both such fine and imprisonment. Each day's violation of this provision shall constitute a separate offense.

Contracts in violation.

SEC. 10. Any contract or agreement in violation of the provisions of this act, shall be absolutely void and shall not be enforceable either in law or equity.

Provisions cumulative

SEC. 11. The provisions hereof shall be held cumulative of each other and of all other laws in any way affecting them now in force in this State.

Damage suits.

SEC. 12. In addition to the criminal and civil penalties herein provided, any person who shall be injured in his business or property by any other person or corporation or association or partnership, by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any court having jurisdiction thereof in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and recover twofold the damages by him sustained, and the costs of suit. Whenever it shall appear to the court before which any proceedings under this act may be pending, that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where such action is pending, or not.

SEC. 13. (a) The term "person," as used in this act, means any individual, firm, corporation, partnership, association, trustee, receiver or assignee for the benefit of creditors. Definitions

(b) The terms "sell," "sold," "buy," and "purchase," as used in this act, include exchange, barter, gift, and offer of contract to sell or buy.

(c) The term "wholesale distribution" as used in this act shall mean the sale or distribution of motor vehicles or any interest therein by the manufacturer thereof, or by any person directly or indirectly owned by such manufacturer.

SEC. 14. This act shall be known and shall be cited as "Automobile Dealers' Anti-coercion Act." Short title.

SEC. 15. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional. Constitutionality.

CHAPTER 623.

An act to add a new section to the School Code, to be numbered 2.972, relating to city boards of education in cities in the first and one-half class.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section to be numbered section 2.972 is hereby added to the School Code, to read as follows: New section

2.972. In any school district situated wholly or partly within a city of the first and one-half class, each member of the city board of education shall receive as compensation for his services the sum of ten dollars for each meeting of the board actually attended, not to exceed one hundred dollars in any one calendar month. Such compensation shall be a charge against the funds of such school district; provided that, if such city board of education is the governing board of more than one school district, such compensation shall be charged against and paid by each respective school district in the same proportion as the salary of the city superintendent of schools is charged against such respective school districts. Such compensation shall be reduced by an amount equal to any salary or compensation paid to such members of such city board of education from any funds of the city. Compensation board of education in cities of first and one-half class

CHAPTER 624.

Stats 1923, p. 571, amended.

An act to amend section 13 of the Motor Vehicle Fuel License Tax Act, relating to apportionment of the tax fund.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1935, Ch. 607

SECTION 1. Section 13 of the act cited in the title hereof is hereby amended to read as follows:

Motor vehicle fuel fund. Appropriations.

Sec. 13. All money received by the State Controller in payment of license taxes under the provisions of this act shall be by him deposited in the State treasury and credited to the "Motor vehicle fuel fund," which fund is hereby created. The moneys in said fund are hereby appropriated, subject to the provisions of any budget bill heretofore or hereafter enacted and section 661 of the Political Code, as follows:

(a) To pay the refunds authorized in this act.

(b) To the State Controller, to carry out any duties imposed upon him by this act.

(c) To the State Board of Equalization, to carry out any duties imposed upon it by this act, and the duties of said board arising out of the provisions of section 15 of Article XIII of the Constitution and legislation enacted pursuant thereto.

(d) To the counties of the State as hereinafter provided.

(e) To the State highway fund, as hereinafter provided.

(f) To pay the pro rata share of the overhead and general administrative expense of the State Controller and the State Board of Equalization attributable to duties imposed by this act or under the provisions of section 15 of Article XIII of the Constitution, and legislation enacted pursuant thereto. Such pro rata share shall be payable upon presentation of claim against any appropriation from the motor vehicle fuel fund for the support of the State Controller or the State Board of Equalization, as the case may be.

(g) To pay refunds as may be due on account of judgments for the return of license taxes illegally collected, as provided in section 16 of this act.

One-third of all moneys in said "Motor vehicle fuel fund" after the biennial appropriations to the State Controller and the State Board of Equalization have been deducted and the refunds herein provided for shall have been paid, shall be paid to the counties as hereinafter provided.

Apportionment to counties.

Out of said appropriation, each county and city and county shall first be paid seven thousand five hundred dollars for each quarter of a year. The balance remaining in said appropriation after making said apportionment of seven thousand five hundred dollars quarterly shall be apportioned to all of the counties and cities and counties of this State in the proportion that the registration of vehicles in each of such counties and cities and counties bears to the total number of vehicles registered in this State.

All such amounts so paid to the several counties shall be paid into a special road improvement fund and expended as provided by law.

In the event that any such county has not established such a road fund, its proportion of such fund shall be retained by the State until provision for such a road fund has been made, and it shall then be paid over to such county.

Payment to counties

In the months of January, April, July and October of each year, the Controller shall ascertain the gross amounts received and the net receipts remaining after deducting the amounts withdrawn for the support of the Controller and the Board of Equalization and the payment of the refunds for which provision is made in section 11 of this act during the preceding three months, and thereupon the Controller shall draw his warrant upon the "Motor vehicle fuel fund" in favor of each county in the State for the amount to which each such county is entitled. The Controller shall not draw such warrant in favor of any county which shall not have established such a road fund as is herein required or which shall be delinquent in its annual report to the State Department of Public Works as required by law.

Annual report.

Whenever the annual report by any board of supervisors shall not have been duly filed in the manner and form provided by law and at or before the time specified by law, the State Controller shall not draw his warrant in favor of the treasurer of such county until such report has been filed.

"State highway fund."

All moneys in the "Motor vehicle fuel fund" other than those hereinbefore appropriated, are hereby appropriated to and shall by the State Treasurer be paid into the "State highway fund," which fund is hereby created.

Department of Public Works.

All money thus paid into the State highway fund is appropriated to the Department of Public Works to be expended in accordance with law for the payment of all necessary charges incurred in carrying out the provisions of the Streets and Highways Code, and of any other law relating to the acquisition of real property for and the construction, maintenance or improvement of highways.

CHAPTER 625.

An act to amend sections 137, 138, and 166 of, and to add sections 171 and 172 to the Fish and Game Code, relating to game refuges.

Stats. 1933, p. 394.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 137 of the Fish and Game Code is hereby amended to read as follows:

Stats. 1933, p. 410

District 1G

137. District 1G. The following shall constitute fish and game district 1G. All that area within the county of Tehama within the following boundaries: Beginning at a point where Deer Creek crosses the west township line of township twenty-five north, range two east; thence north along said township line and along the west township line of township twenty-six north, range two east to its intersection with Boatgunwale Creek; thence down Boatgunwale Creek to Mill Creek; thence up Mill Creek to the Pape Trail; thence following the Peligreen Road to the Ponderosa Truck Trail; thence following the Ponderosa Truck Trail to its intersection with North Antelope Creek; thence up North Antelope Creek to its intersection with the Lyonsville Trail; thence following the Lyonsville Trail to its intersection with the Turner Mountain Trail; thence following the Turner Mountain Trail to the township line, between township twenty-eight north and township twenty-nine north; thence due east on the township line to the Red Bluff-Susanville Highway; thence following the Red Bluff-Susanville Highway to its junction with the Big Bend Road; thence following the Big Bend Road to Mill Creek; thence down Mill Creek to its intersection with the old Butte Meadows-Round Valley Trail; thence to its intersection with Round Valley Creek; thence down Round Valley Creek to Deer Creek; and down Deer Creek to point of beginning.

Stats. 1933, p. 411.

SEC. 2. Section 138 of the Fish and Game Code is hereby amended to read as follows:

District 1H.

138. District 1H. The following shall constitute fish and game district 1H. All that area within the county of Plumas within the following boundaries: Beginning at a point on the Western Pacific Railway known as Quincy Junction; thence following northerly the westerly side of the Old Road to Taylorsville; thence westerly along the southerly side of the County Road to a point on the State Control Road, approximately one and one-half miles southerly from Crescent Mills; thence southerly along the easterly side of said State Control Road to its intersection with the Feather River Highway; thence southerly along the easterly side of said Feather River Highway to the County Road which intersects said Feather River Highway near the Feather River Experiment Station; thence easterly along the northerly side of said County Road to the point of beginning.

Stats. 1933, p. 423

SEC. 3. Section 166 of the Fish and Game Code is hereby amended to read as follows:

District 4G.

166. District 4G. The following shall constitute fish and game district 4G. Beginning at the northeast corner of township four south, range three east, San Bernardino base and meridian; thence on section lines, west one mile, north one mile, west two miles, north one mile and west three miles to the northwest corner of section 30, township three south, range three east, San Bernardino base and meridian; thence south on the range line between ranges two and three east, about seven and three-fourths miles to the crest of the divide form-

ing the northwesterly boundary of Strawberry Creek watershed; thence southwesterly along said divide to a point on the northerly boundary of section twenty-eight in township five south, range two east, San Bernardino base and meridian; thence southwesterly in a straight line to the junction of Strawberry Creek and the South Fork of the San Jacinto River; thence southeasterly and northeasterly along the crest of the divide between the waters of Strawberry Creek and the waters of the South Fork of the San Jacinto River and its tributaries to the northeasterly side of the right of way of the Pines to Palms Highway; thence southeasterly along the said northeasterly side of the right of way of the Pines to Palms Highway to the right bank of Hurkey Creek; thence northerly along the right bank of Hurkey Creek through sections nine and four in township six south, range three east, and through sections thirty-three, twenty-eight, twenty-one, the southeast quarter of section sixteen, the west one-half of section fifteen, the east half of section ten and the northwest quarter of section eleven to the crest of the divide between the waters of Hurkey Creek and Murray Canyon; thence southeasterly along the crest of the divide between the waters flowing west into the San Jacinto River and the waters flowing east into Coachella Valley to a point on the south boundary of section twenty-four in township five south, range three east, San Bernardino base and meridian; thence east on said south line of section twenty-four to the southeast corner thereof; thence north on the line to the point of beginning.

SEC. 4. Section 171 is hereby added to the Fish and Game Code to read as follows: New section

171. District 1U. The following shall constitute fish and game district 1U. All that area within the county of Siskiyou within the following boundaries: Beginning at the summit of Buckhorn Mountain; thence northerly following the Buckhorn Mountain-Cold Spring trail to Cold Spring; thence easterly following a branch of Grider Creek to Grider Creek; thence northerly following Grider Creek to where the divide between Grider Creek and a stream flowing into Grider Creek in section sixteen, township forty-five north, range twelve east, meets said Grider Creek; thence following the ridge of said divide easterly to its intersection with Lake Mountain Summit trail; thence southeasterly following the Lake Mountain Summit trail to its intersection with a trail following the ridge between Middle Creek and Kelsey Creek; thence southerly following said trail to its junction with Kelsey Creek trail; thence westerly following Kelsey Creek trail to its junction with Turk Lake-Buckhorn Mountain trail; thence northwesterly following Turk Lake-Buckhorn Mountain trail to point of beginning at summit of Buckhorn Mountain. District 1U

SEC. 5. Section 172 is hereby added to the Fish and Game Code to read as follows: New section

172. District 1V. The following shall constitute fish and game district 1V. All that area within the county of Plumas District 1V

within the following boundaries: Beginning at the point where the Willow Creek Road leaves the Feather River Highway between Blairsden and Portola; thence following northerly the easterly side of said Willow Creek Road to the Three Mile Ranger Station; thence easterly following the southerly side of the new U. S. Forest Service Road into Grizzly Valley to its intersection with the Walker Mine Road; thence southerly following the westerly line of said Walker Mine Road to the Feather River Highway; thence westerly following the northerly side of the Feather River Highway to the point of beginning.

CHAPTER 626.

An act to amend section 362 of the Streets and Highways Code and to add section 603 thereto, relating to State highways.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 627.

An act to amend section 2179 of the Political Code, relating to guardianship and administration of estates of incompetents.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1929 p. 1484

SECTION 1. Section 2179 of the Political Code is hereby amended to read as follows:

Guardians of estates of insane or incompetent persons

2179. In case any insane or feeble-minded person, who has no guardian and who has been or shall hereafter be committed to any State hospital for the insane, or home for the feeble-minded, is the owner of any property, the secretary of the State Department of Institutions, while he is in office as secretary of the State Department of Institutions, may apply to a court of competent jurisdiction for his appointment as guardian of the estate of such insane or feeble-minded person.

Where an insane or feeble-minded person under commitment to a State hospital or home for the feeble-minded shall die leaving any estate, and having no relatives at the time residing within this State, the secretary of the State Department of Institutions, while he is secretary of the State Department of Institutions, may be entitled to administer said estate and to have letters of administration on such estate

issued to him. The secretary of the State Department of Institutions shall act as such guardian or administrator only so long as he is in office as secretary and the succeeding secretary shall, by operation of law succeed to all rights, authority and duties as guardian or administrator on such estates. The retiring secretary shall, within sixty days after his retirement as secretary of the State Department of Institutions, file an account with the court in each case in which he has acted as guardian or administrator and shall not be released from his bonds as guardian or administrator until each account is settled and approved by the court. Said secretary of the State Department of Institutions shall serve as such guardian or administrator and shall be entitled to receive such reasonable fees for his services as such guardian or administrator as the court may allow. Said fees shall be paid into the State treasury to become a part of and to be added to the appropriation or special fund in the State treasury, made available by law. for the support or management of said department

Secretary of department ex officio guardian.

CHAPTER 628.

An act to amend section 692 of the Agricultural Code, relating to places where milk or milk products are handled or kept for sale.

Stats. 1933, p. 60

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 692 of the Agricultural Code is hereby amended to read as follows:

Stats. 1933, p. 165

692. Any creamery, factory or building in which dairy products of any kind are manufactured, or any store or salesroom, excepting a store or salesroom where milk or milk products are sold at retail in final packaged form, depot, or other place where milk or any product of milk is handled or kept for sale, is insanitary:

Insanitary creamery defined

(a) If milk or cream or any product of either is received that has reached an advanced stage of fermentation, or that shows a state of putrefactive fermentation, or contains foreign substances detrimental to the quality of the manufactured product.

(b) If the utensils and apparatus that come in contact with milk or its products are not thoroughly washed and sterilized by means of boiling water or superheated steam or other means equally effective and acceptable to the department, immediately following the completion of any processing operations and if the cans or containers in which the milk or cream or products of either is received, transported or delivered are not thoroughly washed, sterilized and dried after emptying and before being sent out to be used again or if any containers, utensils, or apparatus, or equipment are used for any

Insanitary creamery defined.

purpose other than that of handling milk and the products of milk.

(c) If the floor is not constructed of nonabsorbent material acceptable to the department or if the floor is so constructed as to permit the flowing of water, milk or other liquids underneath or among the interstices of such floor, where fermentation and decay can take place, or if such floor can not be readily kept free from dirt.

(d) If floor drains are not provided that will convey refuse milk, water and sewage away to a point at least fifty yards distant from such creamery or factory of dairy products, or if any cesspool, privy vault, hog yard, slaughterhouse, manure or any decaying vegetable or animal matter shall be so located as to permit foul odors to reach such creamery or other factory of dairy products or storeroom or depot where milk or its products are sold or handled; or if such creamery or factory of dairy products is not adequately and conveniently supplied with water free of pollution with sewage or contamination with pathogenic bacteria unless said water be subjected to efficient chlorination or otherwise treated to make it safe for use in connection with the manufacture of food products.

(e) If such creamery or factory of dairy products does not permit access of light and air sufficient to secure good ventilation.

(f) If in any building used in connection with any creamery, or factory of dairy products, any species of animal life are permitted. If upon the floor or walls any milk or its products or any filth is allowed to accumulate or ferment, or decay, or if the bodies or wearing apparel of persons employed, or coming in contact with any milk or its products in any creamery, or factory of any dairy product, are unclean and not washed from time to time with reasonable frequency, or if suitable toilet and lavatory facilities and clean towels are not provided for employees.

(g) If tight, sound and cleanable walls and ceilings are not provided so as to exclude flies, insects and dust.

CHAPTER 629.

An act to amend section 1680 of the Streets and Highways Code, relating to extending county aid to cities.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE—See Stats. 1935, Ch. 29.

CHAPTER 630.

An act to add a new section to be numbered 611, to an act entitled "An act to establish a Streets and Highways

Code, thereby consolidating and revising the law relating to public ways and all appurtenances thereto, and to repeal certain acts and parts of acts specified herein.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 631

An act to add two new sections to Article 2 of Chapter 3 of Division I of the Streets and Highways Code, relating to franchises in highways.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 632.

An act to repeal section 52a of the California Irrigation District Act, relating to the payment of assessments with matured bonds and coupons. Stats. 1897, p. 254, amended.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 52a of the California Irrigation District Act is hereby repealed. Stats. 1933, p. 532, repealed.

CHAPTER 633.

An act to amend sections 2, 2½, 3, 4, 10, 13, 14, 15 18½ and 21, to add section 24, and to repeal sections 5 and 9 of the Old Age Security Act of the State of California, relating to aid to the aged. Stats. 1929, p. 914, amended.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 2 of the Old Age Security Act is hereby amended to read as follows: Stats. 1931, p. 1310.

Sec. 2. Aid may be granted under this act to any person who: Persons entitled to aid.

(a) Has attained the age of sixty-five (65) years;

(b) Is a citizen of the United States;

(c) Resides in the State of California and has so resided continuously for at least fifteen years immediately preceding the date of application, but continuous residence in the State shall not be deemed to have been interrupted by any period of absence therefrom if the total of such periods does not exceed three years; or has so resided for a period of forty years at least five of which have immediately preceded this application; provided that if, when and during such time as grants in aid are provided by the United States government for such aid in this State and accepted by this State, aid may be granted under this act to any person who resides in the State of California and has so resided continuously for at least one year immediately preceding the date of application and for at least five years within the nine years immediately preceding the date of such application;

(d) Resides in the county or city and county in which the application is made and has so resided continuously for at least one year immediately preceding the date of application; any person otherwise qualified who has resided in the State for the required period and who has no county residence may file his application in the county or city and county in which he resides, and the aid, if granted to him, shall be paid entirely by the State until he gains such county residence;

(e) Is not, at the time of receiving such aid, an inmate of any public or private home for the aged, or any public home, or any public or private institution of a custodial, correctional, or curative character, except in the case of temporary medical or surgical care in a hospital;

(f) Has no relative of the following degree of kindred Husband, wife or child, able and responsible under the law of this State for his support;

(g) Has not made any voluntary assignment or transfer of property for the purpose of qualifying for such aid.

Stats 1931, p. 1311.

SEC. 2 Section 2½ of said act is hereby amended to read as follows:

Determination of age

Sec. 2½. For the purpose of determining the age of an applicant for aid under this act consideration shall be given to any of the following documents:

(a) Certificate of birth;

(b) Certificate of baptism;

(c) Statement of age as recorded on marriage license or certificate;

(d) Statement of age of the applicant as recorded by the registrar of voters of this State, or any political subdivision thereof, at least five years prior to the date of such application as shown by the records of the department of elections of this State or any political subdivision thereof;

(e) Entries in a family Bible or other genealogical record or memorandum of the family of such applicant;

(f) The returns of the United States census taken at least five years prior to the date of such application;

(g) The affidavit of a reputable person if it is based upon his personal knowledge of facts which would determine the probable age of the applicant and is not merely a statement of belief based on applicant's personal appearance; such affidavit shall contain statements of the circumstances upon which said affiant's knowledge is based and same shall be submitted to the Department of Social Welfare, and where such affidavit is deemed by said department not to present satisfactory evidence of applicant's age the said department may require a further affidavit of more conclusive proof; such an affidavit, however, shall not be accepted to establish proof of age until all reasonable efforts to produce more substantial documentary evidence of applicant's age have failed;

(h) Such other evidence as the State Department of Social Welfare may approve.

SEC. 3. Section 3 of said act is hereby amended to read as follows: Stats. 1929, p. 914.

Sec. 3. The amount of aid to which any applicant shall be entitled shall be fixed with due regard to the conditions existing in each case, but in no case shall it be an amount which, when added to the income of the applicant from all other sources, shall be less than twenty dollars nor more than thirty-five dollars per month; provided, however, that it is the intent and purpose of this law to allow to each and every applicant qualified under the provisions of this act, who is not in receipt of board and lodging in the private home of a relative or friend, nor of any income from other sources whatsoever, the sum of thirty-five dollars per month. Amount of aid.

SEC. 4. Section 4 of said act is hereby amended to read as follows: Stats. 1931, p. 1311

Sec. 4. Aid under this act shall not be granted or paid to any person the assessed value of whose real property, as assessed by the assessor of the county or city and county, or, if married, the assessed value of the combined real property of the husband and wife, as assessed by the assessor of the county or city and county, at the time such person makes application for aid exceeds three thousand dollars, nor shall any such aid be granted or paid to any person, the value of whose personal property exceeds five hundred dollars. Persons not entitled to aid.

Aid granted to any person under the provisions of this act shall constitute a debt of such person, to the amount of such aid, to the State of California and the county or city and county participating in the granting of such aid. Recovery may be had upon such debt out of any property of the recipient not exempt from execution.

In any case in which aid shall be granted to any person owning real property, the board of supervisors may cause a notice of such aid, giving the name of such person, to be recorded in the office of the county recorder and from the time of such recording such notice shall have the force, effect and priority of a lien of a judgment against said person, an abstract of which has been recorded, for the amount of aid

theretofore or thereafter granted to such person. Such lien shall be deemed security for reimbursement to the State and county of the amount of aid paid to such person and in the event of the discontinuance of said aid by reason of fraud or upon the death of such person, the board of supervisors may take such legal action as may be necessary to recover the amount of said aid paid to such person and to enforce said lien.

Stats 1929, p. 916

SEC. 5. Section 10 of said act is hereby amended to read as follows:

Increase of income of person aided.

Sec. 10 (a) If, at any time during the continuance of aid, the recipient thereof or the husband or wife of the recipient, become possessed of any property or income in excess of the amount allowed under the provisions of this act, it shall be the duty of the recipient immediately to notify the board of supervisors of the receipt and possession of such property or income and the board may, on inquiry and with the approval of the State Department of Social Welfare, either cancel the aid or vary the amount thereof in accordance with circumstances, and any excess aid theretofore paid shall be returned, in equal proportions to the State of California and the county or city and county participating in the granting of such aid and be recoverable as a debt due proportionately to such State and county or city and county.

Discontinuance or modification of aid.

Recovery from estate of aided person

(b) If, on the death of recipient of aid under this act, it is found that he was possessed of property or income in excess of the amount allowed under the provisions of this act and that he has not disclosed same to the board of supervisors, double the amount of the aid paid him in excess of that to which the recipient was legally entitled may be recovered by the Department of Social Welfare as a preferred claim from his estate and upon recovery shall be paid in equal proportions into the treasury of the State of California and the treasury of the county or city and county participating in the granting of such aid.

Stats 1931, p. 1312.

SEC. 6. Section 13 of said act is hereby amended to read as follows:

Applications.

Sec. 13. Every applicant for aid under this act shall file such application in writing with the board of supervisors of the county or city and county in which he resides in the manner and form prescribed by the State Department of Social Welfare. Any inmate of a public or private home for the aged, or of any public home, or public or private institution of a correctional, custodial or curative character, may make an application for aid under this act while an inmate of such a home or institution, and have same investigated and acted upon while he is such an inmate, and, if found to be otherwise qualified under the terms of this act, such application shall be approved. All statements in the application shall be verified, under oath, by the applicant.

Stats. 1933, p. 2206

SEC. 7. Section 14 of said act is hereby amended to read as follows:

Sec. 14. The board of supervisors, directly or through the advisory board or other authorized investigator, shall upon receipt of an application for aid, promptly, without any unnecessary delay, and with all diligence, make the necessary investigation.

Investigation by board of supervisors

The board shall, upon receipt of the report of the investigation, decide upon the amount of aid, if any; provided, however, that in any case where such application is denied by the board of supervisors, the applicant, upon filing a petition with the Department of Social Welfare setting forth the facts in full as to the necessity of such aid, verified by five reputable citizens of the county, shall have the right of appeal direct to said Department of Social Welfare, and if the appeal is sustained by said department the payments of aid in the amounts determined by said department must be paid by the county or city and county as herein provided.

Decision by board and appeal therefrom

An applicant whose application for aid under this act has been rejected may not again apply for such aid until the expiration of one year from the date of the previous application, except with the consent of the county or city and county, as herein provided. No county shall receive any apportionment of funds from the State unless it is complying with all orders of the department made pursuant to this section.

Renewing rejected applications

If the application for aid be granted, the clerk of the board of supervisors shall report the fact to the auditor of the county or city and county. All payments of aid under this act shall be made monthly by the treasurer of the county or city and county in the manner provided by law for payment of claims against the county or city and county; provided, however, if the recipient of old age assistance is, on the testimony of reputable witnesses, found incapable of taking care of himself or his money, upon recommendation of the board of supervisors and with the approval of the Department of Social Welfare the aid authorized in this act may be paid to any responsible person for the benefit of the recipient of this aid. All aid under this act shall be renewed annually on verified applications and after such further investigations as the board may deem necessary, and the amount of aid may be changed if the board finds that the recipient's circumstances have been changed.

Payments

Aid renewed annually.

The board of supervisors may cancel and revoke aid for cause and it may for cause suspend payments for aid for such periods as it may deem proper, and shall cancel, suspend, or revoke aid upon instructions so to do by the State Department of Social Welfare.

Cancellation and revocation of aid

SEC. 8. Section 15 of the act cited in the title hereof is hereby amended to read as follows:

Stats. 1929, p. 917

Sec. 15. The clerk of the board of supervisors of each county and city and county shall report monthly to the said State department in such manner and form as the latter may prescribe, the number of applications granted, and the grants of aid changed, revoked or suspended under this act by the board during the preceding calendar month, together with

Reports

copies of all applications received and a statement of the action of the board thereon, and shall report the amount of aid to aged paid out under this act by said county or city and county during said period. Claims for State aid granted under this act shall be presented by the respective counties and city and county semiannually in January and July of each year. Such claims shall be audited by the State Department of Social Welfare and the State Controller and, when approved, the State Controller shall draw the necessary warrants and the State Treasurer shall pay to the treasurer of said county or city and county a sum equal to one-half of the total amount of payments made by said county or city and county to aged citizens as aid under the provisions of this act during the period for which said claim is made. The State shall reimburse the county or city and county the full amount of aid granted any person otherwise qualified who has resided in the State for the required period and who has no county residence and whose application has been filed in the county or city and county in which he resides; provided, that if, when and during such time as grants in aid are provided or made available by the United States government for aid to the aged in this State, and accepted by this State, the State shall reimburse the county or city and county, in addition to the sums hereinbefore provided in this section, one-half of the total amount of payments made to the State by the United States for or in respect to aid for aged citizens who receive aid under the provisions of this act.

Claims of counties against State.

Reimbursement.

Stats. 1931, p. 1313.

SEC. 9. Section 18½ of the act cited in the title hereof is hereby amended to read as follows:

Recipient of aid removing to another county.

Sec. 18½. Any recipient of aid hereunder who removes from one county to another county or city and county in this State shall be entitled to aid under the provisions of this act, after a one year residence, in the county or city and county to which such person has so removed, provided, an agreement in writing has been entered into by and between the two counties concerned approving such removal, and thereupon the county of first residence of such person shall continue his aid for one year and until the aforesaid residence has been established by him in the second county or city and county, and in the event the said two counties do not agree upon such removal and payment of aid, then the matter shall be submitted to the State Department of Social Welfare for final determination.

Stats 1929, p. 918.

SEC. 10. Section 21 of said act is hereby amended to read as follows:

Appropriation: County apportionment.

Sec. 21. There is hereby appropriated out of any moneys in the State treasury not otherwise appropriated to each and every county and city and county within this State for the purpose of, and for maintaining or supporting aged persons who come within the provisions of this act, aid not in excess of two hundred ten dollars per annum for each such aged person maintained or supported by such county or city and county. There is hereby further appropriated to each and

every county and city and county within this State for the purpose of maintaining or supporting aged persons who come within the provisions of this act and who have no county residence as provided in this act, aid not in excess of four hundred twenty dollars per annum for each such aged person. Payments of said aid shall be made in the manner provided in section 15 of this act.

SEC. 11. A new section is hereby added to said act to be numbered 24, and to read as follows: New section

SEC. 24. If and when grants in aid are provided or made available to the States by the United States government for old age pensions, the Governor of the State of California may, upon the recommendation of the Department of Social Welfare so to do, accept such grant in aid upon behalf of this State. He is hereby authorized and empowered to enter into and execute on behalf of this State all necessary agreements in connection therewith which may be required by the United States government. Any money refunded under the provisions of sections 4 or 10 of this act shall be repaid to the State, the county or city and county, and to the United States government in proportion to their respective contributions. Authorization to accept Federal grants.

SEC. 12. Sections 5 and 9 of said act are hereby repealed Sections repealed

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CHAPTER 634.

An act to provide for the acquisition of the Muir Wood Toll Road by the State, and the inclusion thereof in the State Highway system, and making an appropriation therefor.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The California Highway Commission is hereby authorized and empowered to negotiate, on behalf of the State of California, for the acquisition of that certain toll road known as "Muir Wood Toll Road" and extending from its junction with the Marin County Panorama Highway near Mill Valley, leading thence to the Muir Woods National Monument, and from thence down Frank Valley to its junction with the State highway near Muir Beach, Marin County, California. Acquisition of Muir Wood Road authorized

SEC. 2. Said commission, should it deem it advisable, is also authorized and empowered to contract on behalf of the State for the purchase of said toll road, and on such terms and conditions as the commission may deem to be to the best interest, and to include said toll road in the State highway system. Contract for purchase.

SEC. 3. Said commission may by resolution authorize the Department of Public Works through proceedings in eminent domain to condemn such franchise rights and other property, Department of Public Works

real or personal, as may be necessary in order to acquire said toll road.

State highway fund.

SEC. 4. The cost of acquiring said toll road shall be paid out of the State highway fund.

CHAPTER 635.

Stats. 1933, p. 60.

An act to add Chapter 9, embracing sections 725 to 734, inclusive, to Division IV of the Agricultural Code, relating to dairies and dairy products.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New chapter.

SECTION 1. Chapter 9 is hereby added to Division IV of the Agricultural Code, to consist of sections 725 to 734, inclusive, and to read as follows:

CHAPTER 9. BUTTER GRADING

Definitions.

725. As used in this chapter:

(a) The term "person" includes any individual, firm, association, partnership or corporation.

(b) The term "plant" includes any building, room or premise where butter is cut and wrapped for sale.

(c) The term "package" includes cartons, wrappers, or other containers used for the sale of butter to the retail trade.

(d) When "numerals" appear following words relating to scoring, said numerals represent the score of the butter, one hundred being perfect.

726. The director may:

(a) Enter and inspect any plant where butter is cut and wrapped.

(b) Take samples of butter for scoring purposes.

(c) Promulgate and adopt rules and regulations for carrying out the provisions of this chapter.

Grades of butter

727. (a) All butter sold or distributed in package form shall be classified into grades indicating its quality and shall be labeled and advertised by the use of one of the designations as follows:

First Quality.
Second Quality.
Third Quality.
Fourth Quality.

(b) First quality butter is butter scoring not less than 92. Its minimum requirements are: (1) It shall be fresh, sweet and clean in flavor if of fresh make, or sweet and clean if storage. (2) The body shall be firm. (3) The color either light or medium and must be uniform except that it may show small curd specks or slight waviness. (4) The salt must be either light or medium and free from grittiness. (5) The

package must be clean, uniform and sound. (6) The defects in body, color, salt and package must not total over one point.

(c) Second quality butter is butter scoring below 92 but not less than 90. Its minimum requirements are: (1) It shall be fresh and fairly sweet and fairly clean in flavor if of fresh make or fairly sweet and fairly clean if storage. (2) It may also be flat or lacking in flavor. (3) The body must be fairly firm, but may show slight defects in grain and texture. (4) The color may be either light or medium and must be fairly uniform, but may be wavy. (5) The salt may be either light, medium, or high, and must be fairly uniform, but may be slightly gritty. (6) The package must be clean, uniform, and sound.

(d) Third quality butter is butter scoring less than 90 but not less than 88. Its minimum requirements are: (1) It shall be reasonably "good," but may show foreign, unclean, or off flavors except that it must not show any rancid or strong flavors. (2) The body may be weak and defective in grain or texture, but must draw a full trier. (3) The color may be somewhat irregular and may be mottled. (4) The salt may be irregular and gritty. (5) The package must be uniform and sound.

(e) Fourth quality butter is butter scoring less than 88 and shall, in addition to its quality designation, be labeled with the words "for cooking and baking purposes only."

Method of scoring

728. All scoring of butter shall be in accordance with the method outlined in the Service and Regulatory announcements issued for the inspection of butter under the food products inspection laws by the Bureau of Agricultural Economics of the United States Department of Agriculture which is hereby made a part of this act.

Designations on package.

729. Quality designations shall be affixed on the package in a manner and fashion prescribed in the rules and regulations promulgated by the director.

Butter from out of State.

730. The licensing and labeling provisions of this chapter shall also apply to persons distributing butter received in package form from out of State points.

Cutting and wrapping license.

731. (a) Every person, before engaging in the business of cutting, wrapping or packaging butter, in addition to the factory license, shall obtain and hold a butter cutting and wrapping license from the department to do so for each plant or place of business. The fee for a butter cutting and wrapping license shall be computed at the rate of ten cents for each one thousand pounds of butter cut, wrapped or packaged during the preceding three months and shall be payable three months in advance during the first week of March, June, September and December. The renewal fee for butter cutting and wrapping license shall be computed on the same basis as the original fee.

Fee.

Grader's license

(b) Persons in charge of cutting, wrapping, or packaging butter, or supervisors thereof who shall be responsible for the

grading of butter shall obtain and hold a butter grader's license. Application for such license shall be made to the department which shall examine each applicant as to his qualifications and knowledge of butter grades and of the law applicable to him. The fee for a butter grader's license shall be one dollar ($1.00) and must accompany the application. All such licenses expire on the thirty-first day of December and may be renewed by payment of a renewal fee of one dollar ($1.00).

Fee

Report to Controller

732. The director at least once each month, shall report to the State Controller the total amount of moneys collected for fees and at the same time shall pay into the State treasury the entire amount of such receipts which shall be credited to the Department of Agriculture fund and expended in carrying out the provisions of this chapter. The director shall, within thirty days prior to each regular session of the Legislature, submit to the Governor a full and true report of the transactions under this law during the preceding biennium, including a complete statement of expenditures. Butter cutting and wrapping licenses expire at the end of each calendar year. All licenses may be renewed each successive year, if the plant for which a previous license was issued or the business thereof shall have been conducted in accordance with the requirements of this chapter during the year next preceding that for which renewal is requested. The renewal fee due January 1 shall be forwarded during the first week of December.

Report to Governor.

Expiration of licenses

Licensee's statement.

733. Every person holding a butter cutting and wrapping license must on or before the fifth day of those months in which the fee is due file with the director a statement showing the exact number of pounds of butter cut, wrapped or packaged during the preceding three months.

Suspension or revocation

734. All licenses issued in accordance with the provisions of this chapter, upon a hearing before the director of which the licensee shall have a written notice of the time and place of said hearing and the charges made against him may be suspended or revoked by the director for violation of any of the provisions of this chapter or the rules and regulations promulgated thereunder or for failure of the licensee to pay the required fees.

CHAPTER 636.

Stats 1933, p. 2400, amended

An act to amend sections 2, 13 and 17 of the Orange County Water District Act, approved June 14, 1933, relating to powers and duties of the board of directors, the establish-

ment of an office therefor and declaring and limiting their powers as to the district budget and the levy of assessments.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 2 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933, p. 2412

Sec. 2. The "Orange County Water District" shall have power: Powers of district

1. To have perpetual succession,

2. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction;

3. To adopt a seal and alter it at pleasure;

4. To take by grant, purchase, gift, devise, or lease, to hold, use and enjoy, and to lease, convey or dispose of, real and personal property of every kind, within or without the district, necessary or convenient to the full exercise of its powers;

5. Within or outside of the district to construct, purchase, lease or otherwise acquire necessary waterworks and other works and machinery, canals, conduits, dams and reservoirs, and to purchase, lease or otherwise acquire waters, water rights, storage sites, spreading grounds, watersheds, lands, rights and privileges useful or necessary to replenish, supply, convey, store, or reclaim water for irrigation, domestic, municipal or other useful purposes within said district, or for the control of flood or storm waters of said district, and the flood and storm waters of streams that have their source outside of said district, but which streams and the flood waters thereof, flow into said district, and the flood waters of other streams in which said district has acquired water or water rights, and to operate and maintain such water rights, waterworks, canals, conduits, dams, reservoirs, storage sites, spreading grounds, watersheds, works, machinery, lands, rights and privileges for the uses or purposes aforesaid for the common benefit of the district and of the inhabitants thereof; Waterworks

6. To store water in surface and underground reservoirs within or outside of the district for the common benefit of the district; to conserve and reclaim water for present and future use within the district; to appropriate and acquire water and water rights, and import water into the district, and to conserve within or outside of the district, same for any useful purpose to the district; to commence, maintain, intervene in and compromise, in the name of the district, or otherwise, and to assume the costs and expenses of, any action or proceeding involving or affecting the ownership or use of waters or water rights within the district used or useful for any purpose of the district or of common benefit to any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend and compromise Storage of water.

and to assume the costs and expenses of any and all actions and proceedings now or hereafter begun; to prevent interference with or diminution of the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use the surface or subsurface waters used in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights within the boundaries of the district and which do not involve taking water outside of or away from the district;

Flood control projects.

7. To control the flood and storm waters of said district, and the flood and storm waters of streams that have their source outside of said district, but which streams and the flood waters thereof, flow into said district, and to conserve such waters for beneficial and useful purposes within said district by spreading, storing, retaining and causing said waters to percolate into the soil within or without said district, or to save or conserve in any manner all or any of such waters and protect from damage from such flood or storm waters, the harbors, waterways, public highways, and property in said district;

Eminent domain.

8. To have and exercise the right of eminent domain, and in the manner provided by law for the condemnation of private property for public use, to take any property necessary to the exercise of any of the powers granted by this act, except that the district shall not have the right of eminent domain as to water, water rights, reservoirs, pipe lines, water distributing systems, water works, or power plants, all or any of which are already devoted to beneficial or public use and located within the watershed of the Santa Ana River, and excepting further from the exercise of the right of eminent domain by the district any property maintained and actually used for the scientific propagation and study of plant life. No language or provision of the water district act, or of this subdivision of said act, shall be interpreted or construed so as to limit or abridge the right of the district, or its board of directors, to exercise its right of eminent domain to condemn property at any place within the Santa Ana River watershed for rights of ways upon and across and under which to construct pipe lines, conduits, tunnels and/or aqueducts necessary or convenient for any of the purposes of the district, provided the property sought to be condemned for said purposes is not already being used by other corporations, municipalities, districts or individuals for similar purposes; providing, however, that neither said district nor its board of directors shall have power to

enter in or upon the Mojave River or any of its tributaries or appropriate, take or condemn any of the water or the right to the use of any of the water of said Mojave River or any of its tributaries; nor shall anything in this act be deemed as authorizing or empowering said district or its board of directors to so do. Subject to the express limitations hereinbefore set out, in any proceeding relative to the exercise of such right of eminent domain, the district shall have the same rights, powers and privileges as a municipal corporation.

Cooperation with State and Federal governments

9. The board of directors, subject to the limitations set forth in subdivision 8 of section 2 hereof, shall in addition to the other powers herein granted by this act, have the following rights and powers: To enter upon any land to make surveys and locate the necessary irrigation works and the line for canal or canals and the necessary branches for the same on any lands which may be deemed best for such location; to acquire by purchase, lease, contract, condemnation or other legal means, all lands and water and water rights and other property necessary for the construction, use, supply, maintenance, repair and improvement of said tunnels, canal or canals and works, whether in this or in other States, including canals and works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses, to acquire and hold the stock of corporations, domestic or foreign, owning water or water rights, canals, waterworks, power plants, franchises, concessions or rights; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any State, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might be lawfully acquired or owned by an irrigation district or a water district; to acquire the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water or the right to store such water in any reservoir of the district, or to carry such water through any tunnels, canal, ditch or conduit of the district; to enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer or delivery to any such district, corporation, association, firm or individual of any water right or water pumped, stored, appropriated or otherwise acquired or secured for the use of the water district, or for the purpose of exchanging the same for other water, water right or water supply in exchange for water, water right or water supply to be delivered to said district by the other

party to said agreement; to cooperate with and to act in conjunction with the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with the government of the United States, or any of its engineers, officers, boards, commissions, departments, or agencies, or with any public or private corporation, in the construction of any work for the controlling of flood or storm waters of said district, or for the protection of property therein, or any of the channels, waterways, roads or highways in said district, or for the purpose of conserving said waters for beneficial use within said district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any such purpose.

Borrowing money.

10. To borrow money and incur indebtedness and to issue bonds or other evidences of such indebtedness; also to refund or retire the same or any indebtedness that may exist against the district or property thereof;

Levying assessments

11. To cause assessments to be levied for the purpose of paying any obligation of the district or to accomplish any of the purposes of this act;

Making contracts.

12. To make contracts, to employ labor and to do all acts necessary for the full exercise of the foregoing powers.

Investigations.

13. To carry on technical and other investigations of all kinds, make measurements, collect data, and make analysis, studies and inspections pertaining to water supply, water rights, control of floods and use of water, both within and without said district, and for this purpose said district shall have the right of access through its authorized representative to all properties within said district.

Stats. 1933, p 2419

SEC. 2. Section 13 of the act cited in the title hereof is hereby amended to read as follows:

Organization of board

Sec. 13. On the first Tuesday in March next following their election, the directors elected shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board. Each director appointed or elected shall hold office until his successor is elected and has qualified. The term of office of directors is hereby fixed at four years, except as herein otherwise provided. The office of the board of directors shall be established by said board at some proper and convenient place within the county of Orange, but does not have to be established or maintained within the district. After the office is once established, it shall not be changed without giving notice thereof by posting in three public places within the district and by publishing a similar notice at least once a week for two weeks in some newspaper of general circulation published in said Orange County.

Terms.

Office

Stats 1933, p. 2420.

SEC. 3. Section 17 of the act cited in the title hereof is hereby amended to read as follows:

District budget

Sec. 17 The board of directors, on or before the first meeting of the board of supervisors of said Orange County in August of each year, must furnish said board of supervisors

and the auditor of said Orange County with an estimate in writing of the amount of money needed for the initiated or authorized purposes of the district for the current fiscal year. This amount, together with available moneys on hand, must be sufficient to provide the necessary funds to initiate, carry on and complete any of the powers, projects, and purposes for which this district is organized, and which the board of directors shall deem advisable to be initiated or authorized for the current fiscal year; to pay the estimated cost of maintenance, operation and repairs of works and projects of the district, the incidental expenses of the district, and the estimated amount necessary for the payment of the costs of any action or proceeding which may be taken or assumed by the district, including the cost of employment of attorneys and engineers; and if bonds have been voted by the district, said estimate shall include an amount sufficient to raise the interest and principal on the outstanding bonds accruing during the current fiscal year and to provide for a sinking fund from which to pay the principal of said bonds when due; and if said district shall have voted a special assessment as provided in section 35 hereof, said estimate shall also include the amount of any installment of said special assessment, to be levied during said year; provided, however, that if at the time of making said estimates the district shall not have voted a special assessment as provided in section 35 hereof, and said district shall not have voted bonds as in this act provided, then the amount of the assessment levied during any year for the raising of funds shall not exceed five cents for each one hundred dollars, or fraction thereof, of assessed valuation of assessable property in the district, according to the last assessment rolls of said Orange County; provided, further, that after the expiration of five (5) years next succeeding the date when this act becomes effective the amount of said assessment levied during any year shall not exceed two cents for each one hundred dollars, or fraction thereof, of assessable property in said district, according to the last assessment rolls of Orange County, unless at the time of the levy of each annual assessment as provided for in this act at least six members of the then board of directors of the district vote in favor of the levy of an assessment not exceeding five cents for each one hundred dollars, or fraction thereof, of assessable property in the district according to the last assessment rolls of said Orange County; provided further, if, in the opinion of the directors of the district, conditions shall arise during any year or years prior to the expiration of five years next succeeding the date when this act shall become effective, that shall necessitate the levying of an assessment exceeding the levy of five cents last hereinbefore provided for, then upon the affirmative vote of at least six of the members of the then board of directors of the district, the district and its board of directors may levy in the manner in this act provided for, an assessment exceeding five cents but not exceed-

Limitation on assessments.

ing ten cents for each one hundred dollars, or fraction thereof, of assessed valuation of assessable property in the district, according to the last assessment rolls of said Orange County.

CHAPTER 637.

Stats. 1907, p 124, amended

An act to add section 6a to an act entitled "An act to regulate the sale and use of poisons in the State of California and providing a penalty for the violation thereof," approved March 6, 1907, relating to habit-forming, narcotic and other dangerous drugs.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 6a is hereby added to the act cited in the title hereof, to read as follows:

Enforcement of Sec 347½, Pen. C, re drugs

Sec. 6a. The State Board of Pharmacy is hereby charged with the enforcement of the provisions of section 347½ of the Penal Code, and all fines, moneys or forfeited bail imposed for the violation of that section upon collection shall be disposed of as is provided for the disposition of fines, moneys or forfeited bail in section 7 of this act.

CHAPTER 638.

An act relating to the conduct of clinical laboratories and the licensing of clinical laboratory technologists and clinical laboratory technicians and the issuance of permits to physicians and surgeons conducting clinical laboratories for the purpose of protecting the public health and to provide penalties for the violation of the provisions of this act.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Operation of clinical laboratories

SECTION 1. It shall be unlawful for any person, firm, association or corporation, to conduct, maintain and/or operate a clinical laboratory as defined herein unless such clinical laboratory shall be under the immediate supervision and direction of a licensed clinical laboratory technologist as herein defined or of a person holding a valid and unrevoked physician's and surgeon's certificate licensing the holder thereof to practice medicine and surgery in this State; and it shall be unlawful for any person, in a clinical laboratory to make any test or examination requiring the application of one or more of the fundamental sciences such as bacteriology, biochemistry,

serology and parasitology, unless said person possesses an unrevoked certificate issued one year from and after the date this act becomes effective by the State Board of Public Health as a qualified technician in the subject or subjects concerned with the test or examination or possesses an unrevoked certificate as a clinical laboratory technologist issued ninety days from and after the date this act becomes effective, or is the holder of a valid and unrevoked physician and surgeons certificate entitling him to practice medicine and surgery in this State, provided however that the State Board of Public Health shall by regulation, provide for the exemption of one or more technicians in each laboratory who shall be called apprentices.

It shall be unlawful for any physician and surgeon to conduct, maintain and/or operate a clinical laboratory as herein defined without possessing an unrevoked permit issued by the State Board of Public Health, authorizing him to do so, except as provided in section 7 of this act.

"Clinical laboratory" defined

SEC. 2. For the purpose of this act a clinical laboratory is defined as follows: Any place, establishment or institution or department whether or not it is termed or called a clinical laboratory or given any other designation of like import, organized for the practical application of one or more of the fundamental sciences such as bacteriology, biochemistry, serology and parasitology, and other allied subjects, by the use of specialized apparatus, equipment or methods for the purpose of furnishing regularly licensed practitioners of the healing arts or other person with the results of such laboratory examinations and/or tests and/or analyses of specimens submitted.

"Clinical laboratory technologist" defined

SEC. 3. For the purpose of this act a clinical laboratory technologist is defined as follows:

Any person who for a period of more than five years prior to the taking effect of this act shall have been engaged continuously and actively in the work and direction of a clinical laboratory as herein defined, one year of which immediately preceding passage of this act shall have been spent in directing a clinical laboratory in the State of California also any other person who shall qualify as a clinical laboratory technologist by written and practical examinations to be conducted under such rules and regulations as the State Board of Public Health shall promulgate for such purpose. A clinical laboratory technician is one who, under the direction of a clinical laboratory technologist or a physician and surgeon, performs the tests called for in a clinical laboratory.

"Clinical laboratory technician" defined.

Certificates

SEC. 4. It shall be the duty of the State Board of Public Health to issue a certificate of licensure as clinical laboratory technologist within ninety days after this act becomes effective, to each person who shall within sixty days after this act becomes effective, show proof of having complied with the qualifications of a clinical laboratory technologist as herein defined and to issue within ninety days after this act takes effect, a

permit to each physician and surgeon operating and conducting a clinical laboratory at the time of passage of this act.

It shall be the duty of the State Board of Public Health to issue certificates of licensure to technicians found by it to be properly qualified and it may hold examinations either written, oral or practical, to aid it in judging of the qualifications of applicants. Said certificates may be issued to cover work in any one basic science, or may cover proficiency in the entire field of clinical laboratory work and the board may employ special examiners who are to be paid from the clinical laboratory fund. It shall be unlawful for any person to act as a clinical laboratory technologist without certification as a clinical laboratory technologist ninety days from and after the going into effect of this act. And it shall be unlawful after one year from the date of enactment of this act into law, for any clinical laboratory or for any clinical laboratory technologist or physician and surgeon conducting, maintaining and/or operating a clinical laboratory to employ any technician except said technician be certified as provided for in section 1 or is acting as an apprentice as provided for in the regulations of the State Board of Public Health.

Exemptions

SEC. 5. None of the provisions of this act shall apply to a clinical laboratory now operated or hereafter to be operated by nonprofit hospitals, nonprofit hospital associations, or nonprofit hospital departments any of which are chiefly maintained by dues or contributions from employees of a common employer or of a group of affiliated employers, the services of which are confined to such employees, their dependents and members of their families and persons disabled in or by reason of the operations of the employer or group of employers, or by the State of California or the United States of America or any department, official or agency thereof.

Display of license and permit.

SEC. 6. Any person, firm, association or corporation other than the United States of America or any department, official or agency thereof, maintaining, conducting or operating a clinical laboratory as herein defined, shall display in a prominent place in said clinical laboratory the license of each clinical laboratory technologist employed therein.

Any physician and surgeon conducting, maintaining and/or operating a clinical laboratory shall display in a prominent place in said clinical laboratory the permit issued by the State Board of Health to conduct, maintain and/or operate the same.

Exemption

SEC. 7. The provisions of this act shall not apply to a laboratory operated, maintained and conducted by and in the office or offices of a person or group of persons, each holding a valid and unrevoked physician's and surgeon's certificate licensing him or them to practice medicine and surgery in the State of California for his or their own use and benefit; provided, however, that such physicians and surgeons operating, maintaining and conducting such private laboratory shall not furnish the facilities thereof to any other physicians and surgeons or to any person or persons other than the patients

of such physician and surgeon or of one or more of the physicians and surgeons constituting such group so operating such private laboratory, whether with or without monetary remuneration for the facilities so furnished.

Fee.

SEC. 8. A fee of not exceeding ten dollars shall be collected from each applicant for a certificate as clinical laboratory technologist, and from each physician and surgeon applying for a permit to conduct, maintain and/or operate a clinical laboratory and of not exceeding five dollars for each applicant for a technician's certificate or for examination hereunder, which fee shall also cover the issuance of the certificate or permit and the license fee for the remainder of the calendar year during which such certificate or permit is issued or such examination is taken in the event such applicant shall pass; however, if such applicant shall fail, no part of such fee shall be returned. An annual license fee of not exceeding ten dollars shall thereafter be imposed upon each licentiate, as clinical laboratory technologist and each physician and surgeon or group of physicians and surgeons holding a permit to maintain, conduct and/or operate a clinical laboratory and a fee not exceeding one dollar for each holder of a certificate as clinical laboratory technician to be paid within sixty days after the commencement of each calendar year. The amounts of the fees set forth in this paragraph shall be fixed within the limits provided in this act by the State Board of Public Health and shall be collected and paid to the State board. Failure to pay the renewal, license or permit fee within sixty days after the commencement of the year in which it is due shall automatically cancel such certificate or permit, subject however to reinstatement under such rules and regulations as the State Board of Public Health may make therefor. A certificate or a permit may be revoked by said board for good cause after hearing on notice.

Report to Controller

Within ten days after the beginning of each month, the State Board of Public Health shall report to the State Controller the amounts and sources of the collections made under the provisions of this act, and at the same time all such moneys shall be paid into the State treasury and shall be placed to the credit of a special fund to be known as the clinical laboratory fund, which fund is hereby created. All moneys so paid into said fund are hereby appropriated to the State Board of Public Health, to be expended only for the purpose of meeting the necessary expenses of the State Board of Public Health in the performance of the duties imposed by this act. Claims against the fund shall be paid in accordance with the provisions of law.

Report to Governor.

The State Board of Health shall, within thirty days prior to the regular session of the Legislature, submit to the Governor a full and true report of transactions under this law during the preceding biennium, including a complete statement of receipts and expenditures during the period.

Penalty

SEC. 9. Any person, firm, association or corporation who shall violate any provision of this act shall be guilty of a mis-

demeanor and shall be punishable by a fine not to exceed one hundred dollars or by imprisonment not to exceed three months.

Repeal

SEC. 10. All other acts and parts of acts which conflict with this act are hereby repealed.

Effect on State Medical Practice Act.

Nothing in this act shall be construed as authorizing any corporation or any person other than the holder of a valid and unrevoked physician's and surgeon's certificate, to practice medicine and surgery or to furnish the services of physicians for the practice of medicine and surgery, or to modify, alter, repeal or in any manner affect any provision of the State Medical Practice Act.

Construction.

SEC. 11. Whenever this act or any part or section thereof is interpreted by a court it shall be liberally construed by such court with the purpose of protecting the interests of all persons affected by this act.

Constitutionality.

If any section, subsection, subdivision, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, subdivision, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases is declared unconstitutional.

Regulations

SEC. 12. The State Board of Public Health shall make and promulgate such reasonable regulations to require that all clinical laboratories be conducted, maintained and/or operated without injury to the public health and for the enforcement of this act as may be necessary and proper and its agents shall have the right of inspection and inquiry into the methods and equipment used by technologists practicing under this act, and physicians and surgeons holding permits to conduct, maintain and/or operate clinical laboratories and shall, when such methods or equipment are in its judgment a menace to the public health make recommendations for change to the technologist or physician and surgeon in charge.

CHAPTER 639.

An act relating to persons in private psychopathic institutions.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Involuntary patients at private psychopathic institutions, etc

SECTION 1. No person, except one who voluntarily desires and seeks admission as a patient, shall be committed or taken by any person or persons to a private psychopathic institution, hospital, sanitarium, department or ward for the care or treatment of persons who are mentally ill or deranged, without a written statement from at least one licensed physician, who shall have no financial interest in nor membership on the paid

regular or consultant staff of such private psychopathic institution, hospital, sanitarium, department or ward, that he has made a mental examination of the patient and that he should be admitted to such place for care or treatment.

Written communications.

SEC. 2. No person in private institution, hospital sanitarium, department or ward for the care or treatment of the mentally ill shall be restrained from sending written communications of the fact of his detention in such institution to a friend, relative or other person; and it shall be the duty of both the physician in charge of such person and the person in charge of such hospital to send such communications to the person to whom it is addressed; provided, however, that whenever the physician in charge finds it inadvisable to send such communications because they contain other matter which would do harm to the reputation of, and would later cause mental anguish to the person detained, or when said physician finds it impossible to send said communications within twenty-four hours, then it shall be the duty of both the physician in charge of the patient, and the person in charge of the institution to give notice of detention of such patient to both the district attorney of the county from which the patient came at time of admission and the district attorney of the county in which the institution is located giving him the name and address of the patient and the names and addresses of the person or persons arranging for said admission and it shall be the duty of such district attorney or district attorneys to investigate the detention of such patient and advise the patient concerning his legal rights. The person in charge of the institution may detain a patient when, and only when, there has been compliance with the provisions of this section.

Court proceedings

SEC. 3. No court proceedings shall be had in relation to the mental condition of a patient in a private institution, hospital, sanitarium, department or ward for the care or treatment of the mentally ill unless the said patient is either present or represented by an attorney. The judge of the superior court before whom the said proceedings are to be heard must appoint two licensed medical examiners who are not connected with any private psychopathic institution to make a personal examination of the said patient and to testify before the judge as to the results of such examination.

Violation

SEC. 4. Upon proof of the violation of any of the provisions of this act, the permit to any person to operate such private institutions, hospital or sanitarium may be suspended or revoked by the Department of Institutions.

CHAPTER 640.

An act to provide for the cooperation of State officers and agencies, and stockmen's associations with the Federal Government in relation to grazing lands, and for the disposition of money received from the Federal Government in relation thereto.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Act of June 28, 1934

SECTION 1. An act of Congress entitled "An act to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement and development, to stabilize the live stock industry dependent upon the public range, and for other purposes," approved June 28, 1934, provides for the cooperation of the Secretary of the Interior of the United States with State and other officials and associations, and for the payment of certain money by the Secretary of the Interior to the State.

SEC. 2. The Division of State Lands in the Department of Finance is hereby authorized to cooperate with the Secretary of the Interior, and may, in the name of the State exchange State lands in the manner and under the conditions prescribed in section 8 of said act.

Division of State Lands

SEC. 3. The Division of State Lands in the Department of Finance is hereby designated to be the "State land officials" referred to in section 9 of said act.

Fish and Game Commission

SEC. 4. The Fish and Game Commission in the Department of Natural Resources is hereby designated to be the "official State agency engaged in conservation or propagation of wild life" referred to in section 9 of said act.

Distribution of money

SEC. 5. The money deposited in the State treasury pursuant to section 10 of said act shall be distributed to the counties, and cities and counties by the Department of Finance in such manner as the Secretary of the Interior may direct. In the absence of any direction by the Secretary of the Interior, the Department of Finance shall distribute the money to the counties, and cities and counties from which the grazing fees were collected in the proportion which the public grazing lands in such county, or city and county bears to the whole of the grazing district involved and which district is officially established by the Secretary of the Interior. Such money shall be expended within the said counties, and cities and counties for range improvements and for control of predators.

SEC. 6. The money deposited in the State treasury pursuant to section 11 of said act shall be distributed to the counties, and cities and counties by the Department of Finance in the same manner and under the same conditions as prescribed in section 5 of this act. Such money shall be used within the counties, and cities and counties for the benefit of the public schools and county highways in equal shares.

SEC. 7. Any State or county offices or agency, or any stockmen's association, whether incorporated or unincorporated, or any person, firm, corporation, or association may enter into cooperative agreements with the Secretary of the Interior for the purpose of carrying out the provision and the policy of said act. Cooperative agreements

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CHAPTER 641.

An act to add sections 980, 981, 1029 and 1030 to the Streets and Highways Code, relating to powers and duties of county boards of supervisors with respect to county highways.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 642.

An act to amend sections 194, 195, 196, 197, 198, and 188 of, and to add new sections to be numbered 199, 200, 201, 202, 203, and 204 to, the Streets and Highways Code, relating to allocation and expenditure of moneys from the State highway fund within cities, and providing a procedure therefor.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 643.

An act to amend section 3773 of the Political Code, relating to lands sold for taxes, and making an appropriation in relation thereto.

[Approved by the Governor July 15, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 3773 of the Political Code is hereby amended to read as follows: Stats 1927, p. 1646.

3773. When lands have been sold, or shall hereafter be sold, to the State of California by reason of nonpayment of taxes, no owner or claimant of such lands, nor any other person, shall, after the day and hour when by operation of law and the declaration of the tax collector the land is sold to the State pursuant to section 3771 of this code, remove or destroy any building, fixture or other improvement on such Impairment of value of property sold to State

lands, or cut or remove any timber, or do or cause to be done any other act which shall tend permanently to impair the value of the lands or the value of the improvements thereon; provided, the provisions of this section shall not apply when such lands have been redeemed from sale or such lands have been sold and disposed of by the State. Violations of any of the provisions of this paragraph of this section shall constitute a misdemeanor.

Rents, issues and profits.

Notwithstanding any other provisions of law to the contrary, the State, by and through the Controller, shall have the sole and exclusive power and authority to lease and rent, and to receive and collect all rents, issues and profits arising in any manner from property heretofore or hereafter deeded to the State pursuant to the provisions of section 3785 of this code, which power and authority shall accrue from and after the date of recording of such deed, or deeds, to the State. The Controller, or his representative hereinafter provided for, or any person designated by him, may demand from the former owner of said property, or any person having any interest therein, or any person in the possession, actual or constructive, of said property, or any part thereof, an accounting for said rents, issues and profits, and may at any time after the recording of the deed to the State as aforesaid, by himself or by and through his representative hereinafter provided for, or any person designated by him, demand and receive possession of the property so conveyed, and such possession shall be surrendered to the Controller or to his representative hereinafter provided for or to any person designated by the Controller for that purpose.

Actions.

For the enforcement of the provisions of this paragraph of this section, the Controller is authorized to commence and maintain an action, or actions, in behalf of the State The superior court of the county of Sacramento shall have jurisdiction in the matter of such actions.

Powers of Controller.

The Controller or his representative, is hereby authorized and empowered to lease and rent such lands, or any part thereof, in the name of the Controller, and for that purpose in the name of the Controller, and under his authority, to agree upon the terms, conditions, rentals and covenants of such leases, to execute, acknowledge, deliver and record the same, to collect the rentals, issues, profits or other consideration accruing or arising under such leases, and give receipts and acquittances therefor, to consent to the assignment or subletting or cancellation of such leases, to give, serve, and post notices and demands concerning the leased premises, including notices and demands under the forcible entry and unlawful detainer acts, to terminate and cancel leases in cases of violation of the terms, conditions and covenants thereof on the part of the lessees, to demand and receive possession of the leased premises, to institute and prosecute actions and proceedings for the recovery of possession of the demised premises, or of the rents, issues and profits thereof, including actions of forcible entry or

unlawful detainer or other actions or proceedings concerning the leased premises, including actions to prevent waste or concerning injuries to the premises, or for the removal of appurtenances or fixtures, or the destruction thereof, and generally, in the name of the Controller and under his authority, to do and perform such other matters and things as may be necessary in the premises in the matter of leasing lands deeded to the State under the provisions of section 3785 of this code.

Refund to lessee in case of redemption

In case the leased property shall, during the term of such lease, be redeemed from the sale thereof to the State for delinquent taxes, or the right to such redemption be initiated during the term of such lease so as to give the redemptioner the right to the immediate possession of said premises upon such redemption, the Controller is hereby authorized thereupon to refund to the lessee the unearned portion of any rental that may be paid in advance, and there is hereby appropriated annually, from the general fund of the State treasury, out of any moneys not otherwise appropriated, the sum of one thousand dollars, or so much thereof as may be necessary, for such purpose. Leases made pursuant to this section shall contain a clause providing that upon redemption the Controller is authorized to cancel said lease as of the date of redemption, and that the lessee shall thereupon be entitled to no damages or reimbursement for the termination of said lease prior to the term provided for therein other than as above provided.

Money recovered

All moneys received under the provisions of this section shall be paid into the State treasury to the credit of the general fund and shall not be considered as a credit on the amount necessary to be paid in redemption of the property from the sale to the State.

Removal or sale of improvements.

The Controller, or his representative, acting by and through him, are hereby authorized to remove, or cause the removal, or sell at public or private sale, any building or structure, or anything appendant or appurtenant thereto, or a fixture thereof, located, standing or being upon such lands, or any part thereof, which has become a public nuisance by reason of deterioration or dilapidation, or by reason of danger to life, limb or property, on account of the physical condition thereof, or by reason of being a fire hazard, or because of standing or existing in violation of law or ordinance, whether legal proceedings have been commenced to abandon or condemn the same or not.

CHAPTER 644.

An act to amend sections 363a and 363bb of the Political Code, and to add section 363s thereto, relating to the Department of Public Works.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1929, p. 695.

SECTION 1. Section 363a of the Political Code is hereby amended to read as follows:

Divisions.

363a. For the purpose of administration, the department shall be forthwith organized by the Director of Public Works with approval of the Governor in such manner as shall be deemed necessary to properly segregate and conduct the work of the department. The work of the department is hereby divided into at least three divisions to be known respectively as the Division of Water Resources, the Division of Highways and the Division of Architecture.

Chiefs and salaries.

The chief of the division of water resources shall be and is hereby designated as the State Engineer, and he shall receive a salary of seven thousand five hundred dollars per annum. The Chief of the Division of Architecture shall be and is hereby designated as the State Architect and he shall receive a salary of five thousand dollars per annum. The Director of Public Works with the approval of the Governor may create such other divisions and subdivisions as may be necessary and change or abolish the same from time to time with the approval of the Governor.

New section.

SEC. 3. Section 363s is hereby added to the Political Code, to read as follows:

Duty of city authorities with respect to streets and highways.

363s. It shall be the duty of the city authorities with respect to streets and highways under their jurisdiction, to keep in repair or cause to be kept in repair, all objects or markers adjacent to a public highway which have been erected to mark registered historical places and to keep such markers free from all vegetation which may obscure them from view.

Stats. 1933, p. 903.

SEC. 3. Section 363bb of the Political Code is hereby amended to read as follows:

Oaths and bonds.

363bb. The Director of Public Works and each chief of a division of the Department of Public Works shall take the oath of office as prescribed for other State officers. The Director of Public Works may require of any officer, assistant, or employee who is employed in the Department of Public Works, and who is entrusted with moneys belonging to the State, to furnish a bond for the faithful performance of his trust, executed by some corporation authorized to issue surety bonds in the State of California, and in such amount as the said director shall prescribe. Any such bond shall cover duties prescribed by administrative regulations or orders of the said director as well as those imposed by statute.

Any such bond of any officer, assistant, or employee, may be canceled at any time, provided such cancellation is approved by the Director of Public Works. Schedule bonds may be taken covering two or more such officers, assistants, or employees. All bonds provided for in this section shall be filed with the Director of Public Works, and not elsewhere.

CHAPTER 645.

An act to add sections 13 and 14 to "An act to provide for the protection and preservation of shade and ornamental trees growing and to be grown upon the roads, highways, grounds and property within the State of California; and for the planting, care, protection and preservation of shade and ornamental trees, hedges, lawns, shrubs and flowers growing and to be grown in and upon such roads, highways, grounds and property; and to create county boards of forestry for such purposes; and to prescribe the duties and powers of such boards; and to authorize such boards to appoint county foresters; and to prescribe the duties and fix the compensation of county forester, and to empower such boards to enforce all laws and adopt and enforce any and all lawful and reasonable rules for the protection, planting, regulation, preservation, care and control of such shade and ornamental trees, hedges, lawns, shrubs and flowers, with relation to fire, diseases, pests, or any other dangers, of any nature, to the safety and encouragement of such growths," approved April 28, 1909, relating to ornamental trees and shrubs and to boards of forestry.

Stats. 1909, p. 1129, amended

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section to be numbered 13, is hereby added to the act cited in the title hereof, to read as follows:

New section

Sec. 13. The board of supervisors of any county may by a resolution or ordinance adopted by a four-fifths vote repeal any resolution or ordinance heretofore enacted whereby it elects to avail itself of the provisions of this act and upon adopting such a resolution or ordinance of repeal, then any forestry board heretofore appointed shall be discharged and thereafter the board of supervisors shall immediately take possession of the property and funds in the hands of the county board of forestry, and said board of supervisors shall thereafter administer the powers and duties heretofore conferred upon the board of forestry.

Authority to repeal ordinances and resolutions adopting act

SEC. 2. Section 14 is hereby added to said act to read as follows:

New section

Sec. 14. This act may be cited and amended as the "Shade Tree Act of 1909."

Short title

CHAPTER 646.

Stats. 1933, p. 937, amended

An act to amend sections 1 and 2 of an act entitled "An act to require tax clearance by assessors and the State Controller as a prerequisite for the registration by the Motor Vehicle Department," approved May 15, 1933, relating to taxes on motor vehicles.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 937

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Tax on vehicle to be paid prior to registration

Section 1. No vehicle required to be registered by the Department of Motor Vehicles of this State shall be registered in accordance with the laws in such cases made and provided, nor shall any certificate of registration be issued therefor by said department unless the application for registration, reregistration or transfer of registration for such vehicle shows, by appropriate notation of said department or by endorsement of a certificate or certificates on the reverse side of the registration card theretofore issued for such vehicle by said department, that all taxes authorized by law to be levied against such vehicle in the county, city and county, or municipality in which such vehicle was last subject to assessment have been paid in full, or that the amount thereof has been duly entered on the appropriate assessment roll or rolls as a lien against real estate.

Stats. 1933, p. 937

SEC. 2. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Duty of assessor

Sec. 2. It is hereby declared to be the duty of county, city and county and city assessors, upon proper showing, to execute any and all such tax clearance certificates required by this act; provided, however, that in case any such vehicle is subject to taxation exclusively for State purposes the application for registration, reregistration or transfer of registration must show by proper endorsement of the State Controller on the reverse side of the registration card that no State taxes levied and assessed on such vehicle are delinquent; provided, further, that in case any such vehicle is required to be assessed by the State Board of Equalization it shall be the duty of said board to execute any and all tax clearance certificates required therefor under this act.

Board of Equalization

CHAPTER 647.

An act to amend sections 25 and 32 of the "Water Commission Act," approved June 16, 1913, relating to the adjudication of water rights. Stats 1913, p 1012

[Approved by the Governor July 15, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 25 of the act cited in the title hereof, is hereby amended to read as follows: Stats 1917, p 231

Sec. 25 Upon petition signed by one or more claimants to water or the use of water of any stream, stream system, lake, or other body of water, all of which sources of supply are hereinafter referred to as "stream system," requesting the determination of the rights of the various claimants to the water of that stream system, it shall be the duty of the State Water Commission, if, upon investigation, it finds the facts and conditions are such that the public interest and necessity will be served by a determination of the rights to the water involved, to enter an order granting said petition and to make proper arrangements to proceed with such determination. No language used in this act shall be, or be construed to be, a limitation or restriction upon the power or duty of the said water commission to determine, in the proceedings provided for in sections 25 to 36g, both inclusive, of this act, all rights to water or the use of water whether based upon appropriation, riparian right, or other basis of right; provided that said commission shall not determine in said proceedings the right to take water from an underground supply other than from a subterranean stream flowing through known and definite channels. Determination of water rights by commission

SEC. 2. Section 32 of said act is hereby amended to read as follows: Stats 1933, p 2559

Sec. 32 At the time of submission of proof of appropriation, the State Water Commission shall collect from each claimant a fee of five (5) dollars for each proof of appropriation filed by such claimant. At the time of, or as soon as practicable after the mailing of its order of determination as provided in section 36 of this act the State Water Commission shall compute the entire expense it has incurred in performing the duties prescribed in sections 26 to 36 of this act, both inclusive, including salaries, wages, traveling expenses, and all costs of whatever character which are properly chargeable to said proceeding. Should the total amount of said entire expense exceed the total amount received from claimants at the time of submission of proofs of appropriation, said excess expense shall be equitably apportioned by the State Water Commission against the parties to the proceeding and a statement setting forth said expense and said apportionments thereof against the respective parties shall be sent by registered mail to each of said parties. The apportionments so made and Fees to be collected from claimants Charges against parties

set forth in said statement shall become due and payable to the State Water Commission by the respective parties, or their successors in interest, in the amounts so allocated, thirty (30) days subsequent to the date of mailing of said statement; provided, however, that upon application in writing by any party aggrieved within said thirty (30) day period, the court shall after expiration of said period set a hearing for the determination of any objection or objections to said expense or to the apportionments thereof and the clerk of the court shall, at least ten days prior to the date of such hearing, give notice thereof by mail to all parties; and provided, further, that upon the filing of an objection or objections to said expense or the apportionments thereof, said apportionments shall not become due and payable until said objection or objections shall have been determined as hereinafter provided. Parties failing to so object to said expense or the apportionments thereof within said period shall be conclusively deemed to have waived all objections thereto. Upon the hearing of an objection or objections to said expense or the apportionments thereof the court shall determine the issues relative thereto, and enter an order determining said expense and its allocation as the court may deem equitable. Said order shall become final upon the expiration of thirty (30) days after entry thereof and all apportionments included therein shall then become due and payable to the State Water Commission by the respective parties, or their successors in interest, in the amounts so allocated. Any apportionments of said expense which remain unpaid shall be included in any findings of fact and conclusions of law which may be filed by the court and if unpaid at time of entry of judgment and decree shall be included therein. All moneys paid to or collected by said commission, as in this section provided, shall be paid, at least once each month, accompanied by a detailed statement thereof, into the cash revolving fund of the State Water Commission in the State treasury. If the funds available for use by the State Water Commission are inadequate to enable it to undertake the expense of any proceeding under sections 25 to 36g, both inclusive, of this act, or if in the judgment of the commission its reimbursement for the expense of any such proceeding will not be reasonably certain, it may refuse to proceed with its investigation as provided for in section 27 of this act and to undertake said proceeding, unless and until such provision shall have been made by persons interested as may be satisfactory to said commission and deemed by it sufficient to secure reimbursement or payment to it for its expenses.

Report to Governor

The State Water Commission shall, within thirty days prior to the regular session of the Legislature, submit to the Governor a full and true report of transactions under this law during the preceding biennium, including a complete statement of receipts and expenditures during the period.

CHAPTER 648.

An act to add section 398 to the Political Code, relating to the Lieutenant Governor.

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 398 is hereby added to the Political Code to read as follows: New section

398. The Lieutenant Governor may appoint and, subject to the approval of the State Director of Finance, fix the salaries of one secretary and such clerical assistants as the Lieutenant Governor may deem necessary for his office. All such salaries shall be paid in the same manner and at the same time as the salaries of other State officers. Secretary and clerical assistants of Lieutenant Governor

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CHAPTER 649.

An act to amend sections 2 and 3 of an act entitled "An act for the preservation of the public health of the people of the State of California and empowering the State Board of Health to enforce its provisions, and providing penalties for the violation thereof," approved March 23, 1907, amended April 1, 1911, June 13, 1913, and May 24, 1917, so as to prevent the construction and use of sewer wells extending into subterranean water-bearing strata used or intended to be used, or suitable for, a source of water supply for domestic purposes. Stats. 1907, p. 893, amended

[Approved by the Governor July 15, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Sections 2 and 3 of an act entitled "An act for the preservation of the public health of the people of the State of California and empowering the State Board of Health to enforce its provisions, and providing penalties for the violation thereof," approved March 23, 1907, amended April 1, 1911, and June 13, 1913, and May 24, 1917, are hereby amended to read as follows: Stats. 1917, p. 920.

Sec. 2. It shall be unlawful to discharge, drain or deposit, or cause or suffer to be discharged, drained or deposited, any sewage, garbage, feculent matter, offal, refuse, filth, or any animal, mineral, or vegetable matter or substance, offensive, injurious or dangerous to health, into any springs, streams, rivers, lakes, tributaries thereof, wells, or into subterranean or other waters used or intended to be used for human or animal consumption or for domestic purposes, or to maintain a sewer well or sewer farm or to erect, construct, excavate, or maintain, Unlawful to discharge sewage in streams

or cause to be erected, constructed, excavated or maintained, any privy, vault, cesspool, sewage treatment works, sewer pipes or conduits, or other pipes or conduits, for the treatment and discharge of sewage or sewage effluents or impure waters, gas, vapors, oils, acids, tar, or any matter or substance offensive, injurious or dangerous to health, whereby the same shall overflow lands or shall empty, flow, seep, drain, condense into or otherwise pollute or affect any waters intended for human or animal consumption or for domestic purposes, or any of the salt waters within the jurisdiction of this State; or to add to, modify or alter any of the plant, works, system thereof or manner or place of discharge or disposal; or to erect or maintain any permanent or temporary house, camp, or tent, so near to such springs, streams, rivers, lakes, tributaries, or other sources of water supply, as to cause or suffer the drainage, seepage, or flow of impure waters, or any other liquids, or the discharge or deposit therefrom of any animal, mineral, or vegetable matter, to pollute such waters without a permit from the State Board of Health, as hereinafter provided.

Unlawful to moor houseboat within two miles above intake

It shall also be unlawful for the owner, tenant, lessee or occupant of any houseboat or boat intended for or capable of being used as a residence, house, dwelling or habitation, or for the agent of such owner, tenant, lessee or occupant to moor or anchor the same or permit the same to be moored or anchored in or on any river or stream, the waters of which are used for drinking or domestic purposes by any city, town or village within a distance of two miles above the intake or place where such city, town or village water system takes water from such river or stream; provided, however, that in the transportation of any such houseboat on any such river or stream nothing herein contained shall prevent the owner, agent, tenant or occupant of such houseboat from mooring or anchoring the same when necessary within the limits herein fixed and established; provided, such houseboat shall not remain moored or anchored within such limits for a longer period than one day.

Petition for permission to discharge sewage, etc., into streams

Sec. 3. Whenever any county, city and county, city, town, village, district, community, institution, person, firm or corporation, shall desire to deposit or discharge, or continue to deposit or discharge into any stream, river, lake or tributary thereof, or into any subterranean or other waters used or intended to be used for human or animal consumption or for domestic purposes, or into or upon any place the surface or subterranean drainage from which may run or percolate into any such stream, river, lake, tributary, or subterranean or other waters, any sewage, sewage effluent, or other substance by the terms of section 2 of this act forbidden so to be deposited or discharged, or whenever any such county, city and county, city, town, village, district, community, institution, person, firm or corporation shall desire to deposit or discharge, or continue to deposit or discharge any sewage, sewage effluent, trade wastes or any animal, mineral or vegetable matter or substance, offensive, injurious or dangerous to health in any of

the salt waters within the jurisdiction of this State, or to maintain a sewer well or sewer farm or to permit the overflow of sewerage onto any land whatever, or shall desire to erect, construct, excavate or maintain any privy, vault, cesspool, sewage treatment works, sewer pipe or conduits, or other pipes or conduits for the treatment and discharge of sewage, sewage effluents, or any matter offensive, injurious or dangerous to health, or shall desire to add to, modify or alter any of the plant, works, or system or manner or place of discharge or disposal, he or it shall file with the State Board of Health a petition for permission so to do, together with a complete and detailed plan, description and history of the existing or proposed works, system, treatment plant and of such proposed addition to, modification or alteration of any of the plant, works, system or manner or place of discharge or disposal, such plans and general statement to be in such form and to cover such matters as the State Board of Health shall prescribe. Thereupon, a thorough investigation of the proposed or existing works, system and plant, and all circumstances and conditions by it deemed to be material, shall be made by the State Board of Health. As a part of such investigation, and after ten days' notice by mail to the petitioner, a hearing or hearings may be had before said board or an examiner appointed by it for the purpose. At such hearing or hearings witnesses who testify shall be sworn by the person conducting the hearing, and evidence, oral and documentary, may be required, a record of which shall be made and filed with said board. Upon the completion of such investigation said board,

Plan of works

Hearing

(a) If it shall determine as a fact that the substance being or to be discharged or deposited is such that under all the circumstances and conditions it may so contaminate or pollute such stream, river, lake, tributary or other waters or lands on which it may be discharged, deposited or caused to overflow, as to endanger the lives or health of human beings or animals, or to constitute a nuisance, or does or may constitute a menace to public health or a nuisance, or that under all the circumstances and conditions it is not necessary so to dispose of such substance, the State Board of Health shall deny the prayer of such petition; and shall order petitioner to make such changes as the State Board of Health shall deem proper for the purpose of this act. The State Board of Health may order the appointing of a competent person, to be approved by said board, and to be paid by said petitioner, who shall take charge of and operate such plant or system so as to secure the results demanded by the State Board of Health; and said board may order such repair, alteration or additions to the existing system, plant and works that the sewage or substance being or intended to be discharged or disposed of shall not contaminate or pollute streams or other water supplies, or endanger the lives, health or comfort of human beings or animals; and said board may order such changes of method, manner and place

Petition denied when discharge would endanger public health

Appointment of person to take charge of plant

of disposal and the installation of such treatment works that streams and other water supplies will not be polluted or contaminated and the works and disposal shall not constitute a menace to health of human beings or animals, or a nuisance; which orders shall designate the period within which the desired charges are to be made; provided, however, that a temporary permit may be issued by the State Board of Health for said period to permit compliance with such order or orders.

Temporary permit

Granting petition when discharge would not endanger public health

(b) If it shall determine, as a fact, that the substance being or to be discharged or deposited, is not such that under all the circumstances and conditions it will so contaminate or pollute such stream, river, lake, tributary or other waters, as to endanger the lives or health of human beings or animals, or to constitute a nuisance, and that under all the circumstances and conditions it is necessary so to dispose of such substance, it shall grant to petitioner a permit authorizing petitioner so to deposit or discharge or to continue to deposit or discharge such substance; provided, however, that such permit shall not be construed to permit any act forbidden by any provision of the laws of this State relative to the preservation or propagation of fish or game, or relative to the deposit of debris into the streams of the State, or relative to the obstruction of navigation; and provided, further, that all permits issued hereunder shall be revocable by said board at any time or subject to suspension if said board shall determine, as a fact, that the substance discharged or deposited by virtue thereof causes or may cause a contamination or pollution of waters or land that does or may endanger the lives or health of human beings or animals, or does or may constitute a nuisance; and provided, also, that nothing contained in this act shall be construed as limiting or denying the power of any incorporated city, city and county, town or village to declare, prohibit and abate nuisances, or as limiting or denying the power of the State Board of Health to declare or abate nuisances; and provided, also, no permit shall be granted by the State Board of Health for the construction or use of any sewer well extending to or into a subterranean water-bearing stratum which is used or intended to be used as, or is suitable for, a source of water supply for domestic purposes.

Permits revocable

Examinations by State Board of Health

The State Board of Health and its inspectors shall at any and all times have full power and authority to and shall be permitted to, enter into and upon any and all places, enclosures and structures for the purpose of making, and to make, examinations and investigations to determine whether any provision of this act is being violated. Whenever any petitioner shall be granted any permit by said board and under the provisions of this act, such petitioner shall furnish to said board upon demand a complete report upon the condition and operation of the system, plant or works, which report shall be made by some competent person designated for the purpose

Report on works, etc

by said board, and at the sole cost and expense of the holder of the permit.

Suit to enjoin discharge of sewage into streams

Any county, city and county, city, town, village, district, community, institution, person, firm or corporation, who shall deposit, discharge or continue to deposit or discharge, into any stream, river, lake or tributary thereof, or into subterranean or any other waters, used or intended to be used for human or animal consumption or for domestic purposes, or into any sewer well or into or upon any place the surface or subterranean drainage from which may run or percolate into any such stream, river, lake, tributary or other waters, or into any of the salt waters, or lands, within the jurisdiction of this State, any sewage, sewage effluent or other substance by the terms of section 2 of this act forbidden to be so deposited or discharged, without having an unrevoked permit so to do, as in this act provided, may be enjoined from so doing by any court of competent jurisdiction at the suit of any person or municipal corporation whose supply of water for human or animal consumption or for domestic purposes is or may be affected, or by the State Board of Health.

Public nuisance

Anything done, maintained, or suffered, in violation of any of the provisions of section 2 or section 3 of this act shall be deemed to be a public nuisance, dangerous to health, and may be summarily abated as such.

Penalty

Every county, city and county, city, town, village, district, community, institution, firm, corporation or person, or any officer, employee or agent thereof upon whom the duty to act is cast, who shall violate any provision or part thereof of section 2 or 3 of this act, or who shall fail to obey, observe or comply with any direction, order, requirement or demand or any part or provision thereof of the State Board of Health, or who aids or abets any such county, city and county, city, town, village, district, community, institution, firm, corporation or person, or any officer, employee or agent thereof in any failure to obey or comply with the provisions of this act or the orders of the State Board of Health as provided in this act, shall become liable for and forfeit to the State of California the penal sum of not more than one thousand dollars to be fixed by the court for each and every offense. The continued existence of any violation of this act for each and every day beyond the time stipulated for compliance with any of its provisions or of any order of the State Board of Health as provided herein shall constitute a separate and distinct offense. All penalties are to be recovered by the State in civil action brought by the State of California and such penalties when collected shall be paid into the general fund of the State treasury.

Every officer, agent or employee of any county, city and county, city, town, village, district, community, institution, firm, corporation or person who shall violate or fail to comply with any of the provisions of section 2 or section 3 of this act or with the order or orders of the State Board of Health

or any part thereof, or who aids or abets in any failure to observe and comply with any such provision, order, or part thereof, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year or by both such fine and imprisonment, for each offense. Each day's violation of this provision shall constitute a separate and distinct offense.

CHAPTER 650.

An act to reenact, in order to continue the same in effect subsequent to September 1, 1936, section 2924 of the Civil Code, relating to recording of notice of default and to giving notice of sale under deeds of trust and mortgages with power of sale; and to reenact, in order to continue the same in effect subsequent to September 1, 1936, section 2924b of the Civil Code, relating to giving of notice of recording of notice of default and of time and place of sale under deeds of trust or mortgages with power of sale; and to reenact, in order to continue the same in effect subsequent to September 1, 1936, section 2924c of the Civil Code, relating to reinstatement of loans when due date of principal sum has been accelerated; and to reenact, in order to continue the same in effect subsequent to September 1, 1936, section 580a of the Code of Civil Procedure, limiting amount of deficiency judgments and the time within which actions therefor may be commenced; and to reenact, in order to continue the same in effect subsequent to September 1, 1936, section 580b of the Code of Civil Procedure, prohibiting deficiency judgments on purchase money mortgages and deeds of trust; and to reenact, in order to continue the same in effect subsequent to September 1, 1936, section 580c of the Code of Civil Procedure, limiting the trustee's or attorney's fees which a mortgagor or trustor may be required to pay; and to reenact, in order to continue the same in effect subsequent to September 1, 1936, section 725a of the Code of Civil Procedure, permitting the beneficiary or trustee named in a deed of trust to bring suit to foreclose the same in the manner of a mortgage, all relating to the hypothecation of real property and to obligations secured thereby.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1669.

SECTION 1. Section 2924 of the Civil Code is hereby reenacted to read as follows:

Transfer, when mortgage, when pledge.

2924. Every transfer of an interest in property, other than in trust, made only as a security for the performance of another

act, is to be deemed a mortgage, except when in the case of personal property it is accompanied by actual change of possession, in which case it is to be deemed a pledge. Where, by a mortgage created after July 27, 1917, of any estate in real property, other than an estate at will or for years, less than two, or in any transfer in trust made after July 27, 1917, of a like estate to secure the performance of an obligation, a power of sale is conferred upon the mortgagee, trustee, or any other person, to be exercised after a breach of the obligation for which such mortgage or transfer is a security, such power shall not be exercised except where such mortgage or transfer is made pursuant to an order, judgment, or decree of a court of record, or to secure the payment of bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations, or is made by a public utility subject to the provisions of the Public Utilities Act, until (a) the trustee, mortgagee, or beneficiary, shall first file for record, in the office of the recorder of each county wherein the mortgaged or trust property or some part or parcel thereof is situated, a notice of default, identifying the mortgage or deed of trust by stating the name or names of the trustor or trustors and giving the book and page where the same is recorded or a description of the mortgaged or trust property and containing a statement that a breach of the obligation for which such mortgage or transfer in trust is security has occurred, and setting forth the nature of such breach and of his election to sell or cause to be sold such property to satisfy the obligation; (b) not less than three months shall thereafter elapse; and (c) the mortgagee, trustee or other person authorized to make the sale shall give notice of sale, stating the time and place thereof, in the manner and for a time not less than that required by law for sales of real property upon execution.

Exercise of power of sale

Stats. 1915, p. 115

SEC. 2. Section 2924b of the Civil Code is hereby reenacted to read as follows:

Stats. 1933, p. 1670

2924b. Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property, as to which deed of trust or mortgage the power of sale can not be exercised until such notices are given for the time and in the manner provided in section 2924 of this code may, at any time subsequent to recordation or registration of such deed of trust or mortgage and prior to recordation of notice of default thereunder, cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of any such notice of default and of sale. This request shall set forth the name and address of the person requesting copies of such notices, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the date of recordation or registration thereof and the book and page where the same is recorded or the recorder's or registrar's serial number and shall be in substantially the following form:

Request of notice of default

Form of request

"In accordance with section 2924b, Civil Code, request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust (or mortgage) recorded _____, 19___ in Book _____ page _____ records of _____ County, (or filed for record with recorder's serial number _____, or registered under registrar's number _____ County) California, executed by _____ as trustor (or mortgagor) in which _____, is named as beneficiary (or mortgagee) and _____ as trustee be mailed to _____ at _____.

Name Address

Signature_____"

Marginal entry.

Immediately upon the filing for record of such request, the recorder shall enter upon the margin of the record of the deed of trust or mortgage therein referred to a reference to the place where such request is recorded, which reference shall be substantially in the following form:

"Request recorded in book _____ page _____ of _____ for copy of notice of default and sale."

Notice

The mortgagee, trustee or other person authorized to record the notice of default, shall within ten days following recordation of such notice of default deposit or cause to be deposited in the United States mail an envelope, registered and with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, and a reference to which request has, prior to recordation of said notice of default, been entered on the margin of the record of the deed of trust or mortgage, directed to the address designated in said request, and at least twenty days before date of sale the mortgagee, trustee or other person authorized to make the sale shall deposit or cause to be deposited in the United States mail an envelope, registered and with postage prepaid, containing a copy of the notice of time and place of sale, addressed to each person whose name and address are set forth in a request therefor recorded, within the time herein provided, a reference to which request has been entered upon the record as above provided at the address set forth in such request.

Request for notice in instrument

Any deed of trust or mortgage with power of sale hereafter executed upon real property may contain a request that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to any person a party thereto at the address of such person given therein, and a copy of any notice of default and of any notice of sale shall be mailed to each such person at the same time and in the same manner required as though a separate request therefor had been filed by each of such persons as herein authorized.

Recital of compliance

A recital in the deed executed pursuant to the power of sale of compliance with all requirements of law regarding the mailing of copies of notices for which requests have been recorded

shall constitute prima facie evidence of compliance therewith and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value and without notice.

No request for copy of any notice filed for record pursuant to this section nor any statement or allegation in any such request nor any record thereof shall affect the title to real property or be deemed notice to any person that any person requesting copies of notice has or claims any right, title or interest in, or lien or charge upon the property described in the deed of trust or mortgage referred to therein

SEC. 3. Section 2924c of the Civil Code is hereby reenacted to read as follows: Stats 1933, p 1671.

Reinstatement of deed of trust or mortgage.

2924c. Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property hereafter executed has, prior to the maturity date fixed in such obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of trustor or mortgagor to pay, in accordance with the terms of such obligation or of such deed of trust or mortgage, taxes, assessments, premiums for insurance or advances made by beneficiary or mortgagee in accordance with the terms of such obligation or of such deed of trust or mortgage, the trustor or mortgagor or his successor in interest in the mortgaged or trust property at any time within three months of the recording of the notice of default under such deed of trust or mortgage, if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount then due under the terms of such deed of trust or mortgage and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of such obligation, deed of trust or mortgage, and trustee's or attorney's fees actually incurred not exceeding fifty dollars in case of a mortgage and twenty-five dollars in case of a deed of trust) other than such portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if no such acceleration had occurred The provisions of this section shall not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the provisions of the Public Utilities Act.

Exceptions

SEC 4. Section 580a of the Code of Civil Procedure is hereby reenacted to read as follows: Stats 1933, p 1672

Complaint in action for deficiency judgment

580a. Whenever a money judgment is sought for the balance due upon an obligation for the payment of which a deed of trust or mortgage with power of sale upon real property or any interest therein was given as security, following the

exercise of the power of sale in such deed of trust or mortgage, the plaintiff shall set forth in his complaint the entire amount of the indebtedness which was secured by said deed of trust or mortgage at the time of sale, the amount for which such real property or interest therein was sold and the fair market value thereof at the date of sale and the date of such sale. Upon the application of either party made at least ten days before the time of trial the court shall, and upon its own motion the court at any time may, appoint one of the inheritance tax appraisers provided for by law to appraise the property or the interest therein sold as of the time of sale. Such appraiser shall file his appraisal with the clerk and the same shall be admissible in evidence. Such appraiser shall take and subscribe an oath to be attached to the appraisal that he has truly, honestly and impartially appraised the property to the best of his knowledge and ability. Any appraiser so appointed may be called and examined as a witness by any party or by the court itself. The court must fix the compensation of such appraiser, not to exceed five dollars per day, and expenses for the time actually engaged in such appraisal, which may be taxed and allowed in like manner as other costs. Before rendering any judgment the court shall find the fair market value of the real property, or interest therein sold, at the time of sale. The court may render judgment for not more than the amount by which the entire amount of the indebtedness due at the time of sale exceeded the fair market value of the real property or interest therein sold at the time of sale with interest thereon from the date of the sale; provided, however, that in no event shall the amount of said judgment, exclusive of interest after the date of sale, exceed the difference between the amount for which the property was sold and the entire amount of the indebtedness secured by said deed of trust or mortgage. Any such action must be brought within three months of the time of sale under such deed of trust or mortgage No judgment shall be rendered in any such action until the real property or interest therein has first been sold pursuant to the terms of such deed of trust or mortgage, unless such real property or interest therein has become valueless.

Appraisal

Deficiency judgment

Limitation of actions

Stats 1933, p 1673

See Stats 1935, Ch 680

Deficiency judgment prohibited

Stats 1933, p 1673

Foreclosure of existing instruments

SEC. 5. Section 580b of the Code of Civil Procedure is hereby reenacted to read as follows:

580b. No deficiency judgment shall lie in any event after any sale under a deed of trust or mortgage given to secure payment of the balance of the purchase price of real property.

SEC. 6 Section 580c of the Code of Civil Procedure is hereby reenacted to read as follows:

580c. In all cases where existing deeds of trust or mortgages are foreclosed under the power of sale contained in said instruments, unless a different amount is set up in said mortgage or deed of trust, and in all cases of mortgages and deeds of trust executed after this act takes effect, the mortgagor or trustor may be required to pay only such amount as trustee's

or attorney's fees for conducting the sale as the court may find reasonable and also the actual cost of publishing, recording, mailing and posting notices and procuring evidence of title.

SEC. 7. Section 725a of the Code of Civil Procedure is hereby reenacted to read as follows: Stats 1933, p 1673

725a. The beneficiary or the trustee named in a deed of trust upon real property or any interest therein to secure a debt or other obligation, shall have the right to bring suit to foreclose the same in the manner and subject to the provisions, rights and remedies relating to the foreclosure of a mortgage upon such property. Foreclosure of trust deed

SEC. 8. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional. Constitutionality

SEC. 9. It is the intent of this act to reenact sections 2924, 2924b and 2924c of the Civil Code and sections 580a, 580b, 580c and 725a of the Code of Civil Procedure in order to continue the same in effect subsequent to September 1, 1936, and remove any ambiguity created by the language of section 2924½ of the Civil Code as added by an act approved June 2, 1933, as to the time said sections shall be effective. It is intended that sections 2924, 2924b, and 2924c of the Civil Code and sections 580a, 580b, 580c, and 725a of the Code of Civil Procedure shall be effective without any time limitation thereon. Intention as to effect of sections

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CHAPTER 651.

An act to amend section 10 of an act entitled, "An act to provide for and regulate municipal elections in the cities of the fifth and sixth class," approved May 27, 1919, relating to registrations. Stats 1919, p 928, amended

[Approved by the Governor July 16, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 10 of the act cited in the title hereof is hereby amended to read as follows: Stats 1919, p 932

Sec. 10. At any such municipal election, the original affidavits of registration, or carbon copies thereof, shall be used therefor, and no person shall be entitled to vote at such election unless he has registered and shall have resided in the city at least forty days prior to the day of election. Registration

CHAPTER 652.

An act to amend section 4041.16 of the Political Code, relating to county care of indigents.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1929, p. 1458

SECTION 1. Section 4041.16 of the Political Code is hereby amended to read as follows:

Indigent sick and dependent poor.

4041.16. (1) Under such limitations and restrictions as are prescribed by law, and in addition to jurisdiction and powers otherwise conferred, the boards of supervisors, in their respective counties, shall have the jurisdiction and powers to provide for the care and maintenance of the indigent sick or dependent poor of the county, and for that purpose to levy the necessary property or poll taxes, or both; provided, that a suitable graduate or graduates in medicine shall be appointed to attend to such indigent sick or dependent poor in the county hospitals and almshouses; provided further, that the board shall not let the care, maintenance, or attendance of such indigent sick or dependent poor by contract to any person; except that the board shall be authorized and empowered to secure by agreement for the needy sick and dependent and partially dependent persons in cases of unusual difficulty or which require treatment or the use of facilities not immediately available in the county and in cases of emergency, hospital care within or without the county or city and county, including medical, surgical, X-ray, laboratory, nursing and general hospital service at cost from any hospital maintained and operated by any county or by the State, or by any State college, university, or other institution supported in whole or in part by taxation, or exempted in whole or in part from taxation or by any persons, firms, or corporations, in the county or city and county. Such hospitals shall be only those whose organization and management show that they are qualified to render and are actually rendering services to the sick, economically and efficiently and the books for the operation and conduct of which reflect accurately in monthly statements the per diem cost of medical, surgical, X-ray, laboratory, nursing and general hospital service to patients.

County farm. Transportation of indigents.

(2) To provide a farm in connection with the county hospital or almshouse and make regulations for working the same.

Indigent dead.

(3) To provide for the burying or cremation of the indigent dead.

(4) Provide for transporting needy sick and dependent and partially dependent persons to and from hospitals to which they shall be sent by authority of the board, and to provide for transporting indigents to other counties or States when such indigents shall thereby cease to become public charges, or when friends or relatives of such indigents agree

to assume the cost and expense of the care and maintenance of such indigents, or when such indigents are legally public charges in the places to which they are so transported.

CHAPTER 653.

An act to amend sections 60 and 62 of an act entitled "An act to provide for work in and upon public streets, avenues, lanes, alleys, courts, places, sidewalks, highways, roads, and other public property and rights of way, in whole or in part, including property over which possession and right of use has been obtained under the provisions of section 14 of Article I of the Constitution within municipalities, or within unincorporated territory and one or more municipalities, or lying within two or more municipalities, and for establishing and changing the grades of any such public streets, avenues, lanes, alleys, courts, places, sidewalks, highways, roads, properties or rights of way; and providing for the issuance and payment of street improvement bonds to represent certain assessments for the cost thereof, and providing a method for the payment of such bonds," approved April 7, 1911, Statutes 1911, page 730, as amended, relating to bonds and assessments. Stats 1911, p 730, amended.

[Approved by the Governor July 16, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 60 of an act entitled "An act to provide for work in and upon public streets, avenues, lanes, alleys, courts, places, sidewalks, highways, roads, and other public property and rights of way, in whole or in part, including property over which possession and right of use has been obtained under the provisions of section 14 of Article I of the Constitution within municipalities, or within unincorporated territory and one or more municipalities, or lying within two or more municipalities, and for establishing and changing the grades of any such public streets, avenues, lanes, alleys, courts, places, sidewalks, highways, roads, properties or rights of way; and providing for the issuance and payment of street improvement bonds to represent certain assessments for the cost thereof, and providing a method for the payment of such bonds," approved April 7, 1911, Statutes 1911, page 730, as amended, is hereby amended to read as follows: Stats 1933, p 2385

Sec. 60. Said serial bonds shall extend over a period not to exceed fourteen years from the second day of January next succeeding the next October fifteenth following their date, and an even annual proportion of the principal sum thereof shall be payable, by coupon on the second day of January every year after the next October fifteenth following their date, until Life of bonds

the whole is paid. The interest shall be payable semiannually, by coupon, on the second days of January and July, respectively, of each year after their date, at the rate of not to exceed ten per cent per annum on all sums unpaid, until the whole of said principal and interest is paid; provided, however, that the first interest coupon on said bonds shall become due and payable on the second day of January next succeeding the October fifteenth or the second day of July next succeeding the April fifteenth, as the case may be, next following their date.

Payment

Said bonds and interest thereon shall be paid at the office of the city treasurer of said municipality, who shall keep a fund designated by the name of said bonds, into which he shall place all sums paid him for the principal of said bonds and the interest thereon, together with all penalties thereon, and from which he shall disburse such sums, upon the presentation of said coupons; and under no circumstances shall said bonds or the interest thereon be paid out of any other fund. Said city treasurer shall keep a register in his office, which shall show the series, number, date, amount, rate of interest, payee and indorsees of each bond, and the number and amount of each coupon or principal or interest paid by him and shall cancel and file each coupon so paid

Payment in advance

The owner of or any person interested in any lot or parcel of land upon which a bond has been issued under the terms of this act may at any time before commencement of proceedings for sale pay off such bond and discharge the land described in the bond from the lien of the assessment, by paying to the city treasurer, for the holder of such bond, the amount then unpaid on the principal sum thereof, with interest thereon calculated up to the due date of the next maturing interest coupon at the rate named in the bond, and all penalties accrued and unpaid. Upon such payment being made to the city treasurer he shall report the same to the street superintendent, who shall forthwith mark paid on the margin of the record of the assessment, the assessment to represent which such bond was issued, and thereupon the lien of said assessment shall cease and the city treasurer shall forthwith notify the holder of the bond and call in the same. The city treasurer shall enter in his record of such bond the amount paid and the date of payment, and upon the lien of the assessment being extinguished as aforesaid, shall cancel said bond and file it in his office.

Interest payments

The city treasurer is hereby authorized to accept payments of interest unaccompanied by payments of principal installments due; provided, however, the acceptance of such interest payments shall not affect the delinquent status of any installments of principal.

Stats. 1943, p. 2386

SEC. 2. Section 62 of said act is hereby amended to read as follows:

Unpaid assessments and interest.

Sec. 62. After the full expiration of thirty days from the date of the warrant, the street superintendent shall make

and certify to the city treasurer a complete list of all assessments unpaid, which amount to twenty-five dollars or over, upon any assessment, or diagram number; the principal of said unpaid assessment shall thereafter become due and payable to said treasurer in equal annual payments on the fifteenth day of each November succeeding the October fifteenth following the filing of said list until fully paid; the number of said annual payments shall correspond to the number of serial payments provided to be made on the principal of the bonds issued to represent said unpaid assessments. The first interest payment on said unpaid assessments shall be payable on the fifteenth day of May next succeeding the April fifteenth or the fifteenth day of November next succeeding the October fifteenth, as the case may be, next following the filing of such list of unpaid assessments, the following interest payments shall each be for six months interest and shall be payable on each fifteenth day of May and November, the last interest payment coming due forty-five days before the last annual payment of the principal of the bonds issued to represent said unpaid assessments. Should any payment of principal of said unpaid assessments or of interest thereon be not paid on the date upon which the coupon or coupons representing it are payable, the city treasurer shall after the close of business on said due date add to the amount of principal or interest so delinquent a penalty of one per cent of the total amount of such delinquency, and at the beginning of the business on the first day of each succeeding month until such delinquent payment and all penalties thereon be fully paid, he shall add an additional penalty of one per cent of the amount of such delinquency, and said treasurer shall collect such penalties with and as a part of such delinquent payment.

Notice to owners

The city treasurer shall at least fifteen days before each respective fifteenth day of May and November, until said assessment be paid in full, mail, postage prepaid, to each owner of property described in said assessment, at his last known address, as appears upon the tax rolls of said city, a postal card notifying him of the amount due and the date when payment is due from him on said assessment and stating that said payment is subject to penalty if not paid on or prior to the due date of the coupons. Provided, that the failure of the city treasurer to mail said card or the failure of the property owner to receive the same shall in no wise affect the validity of any penalty or invalidate any act or proceeding.

CHAPTER 654.

Stats 1911, p 1192

An act to amend section 9 of an act entitled "An act for the issuance of improvement bonds to represent certain special assessments for public improvements, and providing for the effect and enforcement of such bonds," approved April 27, 1911, relating to city owned bonds.

[Approved by the Governor July 16, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

Stats 1927, p 284.

SECTION 1. Section 9 of the act cited in the title hereof is amended to read as follows:

Advancement of funds by city.

Sec. 9. It shall be competent for the city to advance to the appropriate fund the minimum sum for which all or any part of said bonds may be sold, as provided in section 7 hereof, in which case said city shall have the same right in respect to the enforcement and collection thereof as other purchasers. Where the city advances money, as in this section provided, it shall have the same power and authority as other owners of bonds to sell or otherwise dispose of the same.

CHAPTER 655.

An act to amend section 4305 of the Political Code, relating to the salary fund of counties.

[Approved by the Governor July 16, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

Stats 1911, p. 1397

SECTION 1. Section 4305 of the Political Code is hereby amended to read as follows:

Salary fund

4305. For the purpose of paying salaries all fees directed to be paid into the county treasury shall be set apart therein as a separate fund, to be known as the salary fund, to be applied to the payment of salaries. Should, in the opinion of the auditor, the fees to be collected be not sufficient for such purpose, it shall become the duty of the board of supervisors at the time the tax levy is made to estimate such deficiency and raise it by direct taxation the same as other funds. The proceeds of the tax levied therefor shall be paid into said salary fund.

CHAPTER 656.

An act to add a new section to the Streets and Highways Code, to be numbered 982, authorizing the temporary closing of any public highway, road, street, avenue, alley, lane or place for exposition or fair purposes.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 657.

An act to amend sections 997, 1009, 1116, 1117, 1166, 1188, 1262, 1297, 1302, 1371, and 1384, of the Penal Code, relating to refund of money deposited in lieu of bail, and to repeal conflicting acts and parts of acts.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 997 of the Penal Code is hereby amended to read as follows: Code amdts., 1880, p. 17

Motion to set aside indictment or information

997. The motion must be heard at the time it is made, unless for cause the court postpones the hearing to another time. If the motion is denied, the defendant must immediately answer the indictment or information, either by demurring or pleading thereto. If the motion is granted, the court must order that the defendant, if in custody, be discharged therefrom; or, if admitted to bail, that his bail be exonerated; or, if he has deposited money, or if money has been deposited by another or others instead of bail for his appearance, that the same be refunded to him or to the person or persons found by the court to have deposited said money on behalf of said defendant, unless it directs that the case be resubmitted to the same or another grand jury, or that an information be filed by the district attorney; provided, that after such order of resubmission the defendant may be examined before a magistrate, and discharged or committed by him, as in other cases, if before indictment or information filed he has not been examined and committed by a magistrate.

SEC. 2. Section 1009 of the Penal Code is hereby amended to read as follows: Code amdts., 1880, p. 18

Proceedings after refusal to permit information to be filed, amended, or the case resubmitted

1009. If the court does not permit the information to be amended, nor direct that an information be filed, or that the case be resubmitted, as provided in the preceding section, the defendant, if in custody, must be discharged, or if admitted to bail, his bail is exonerated, or, if he has deposited money, or if money has been deposited by another or others instead of bail for his appearance, the money must be refunded to him or

to the person or persons found by the court to have deposited said money on behalf of said defendant.

1872 Code

SEC. 3. Section 1116 of the Penal Code is hereby amended to read as follows:

Defendant not arrested on warrant from proper county

1116. If the defendant is not arrested on a warrant from the proper county, as provided in section 1115, he must be discharged from custody, or his bail in the action is exonerated, or money deposited instead of bail must be refunded to him or to the person or persons found by the court to have deposited said money on behalf of said defendant, as the case may be, and the sureties in the undertaking, as mentioned in that section, must be discharged. If he is arrested, the same proceedings must be had thereon as upon the arrest of a defendant in another county on a warrant of arrest issued by a magistrate.

Defendant arrested

Code amdts., 1880, p. 23

SEC. 4. Section 1117 of the Penal Code is hereby amended to read as follows:

Proceedings of jury discharged because facts do not constitute offense

1117. If the jury is discharged because the facts as charged do not constitute an offense punishable by law, the court must order that the defendant, if in custody, be discharged; or if admitted to bail, that his bail be exonerated; or, if he has deposited money or if money has been deposited by another or others instead of bail for his appearance, that the money be refunded to him or to the person or persons found by the court to have deposited said money on behalf of said defendant, unless in its opinion a new indictment or information can be framed upon which the defendant can be legally convicted, in which case it may direct the district attorney to file a new information, or (if the defendant has not been committed by a magistrate) direct that the case be submitted to the same or another grand jury; and the same proceedings must be had thereon as are prescribed in section 998; provided, that after such order or submission the defendant may be examined before a magistrate, and discharged or committed by him as in other cases.

1872 Code

SEC. 5. Section 1166 of the Penal Code is hereby amended to read as follows:

Proceedings upon general verdict of conviction or special verdict

1166. If a general verdict is rendered against the defendant, or a special verdict is given, he must be remanded, if in custody, or if on bail he may be committed to the proper officer of the county to await the judgment of the court upon the verdict. When committed his bail is exonerated, or if money is deposited instead of bail it must be refunded to the defendant or to the person or persons found by the court to have deposited said money on behalf of said defendant.

Code amdts., 1880, p. 25

SEC. 6. Section 1188 of the Penal Code is hereby amended to read as follows:

Holding or discharge of defendant

1188. If, from the evidence on the trial, there is reason to believe the defendant guilty, and a new indictment or information can be framed upon which he may be convicted, the court may order him to be recommitted to the officer of the proper county, or admitted to bail anew, to answer the new

indictment or information. If the evidence shows him guilty of another offense, he must be committed or held thereon, and in neither case shall the verdict be a bar to another prosecution. But if no evidence appears sufficient to charge him with any offense, he must, if in custody, be discharged, or if admitted to bail, his bail is exonerated; or if money has been deposited instead of bail, it must be refunded to the defendant or to the person or persons found by the court to have deposited said money on behalf of said defendant; and the arrest of judgment shall operate as an acquittal of the charge upon which the indictment or information was founded.

SEC. 7. Section 1262 of the Penal Code is hereby amended to read as follows: 1872 Code

1262. If a judgment against the defendant is reversed without ordering a new trial, the appellate court must, if he is in custody, direct him to be discharged therefrom; or if on bail, that his bail be exonerated; or if money was deposited instead of bail, that it be refunded to the defendant or to the person or persons found by the court to have deposited said money on behalf of said defendant. Defendant, when to be discharged on reversal of judgment

SEC. 8. Section 1297 of the Penal Code is hereby amended to read as follows: 1872 Code

1297. When money has been deposited, if it remains on deposit at the time of a judgment for the payment of a fine, the county clerk must, under the direction of the court, apply the money in satisfaction thereof, and after satisfying the fine and costs, must refund the surplus, if any, to the defendant or to the person or persons found by the court to have deposited said money on behalf of said defendant. Deposit to be applied to payment of fine and costs

SEC. 9. Section 1302 of the Penal Code is hereby amended to read as follows: 1872 Code

1302. If money has been deposited instead of bail, and the defendant, at any time before the forfeiture thereof surrenders himself to the officer to whom the commitment was directed, in the manner provided in the last two sections, the court must order a return of the deposit to the defendant or to the person or persons found by the court to have deposited said money on behalf of said defendant, upon the production of the certificate of the officer showing the surrender, and upon a notice of five days to the district attorney, with a copy of the certificate Surrender of defendant before forfeiture of bail

SEC. 10. Section 1371 of the Penal Code is hereby amended to read as follows: 1872 Code

1371. The commitment of the defendant, as mentioned in section 1370 of this code, exonerates his bail, or entitles a person, authorized to receive the property of the defendant, to a return of any money he may have deposited instead of bail, or gives, to the person or persons found by the court to have deposited any money instead of bail on behalf of said defendant, a right to the return of such money. Commitment of defendant as affecting bail or deposit

SEC. 11. Section 1384 of the Penal Code is hereby amended to read as follows: 1872 Code

Proceedings when action dismissed

1384. If the court directs the action to be dismissed, the defendant must, if in custody, be discharged therefrom; or if admitted to bail, his bail is exonerated, or money deposited instead of bail must be refunded to him or to the person or persons found by the court to have deposited said money on behalf of said defendant.

Repeals

SEC. 12. All acts and parts of acts in conflict herewith are hereby repealed.

CHAPTER 658.

An act to amend section 1005 of the Code of Civil Procedure, relating to notice of motion.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1919, p 289

SECTION 1. Section 1005 of the Code of Civil Procedure is hereby amended to read as follows:

See Stats 1935, Ch 722

1005. When a written notice of a motion is necessary, it must be given, if the court is held in the county in which at least one of the attorneys of the party notified has his office, five days before the time appointed for the hearing; otherwise, ten days. When the notice is served by mail, the number of days before the hearing must be increased one day for every one hundred miles of distance between the place of deposit and the place of service; such increase, however, not to exceed in all thirty days; but in all cases the court, or a judge or justice thereof, may prescribe a shorter time.

Notice of motion

CHAPTER 659.

Stats 1925, p. 931, amended

An act to amend sections 1, 2, 3, 4 and 5 of an act entitled "An act to regulate the conduct of canneries, to create a Division of Cannery Inspection to carry on such regulation, to provide rules regulating the proper sanitation of canneries, under the State Board of Health," approved May 23, 1925, as amended, relating to the inspection of canneries, the State Board of Public Health and to the power and duties thereof.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1927, p 1349

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read:

Cannery licenses

Section 1. It shall be unlawful for any person, firm, company, organization, association or corporation in the State

of California, to engage in the noncommercial canning of salmon or in the commercial canning of any food products, fish or fish products, meat or meat products, which meat or meat products are not under the inspection of the Division of Animal Industry of the State Department of Agriculture, or the Bureau of Animal Industry of the United States Department of Agriculture, or approved municipal inspection departments or establishments, for the use of man or animal, the sterilization of which in the opinion of the California State Board of Health requires the use of a pressure cooker, or a retort, without first obtaining a license from the said State Board of Health. Provided, however, that the Division of Cannery Inspection as hereinafter created shall have supervision over the inspection and examination of raw tomatoes, raw fish and fish products preparatory to canning, the cost of said inspection and examination to be determined and paid in like manner as provided in section 4 of this act for products otherwise falling within its provisions.

SEC. 2. Section 2 of the above entitled act is hereby amended to read: Stats 1933, p. 2292

Sec. 2. The said State Board of Public Health shall issue to any person, firm, company, organization, association or corporation in the State of California, an annual license on the receipt of fifty dollars per annum, per plant, and such evidence as the board may require to show that the said person, firm, company, organization, association or corporation is properly equipped with a retort or retorts or pressure cooker which are properly equipped with recording thermometers, indicating thermometers and pressure gauges to carry out such rules and regulation as the State Board of Public Health may adopt for the sterilization of such food products, fish or fish products, meat or meat products, which meat or meat products are not under the inspection of the Division of Animal Industry of the State Department of Agriculture, or the Bureau of Animal Industry of the United States Department of Agriculture, or approved municipal inspection departments or establishments All moneys received by the State Board of Health for fees shall be deposited at least once each month in the State treasury to the credit of the cannery inspection fund, which fund is hereby created to be used, exclusively for the payment of the expenses of enforcing the provisions of this act, and to be paid out only upon claims approved by the State Board of Public Health and the State Board of Control in the manner provided for by law One thousand dollars of the cannery inspection fund may be used as a revolving fund for the purposes of carrying out the provisions of this act.

Fees

Disposition of fees

Revolving fund

No person, firm, company, organization, association or corporation in the State of California shall permit any person, employee, or individual to operate a steam controlled retort or retorts used in the commercial canning industry for the sterilization of food products, fish or fish products, meat or

Permits

meat products, which meat or meat products are not under the inspection of the Division of Animal Industry of the State Department of Agriculture, or the Bureau of Animal Industry of the United States Department of Agriculture, or approved municipal inspection departments or establishments, unless said person, employee or individual shall first obtain a permit from the State Board of Public Health which shall have power to pass upon and determine the qualifications of the applicant for the permit with a view to the preservation of the public health, and which permit when granted shall be revocable by the board whenever in its judgment the public health requires such action.

Stats. 1927, p. 1350

SEC. 3. Section 3 of the above entitled act is hereby amended to read:

Rules and regulations

Sec. 3. The California State Board of Health is hereby empowered to make such rules and regulations which it may within its discretion deem necessary for the proper enforcement of the provisions of this act. Such rules and regulations shall have the force and effect of law. For the purpose of enforcing the rules and regulations of the State Board of Health and the provisions of the Pure Foods Act relating to the canning of such food products, fish or fish products, meat or meat products, which meat or meat products are not under the inspection of the Division of Animal Industry of the State Department of Agriculture, or the Bureau of Animal Industry of the United States Department of Agriculture, or approved municipal inspection departments or establishments, the State Board of Health shall appoint a chief Bureau of Cannery Inspections, and such additional inspectors and clerical assistance as it may deem necessary for the enforcement of its rules and regulations.

Inspectors and other employees

Stats. 1933, p. 2293

SEC. 4. Section 4 of the above entitled act is hereby amended to read:

Cannery Inspection Board

Sec. 4. There is hereby created the Cannery Inspection Board, to consist of five members. The five members shall be: the Secretary of the State Board of Health, who shall act as chairman, the Director of the Hooper Foundation for Medical Research, University of California, and three men experienced in, and with substantial investments in, and actively engaged in the canning industry at the time of their appointment, to be appointed by the State Board of Health. The said three appointive members shall hold office for a term of one year or until their successors are appointed. Members of said board shall serve without compensation. It shall be the duty of said board, subject to the approval of the State Board of Health, to estimate the cost of the inspections and examinations required to be made for each product subject to the provisions of this act, prior to the opening of the canning season of each such product having a canning season of less than three consecutive months and prior to each quarter for each product having a canning season of more than three consecutive months. It shall also estimate the

Compensation

Estimates of cost of inspections

number of cases of each such product to be packed in such season or quarter, as the case may be, and shall determine from these two estimates the cost per thousand cases for such season or quarter of the inspection of each food product to be inspected and examined under the provisions of this act. In addition to the license fee required by section 2 of this act, each person, firm, company, organization, association or corporation in the State of California subject to the provisions of this act shall pay to the State Board of Health at the end of each quarter, or at the close of the canning season, where said canning season does not exceed three consecutive months, its pro rata share of the actual cost of examination and inspection as determined by the Cannery Inspection Board. The State Board of Health prior to the end of each quarter or season may demand from any such person, firm, company, organization, association or corporation a cash deposit, or such other security for the payment of said pro rata share of the cost as the said board may deem necessary. All moneys received by the Board of Health under this section shall be deposited by it at least once each month in the State treasury to the credit of the cannery inspection fund. No food product subject to the inspection or examination provided in this act shall be shipped by the person, firm, company, organization, association or corporation packing the same until said person, firm, company, organization, association or corporation shall have paid its pro rata share of the cost of inspection of said food product or shall have furnished to the Board of Health a cash deposit or other security satisfactory to the Board of Health for the payment of its pro rata share of the cost of inspection. The Board of Health may for the following cause or causes and none other suspend or revoke a license issued under this act:

Pro rata inspection cost

Security for payment of pro rata cost

Suspension or revocation of license

The nonpayment of said pro rata share of the cost, or failure to comply with a demand for a cash deposit or other security by the holder of such a license.

SEC. 5. Section 5 of the above entitled act is hereby amended to read:

Stats. 1927 p. 1350

Sec. 5. It shall be unlawful for any person, firm, company, organization or association or corporation to place upon the label of any bottle, can, jar, carton, case, box or barrel, or any receptacle, vessel or container of whatever material or nature which may be used by a packer, manufacturer, producer, jobber or dealer for enclosing any such canned food products, fish or fish products, meat or meat products, which meat or meat products are not under the inspection of the Division of Animal Industry of the State Department of Agriculture, or the Bureau of Animal Industry of the United States Department of Agriculture, or approved municipal inspection departments or establishments, any statement relative to the product having been inspected, unless such statement has been approved, officially in writing, by the State

Statements on containers

Board of Health. Said approval shall be revocable at any time at the discretion of the State Board of Health upon official written notice.

CHAPTER 660.

Stats. 1907, p. 208, amended

An act to amend sections 1, 6, 13, 14, 20 and 21 of, and to add a new section to be numbered 8a to, an act entitled "An act for preventing the manufacture, sale or transportation of adulterated, mislabeled or misbranded foods and liquors and regulating the traffic therein, providing penalties, establishing a State laboratory for foods, liquors and drugs and making an appropriation therefor," approved March 11, 1907, as amended, relating to adulteration, mislabeling, misbranding, false advertising and sale of food and the powers of the State Board of Health in relation thereto.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1909, p. 353

SECTION 1. Section 4 of the act cited in the title hereof is amended to read as follows:

What constitutes adulteration of food

Sec. 4. Food shall be deemed adulterated within the meaning of this act, in any of the following cases:

First. If any substance has been mixed or packed, or mixed and packed with the food so as to reduce or lower or injuriously affect its quality, purity, strength, or food value.

Second. If any substance has been substituted wholly or in part for the article of food.

Third. If any essential or any valuable constituent or ingredient of the article of food has been wholly or in part abstracted.

Fourth. If it be mixed, colored, powdered, coated or stained in any manner whereby damage or inferiority is concealed.

Fifth. If it contains any added poisonous or other added deleterious ingredient.

Sixth. If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal or vegetable unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter; provided, that an article of liquor shall not be deemed adulterated, mislabeled or misbranded if it be blended or mixed with like substances so as not to injuriously reduce or injuriously lower or injuriously affect its quality, purity or strength.

Seventh. In the case of confectionery: If it contains terra alba, barytes, talc, chrome yellow, or other mineral substance or poisonous color or flavor, or other ingredient deleterious or

detrimental to health, or any vinous, malt, or spirituous liquor or compound or narcotic drug.

Eighth. In the case of vinegar: If it be artificially colored.

Ninth. If it does not conform to the standard of purity therefor as proclaimed by the Secretary of the United States Department of Agriculture.

Tenth. In case of canned tomatoes or tomato products of any variety or type of pack, if they are artificially colored in any manner whatsoever. And in no way shall a statement upon the label to the effect that such product is artificially colored be construed to correct the adulteration.

SEC. 2. Section 6 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933, p 1997.

Sec. 6. Food and liquor shall be deemed mislabeled or misbranded within the meaning of this act in any of the following cases: Goods mislabeled or misbranded

First. If it be an imitation of or offered for sale under the distinctive name of another article of food, and/or if it be an imitation of or offered for sale under the distinctive name of another article of food and its label fails to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated or the distinctive name under which it is offered for sale as the case may be.

Second. If it be labeled or branded or colored so as to deceive or mislead, or tend to deceive or mislead the purchaser; or if it be falsely labeled in any respect, or if it purport to be a foreign product tending to mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package.

Third If in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

Fourth. If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substance contained therein, which statement, design or device shall be false or misleading in any particular.

Fifth. When any package bears the name of the manufacturers, jobbers or sellers, or the grade or the class of the product, it must bear the name of the real manufacturers, jobbers or sellers and the true grade or class of the product, the same to be expressed in clear and distinct English words in legible type; provided, that an article of food shall not be deemed misbranded, if it be a well-known food product of a nature, quality and appearance, and so exposed to public inspection as not to deceive or mislead or tend to deceive or mislead a purchaser, and not misbranded and not of the character included within the definitions one to four of this section

Sixth. If, having no label, it is an imitation or adulteration, or is sold or offered for sale under a name, designation, description or representation which is false or misleading in any particular whatever; and in case of poultry: if they have been kept or packed in cold storage, or otherwise preserved, they must be so indicated by written or printed label or placard plainly designating such fact when offered or exposed for sale.

Seventh. If it be canned food and falls below the standard of quality, condition and/or fill of container, promulgated or to be promulgated by the Secretary of the United States Department of Agriculture for such canned foods, and its package or label does not bear a plain and conspicuous statement prescribed by the Secretary of the United States Department of Agriculture indicating that such canned food falls below such standard.

Eighth. If it be canned tomatoes and be labeled "solid pack," and the tomatoes are not select tomatoes, or are neither whole nor in fairly large pieces; or are not of uniformly good red color; or are adulterated within the meaning of section 5, paragraph 10, of this act or are not practically free from pieces of skin, cores, blemishes and other defects; or do not possess the typical flavor of naturally ripened tomatoes; or score less than a total of eighty-five points for all factors, or less than eighteen points for color, or if more than two of the other factors be within the range of fifteen to seventeen points, or if any factor fall below fifteen points, when scored according to the scoring system defined by the United States standards for grades for canned tomatoes, effective January 16, 1933, as issued by the United States Department of Agriculture, Bureau of Agricultural Economics on January 16, 1933, and as prescribed and promulgated by the Secretary of the United States Department of Agriculture, January 16, 1933.

Ninth. If the package containing it or its label shall bear any statement, design or device regarding the vitamin content of the substance contained therein which is false or misleading in any particular; or if in any manner or by any means whatever the said vitamin content is falsely or deceptively advertised, represented or described.

New section

SEC. 3. A new section is hereby added to the act cited in the title hereof to be numbered 8a and to read as follows:

Distillers', rectifiers' and blenders' records

Sec. 8a. Whenever the State Board of Health shall make a written demand upon any distiller, rectifier or blender of liquors of any nature whatsoever within this State to produce a certified copy of those records kept by the said distiller, rectifier, or blender and which records are commonly designated or known as "dump sheets" within the meaning of the Federal Internal Revenue Act the same shall be delivered to the said board within a reasonable time not exceeding thirty days. The refusal to present such certified copies or the falsification thereof, shall constitute a misdemeanor within the meaning of

this act, and be punishable as such. Provided, further, that whenever there has been a demand and refusal to deliver, any court or judge thereof having jurisdiction shall upon petition order the said delivery.

SEC. 4. Section 13 of the above entitled act is hereby amended to read: Stats 1933, p. 1999

Sec. 13. Whenever evidence indicates and/or examination and/or analysis show that adulterated, mislabeled or misbranded food has been on sale in this State, the chief of the laboratory of the State Board of Public Health shall forthwith report to the Secretary of the State Board of Public Health and shall promptly transmit a certificate of the facts so found. Report of findings

Whenever evidence indicates that adulterated, mislabeled or misbranded food has been on sale in this State, the Chief of the Bureau of Food and Drug Inspections shall forthwith report to the Secretary of the State Board of Public Health and shall promptly transmit a certificate of the facts so found.

SEC. 5. Section 14 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933 p 1999

Sec. 14. Every certificate certified to by the Chief, Bureau of Laboratories or by the Chief of the Bureau of Food and Drug Inspections shall be prima facie evidence of the facts therein stated. Certificate

SEC 6 Section 16 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933, p 2000

Sec. 16 When the certificate certified to by the Chief of the Laboratory of the State Department of Public Health or when the certificate certified to by the Chief of the Bureau of Food and Drug Inspections shows that any provisions of this act have been violated, notice of that fact, together with a copy of the certificate of the findings, shall be furnished to the party or parties from whom the sample was obtained, or who executed the guarantee, as provided in this act, and a day shall be fixed by the Secretary of the State Board of Public Health, at which time said parties may be heard before the State Board of Public Health, a member thereof, or its secretary. The hearings shall be held at such place as the State Board of Public Health or the person, or persons conducting the same may designate These hearings shall be private and confined to the consideration of fact Parties interested therein may appear in person or by attorney and may propound interrogatories and submit oral or written evidence to show any fault or error in the findings made by the State Laboratory. If the examination or analysis be found correct, or if the party, or parties, fails to appear to such hearing, after notice duly given as provided herein, the Secretary of the State Board of Public Health shall forthwith transmit a certificate of the facts so found to the district attorney of the county in which said adulterated, mislabeled or misbranded food was found. No publication as in this act provided shall be made until after said hearing is concluded. Notice of violation Hearing

Stats 1933, p. 2000

Penalties

SEC. 7. Section 20 of the act cited in the title hereof is hereby amended to read:

Sec. 20. Any person, firm, company or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five dollars nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. Whenever the findings of the State Laboratory or of the Chief of the Bureau of Food and Drug Inspections shall show after investigation and examination that any article of food found in the possession of any person, firm, company or corporation is adulterated, misbranded or mislabeled within the meaning of this act, the same may be seized and such article of food quarantined, and said article of food shall not thereafter be sold, offered for sale, removed or otherwise disposed of until further notice in writing from the State Board of Public Health, its secretary, or the Chief of the Bureau of Food and Drug Inspections, who shall report immediately to the Secretary of the State Board of Public Health all actions relating to the seizure of such articles of food and their release. Food found to be adulterated, mislabeled or misbranded within the meaning of this act may, by order of any court or judge, or in the absence of said order with the written consent of the owner thereof, be seized or destroyed.

Stats 1933, p. 2001

Avoidance of prosecution by guaranty

SEC. 8. Section 22 of the act cited in the title hereof is hereby amended to read as follows:

Sec. 22. No dealer shall be prosecuted under the provisions of this act when he can produce a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in the United States from whom he purchased such article, to the effect that the same is not adulterated or misbranded within the meaning of this act, such guaranty to be dated prior to the date of sale of said article. Such guaranty may be either general or special and must be produced prior to the time of certification of facts to the district attorney for prosecution. A general guaranty shall guarantee without condition or restriction all of the products or articles produced, prepared, compounded, packed, distributed, or sold by the guarantor as not adulterated within the meaning of this act. A special guaranty shall guarantee in the same manner the particular articles listed in an invoice of the same, and shall be attached to or shall fully identify such invoice. Both said guaranties to afford protection must contain the name and address of the party or parties making the sales of such articles to said dealer. However, any guaranty shall protect a dealer only where the article covered by such guaranty shall have remained identical, both as to composition and labeling, with the article as composed and labeled when received by the dealer from the guarantor. If the guaranty be to the effect that such article is not adulterated or misbranded within the meaning of the National Pure Food Act, approved June 30, 1906, it shall be

sufficient for all the purposes of this act and have the same force and effect as though it referred to this act, except that a guaranty referring to the said National Pure Food Act alone shall not be sufficient for the purpose of this act in any case where at any time the standard for the article concerned under this act is higher than the standard for a like article under said National Pure Food Act. In case the wholesaler, jobber, manufacturer or other party making such guaranty to said dealer resides without this State and it appears from the certificate of the director of the State laboratory that such article or articles were adulterated or misbranded, within the meaning of this act or the National Pure Food Act approved June 30, 1906, the district attorney must forthwith notify the Attorney General of the United States of such violation.

CHAPTER 661.

An act to add section 3306a to the Civil Code, relating to breach of contract to deliver a quitclaim deed.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 3306a is hereby added to the Civil Code to read as follows:

New section

3306a. The minimum detriment caused by the breach of an agreement to execute and deliver a quitclaim deed to real property is deemed to be the expenses incurred by the promisee in quieting title to such property, and the expenses incidental to the entry upon such property. Such expenses which shall include reasonable attorneys' fees shall be fixed by the court in the quiet title action.

Minimum detriment for breach of agreement to deliver quitclaim

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CHAPTER 662.

An act to amend sections 3, 3a, 3b, 10, 13, 17, and 18 of an act entitled "An act defining mattresses; regulating the making, remaking, and sale thereof; prohibiting the use of unsanitary and unhealthy materials therein; requiring that materials used shall be accurately described, and the percentage of materials used in each mattress stated, and prescribing the manner in which mattresses shall be labeled; and making the violation of any of the provisions of this act a misdemeanor, and repealing legislation inconsistent with this act," approved June 7, 1915, and to add thereto a new section to be numbered section 21, all relating to the

Stats. 1915, p. 1267, amended

administration of said act by the Bureau of Furniture and Bedding Inspection and the powers and duties of the officers thereof.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1929, p. 979.

SECTION 1. Section 3 of the act cited in the title hereof is hereby amended to read as follows:

Mattresses, labels

Sec. 3. No person or corporation, by himself, or his agents, servants, or employees, shall directly or indirectly at wholesale or retail, or otherwise, sell, offer or expose for sale, repair or renovate, deliver, rent or consign, or have in his possession with intent to sell, offer or expose, repair, renovate, deliver, rent or consign, any mattress that shall not be plainly and indelibly stamped or printed thereon, or upon a muslin or linen tag, not smaller than three inches square, securely sewed to the covering thereof a statement, in the English language, setting forth the kind or kinds of materials used in filling the said mattress, and whether the materials are in whole or in part, new or old, or secondhand or shoddy, and the name and address of the vendor or manufacturer, which name may be stamped or written on the tag by either the factory or the vendor, together with the serial number of the manufacturer, which serial number shall be assigned by the Bureau of Furniture and Bedding Inspection of the Department of Professional and Vocational Standards; also the quantity of such materials used, expressed in terms of avoirdupois weight; also size of same, expressed in linear measure, clearly indicating the length and breadth thereof, also percentage of each material used. Sizes of comforters may be stated in terms of cut size measurements.

Stats 1929, p 980

SEC. 2. Section 3a of the act cited in the title hereof is hereby amended to read as follows:

Licenses.

Sec. 3a. Every person, firm or corporation manufacturing or selling at wholesale any of the above articles shall obtain annually from the Bureau of Furniture and Bedding Inspection, a license for which the annual fee shall be thirty dollars. Each and every branch house shall likewise be amenable to this license provision.

Every person, firm or corporation renovating, making over, or sterilizing any of the above articles, unless licensed under the preceding paragraph of this section, shall obtain annually from the Bureau of Furniture and Bedding Inspection, a license for which the annual fee shall be twenty dollars Each and every branch house shall likewise be amenable to this license provision. Every person, firm or corporation selling or offering for sale at retail any of the above articles, unless licensed under one of the preceding paragraphs of this section, shall obtain annually from the Bureau of Furniture and Bedding Inspection, a license for which the annual fee shall

be five dollars. Each and every branch house shall likewise be amenable to this license provision.

SEC. 3. Section 3b of the act cited in the title hereof is hereby amended to read as follows: Stats 1929, p 980

Sec. 3b. All moneys collected under the provisions of this act shall be paid into the State treasury and credited to the Bureau of Furniture and Bedding Inspection fund to be expended in accordance with law in carrying out the provisions of this act. The Chief of the Bureau of Furniture and Bedding Inspection may from time to time withdraw from said sum the sum of one thousand five hundred dollars to be used as a revolving fund to carry out the provisions of this act. The Chief of the Bureau of Furniture and Bedding Inspection shall, within thirty days prior to the regular session of the Legislature, submit to the Governor a full and true report of transactions under this law during the preceding biennium, including a complete statement of receipts and expenditures during the period. Disposition of money. Revolving fund. Report to Governor

SEC. 4. Section 10 of the act cited in the title hereof is hereby amended to read as follows: Stats 1929, p 981

Sec. 10 The wording of labels necessary to carry out the provisions of this act shall be approved by the Chief of the Bureau of Furniture and Bedding Inspection. Approval of labels.

SEC. 5. Section 13 of the act cited in the title hereof is hereby amended to read as follows: Stats 1929, p 981

Sec. 13. The right to condemn, seize or destroy any mattress which is found in violation of this act shall be vested in the Bureau of Furniture and Bedding Inspection. Condemning and destroying mattresses

SEC. 6. Section 17 of the act cited in the title hereof is hereby amended to read as follows: Stats 1929 p 982

Sec. 17. The enforcement of the provisions of this act shall be under the supervision of the Chief of the Bureau of Furniture and Bedding Inspection. Enforcement

SEC. 7. Section 18 of the act cited in the title hereof is hereby amended to read as follows: Stats 1929 p 982

Sec. 18. The Chief of the Bureau of Furniture and Bedding Inspection, or any deputy or inspector authorized by him, shall have access to any premises where mattresses are made, remade, sterilized or renovated, sold or exposed for sale or handled commercially in any way and shall have access to any premises or records of parties selling or offering for sale any secondhand or used mattresses or materials which may be used in filling mattresses. Right to inspect premises

SEC. 8. A new section is hereby added to the act cited in the title hereof to be numbered section 21 and to read as follows: New section

Sec. 21 The Director of the Department of Professional and Vocational Standards and the Chief of the Bureau of Furniture and Bedding Inspection are authorized and empowered to confer with and to advise such boards or representatives as the furniture and mattress industry of this State shall select to represent such industries. Conferences between State and industrial representatives

CHAPTER 663.

Stats 1927, p 665, amended

An act to amend sections 1, 2, 5, 6, 7, 8, 9 and 14 of an act entitled "An act to regulate the manufacture and sale of upholstered furniture; providing for the labeling of the same, providing for the licensing of persons manufacturing, selling or repairing upholstered furniture; and creating the upholstered furniture inspection fund," approved May 9, 1927, relating to the administration thereof by the Bureau of Furniture and Bedding Inspection of the Department of Professional and Vocational Standards.

[Approved by the Governor July 16, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

Stats 1929, p 1049.

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

New upholstered furniture tags

Section 1. No person shall, at wholesale, or retail, or otherwise, directly or indirectly, make, sell, offer or expose for sale, deliver, rent, consign, lease or otherwise dispose of commercially, or have in his possession with such intent any article of new upholstered furniture, including pillows or cushions belonging to or forming part thereof, for use in any household or place of abode, or which can be used by human beings, that is made of any new material which is hidden or concealed by fabric or any other covering, unless such article is plainly and indelibly stamped or tagged with a tag prescribed and approved by the Bureau of Furniture and Bedding Inspection of the Department of Professional and Vocational Standards, which bureau is hereby created, where it may be conveniently examined, which tag shall be securely attached to the article at the factory setting forth in the English language the name of the vendor, which name may be stamped or written on the tag by either the factory or the vendor, together with the serial number of the manufacturer, which serial number shall be assigned by the Bureau of Furniture and Bedding Inspection, together with a statement that the concealed materials are in whole new materials, with the words as a heading on the tag "All new material," setting forth the filling contents, grades, and percentages of material so used; provided, that nothing in this act shall apply to pillows as defined by section 402f of the Penal Code; and provided also, that nothing in this act shall apply to mattresses as defined by an act approved June 7, 1915, as amended, Chapter 641, Statutes 1915.

Stats 1929, p 1049

SEC. 2 Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Use of secondhand material

Sec. 2. No person shall, at wholesale, or retail or otherwise, directly or indirectly, make, sell, offer or expose for sale, deliver, rent, consign, lease or otherwise dispose of commercially, or have in his possession with such intent, any article of new upholstered furniture, including pillows or cushions belonging to or forming part thereof, that contains in whole

or in part any used or secondhand materials, cast off clothing, rags, jute, used burlap, sweepings, shoddy, used webbing, refuse or damaged material, or any material previously used for any purpose whatsoever that is hidden or concealed by fabric or any other covering unless such article is plainly and indelibly stamped or tagged with a tag prescribed and approved by the Bureau of Furniture and Bedding Inspection, where it may be conveniently examined, which tag shall be securely attached to the article at the factory, setting forth in the English language the name of the vendor which name may be stamped or written on the tag by either the factory or the vendor, together with the serial number of the manufacturer, which serial number shall be assigned by the Bureau of Furniture and Bedding Inspection, and setting forth description of the kind or kinds of used or secondhand materials concealed therein, together with the percentage of each, with the words as a heading on the tag "Secondhand material" and a statement that said used or secondhand materials have been sterilized in accordance with the requirements of the State Board of Health.

SEC. 3. Section 5 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1929, p. 1050

Adoption of standard designations

SEC. 5. The Chief of the Bureau of Furniture and Bedding Inspection shall have the authority to approve or adopt standard designations for labeling and grading of materials under this act, and these standard designations will be enforced by all inspectors and deputies of the Bureau of Furniture and Bedding Inspection.

SEC. 4. Section 6 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1929, p. 1050

Licenses

SEC. 6. Every person, firm or corporation manufacturing or selling at wholesale upholstered furniture shall obtain annually from the Bureau of Furniture and Bedding Inspection a license for which the annual fee shall be thirty dollars. Each and every branch house shall likewise be amenable to this license provision.

Fee.

Every person, firm or corporation repairing upholstered furniture, unless licensed under the preceding paragraph of this section, shall obtain annually from the Bureau of Furniture and Bedding Inspection a license for which the annual fee shall be twenty dollars. Each and every branch house shall likewise be amenable to this license provision.

Every person, firm or corporation selling or offering for sale at retail any upholstered furniture, unless licensed under one of the preceding paragraphs of this section, shall obtain annually from the Bureau of Furniture and Bedding Inspection a license for which the annual fee shall be five dollars. Each and every branch house shall likewise be amenable to this license provision.

SEC. 5. Section 7 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1929, p. 1050

Disposition of money collected

Sec. 7. All moneys collected under the provisions of this act shall be paid into the State treasury and credited to the Bureau of Furniture and Bedding Inspection fund, which fund is hereby created, to be expended in accordance with law, in carrying out the provisions of this act. The Chief of the Bureau of Furniture and Bedding Inspection may from time to time withdraw from such fund the sum of one thousand five hundred dollars to be used as a revolving fund to carry out the provisions of this act. The Chief of the Bureau of Furniture and Bedding Inspection shall, within thirty days prior to the regular session of the Legislature, submit to the Governor a full and true report of transactions under this law during the preceding biennium, including a complete statement of receipts and expenditures during the period.

Stats 1929, p. 1050

SEC. 6. Section 8 of the act cited in the title hereof is hereby amended to read as follows:

Access to premises and records

Sec. 8. The Chief of the Bureau of Furniture and Bedding Inspection or any deputy or inspector authorized by him, shall have access to any premises, or to any records held by any person containing any information pertaining to the article or material in question.

Stats 1929, p 1050

SEC. 7. Section 9 of the act cited in the title hereof is hereby amended to read as follows:

Headings

Sec. 9. Statements as headings required under sections 1, 2 and 3 of this act shall be in the following forms: "All new material" twenty-four point condensed gothic type, on white linen; "Owner's own material" twenty-four point condensed gothic type, on green linen; "Secondhand material" twenty-four point condensed gothic type, on red linen The form and wording of labels or deviation therefrom shall be discretionary with the Chief of the Bureau of Furniture and Bedding Inspection.

Stats 1929, p. 1051.

SEC. 8. Section 14 of the act cited in the title hereof is hereby amended to read as follows:

Enforcement

Sec. 14. The enforcement of the provisions of this act shall be under the supervision of the Chief of the Bureau of Furniture and Bedding Inspection.

CHAPTER 664.

Stats 1915, p 115, amended

Stats 1917, p. 330, repealed.

An act to add two new sections to the Public Utilities Act, to be numbered 2¾ and 50¾, defining highway common carriers and providing for the regulation thereof and requiring the issuance of certificates of public convenience and necessity therefor, and to repeal Chapter 213 of the Statutes of 1917, approved May 10, 1917, and amendments thereto.

[Approved by the Governor July 16, 1935. In effect September 15, 1935]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the Public Utilities Act, to be numbered section 2¾ and to read as follows:

Sec. 2¾. (a) The term "highway common carrier" when used in this act means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any auto truck, or other self-propelled vehicle not operated upon rails, used in the business of transportation of property as a common carrier for compensation over any public highway in this State between fixed termini or over a regular route, and not operating exclusively within the limits of an incorporated city or town, or city and county, except that passenger stage corporations, as defined in section 2¼ of this act, transporting baggage and express upon passenger vehicles incidental to the transportation of passengers shall not be highway common carriers as herein defined. Definitions

(b) The words "between fixed termini or over a regular route" when used in this act mean the termini or route between or over which any highway common carrier usually or ordinarily operates any auto truck or other self-propelled vehicle, even though there may be departures from said termini or route, whether such departures be periodic or irregular. Whether or not any auto truck or other self-propelled vehicle is operated by a highway common carrier "between fixed termini or over a regular route" within the meaning of this act shall be a question of fact and the findings of the commission thereon shall be subject to review.

(c) The term "common carrier" when used in this act, in addition to the definition herein otherwise given, shall include every highway common carrier, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating within this State.

SEC. 2. A new section is hereby added to the Public Utilities Act, to be numbered section 50¾, and to read as follows: New section

Sec. 50¾. (a) No highway common carrier shall hereafter operate or cause to be operated any auto truck, or other self-propelled vehicle not operated on rails, for the transportation of property as a common carrier for compensation on any public highway in this State except in accordance with the provisions of this act. Operation of highway common carriers

(b) The Railroad Commission of the State of California is hereby vested with power and authority to supervise and regulate every highway common carrier in this State; to fix the rates, fares, charges, classifications, rules and regulations of each such highway common carrier; to regulate the accounts, service and safety of operations of each such highway common carrier, to require the filing of annual and other reports and of other data by such highway common carriers; and to supervise and regulate highway common carriers in all other matters affecting the relationship between such carriers and the shipping public. The Railroad Commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations applicable to any and all highway common carriers. The Railroad Commission, in the exercise of the

jurisdiction conferred upon it by the Constitution of this State and by this act, shall have power and authority to make orders and to prescribe rules and regulations affecting highway common carriers, notwithstanding the provisions of any ordinance or permit of any incorporated city or town, city and county, or county, and in case of conflict between any such order, rule or regulations and any such ordinance or permit, the order, rule or regulation of the Railroad Commission shall in each instance prevail.

Must obtain certificate

(c) No highway common carrier shall hereafter begin to operate any auto truck, or other self-propelled vehicle, for the transportation of property for compensation on any public highway in this State without first having obtained from the Railroad Commission a certificate declaring that public convenience and necessity require such operation, but no such certificate shall be required of any highway common carrier as to the fixed termini between which or the route over which it was actually operating as a highway common carrier on July 26, 1917, and in good faith continuously thereafter, or for operations exclusively within the limits of an incorporated city, town or city and county. Any right, privilege, franchise, or permit held, owned or obtained by any highway common carrier may be sold, assigned, leased, transferred or inherited as other property, only upon authorization by the Railroad Commission. The Railroad Commission shall have power, with or without hearing, to issue said certificate as prayed for, or to refuse to issue the same, or to issue it for the partial exercise only of said privilege sought, and may attach to the exercise of the rights granted by said certificate such terms and conditions as, in its judgment, the public convenience and necessity require. No such certificate may be granted to a foreign corporation. Without the express approval of the commission, no certificate of public convenience and necessity issued to any highway common carrier under the provisions of this section, or heretofore issued by the commission for the transportation of property by auto truck or self-propelled vehicle, nor any operative right founded upon operations actually conducted in good faith on July 26, 1917, shall be combined, united or consolidated with another such certificate or operative right so as to permit through service between any point or points served under any such separate certificate or operative right, on the one hand, and any point or points served under another such certificate or operative right, on the other hand; nor, without the express approval of the commission, shall any through route or joint, through, combination, or proportional rate be established by any highway common carrier between any point or points which it serves under any such certificate or operative right, and any point or points which it serves under any other such certificate or operative right.

The Railroad Commission may at any time for a good cause suspend, and upon notice to the holder of an operating right acquired by virtue of operations conducted on July 26, 1917,

as aforesaid, or to the grantee of any certificate, and opportunity to be heard, revoke, alter or amend any such operative right or certificate.

(d) When a complaint has been filed with the commission alleging that any vehicle is being operated without a certificate of public convenience and necessity as required by this act, or when the commission has reason to believe that this act is being violated, it shall be the duty of the commission to investigate such operations and the commission shall have power after a hearing to make its order requiring the owner or operator of such vehicle to cease and desist from any operation in violation of this act; and it shall be the duty of the commission to enforce compliance with such order under the powers vested in the commission by this act or by law.

Stats 1917, p 330, repealed.

SEC 3. The act of the Legislature, approved May 10, 1917, entitled "An act providing for the supervision and regulation of the transportation of property for compensation over any public highway by auto trucks; defining transportation companies and providing for the supervision and regulation thereof by the Railroad Commission; providing for the enforcement of the provisions of this act and for punishment of violations thereof; and repealing all acts inconsistent with the provisions of this act," and all amendments thereof and supplements thereto, are hereby repealed; provided, however, that any certificate of public convenience and necessity heretofore issued by the Railroad Commission shall not be terminated by this repeal, but shall be deemed to have been issued under this act; and such repeal shall not affect any pending application for such certificates, or any proceedings pending under said act so repealed, it being the intention of this act to continue in effect the provisions of the act so repealed by incorporating the same herein, except as the same may be amended hereby.

Effect of repeal on certificates and applications therefor.

CHAPTER 665.

Stats 1933, p 1011, amended

An act to amend sections 2 and 7 of "An act to define motor carrier transportation agent; to provide for the regulation, supervision and licensing thereof, and to provide for the enforcement of said act and penalties for the violation thereof, and repealing an act entitled 'An act to define motor carrier transportation agent; to provide for the regulation, supervision and licensing thereof, and to provide for the enforcement of said act and penalties for the violation thereof,' approved June 5, 1931, and all acts or

parts of acts inconsistent with the provisions of this act," approved May 15, 1933, relating to motor carrier transportation agents.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1012.

SECTION 1. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Definitions

Sec. 2. A motor carrier transportation agent within the meaning of this act is a person who, acting either individually or as an officer, commission agent, or employee of a corporation, or as a member of a copartnership, or as a commission agent or employee of another person or persons, sells or offers for sale, or negotiates for or holds himself out as one who sells, furnishes or provides, transportation over the public highways of this State when such transportation is furnished, or offered or proposed to be furnished, by a motor carrier as defined in this act.

A motor carrier within the meaning of this act is any person, firm, or corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, transporting, or offering or proposing to transport, as a common carrier or otherwise, persons for compensation over the public highways of the State of California, or any portion thereof.

Application of act.

This act shall not apply to the carriage, or proposed carriage, of any person, or persons, when no compensation for such carriage is paid, or offered or proposed to be paid, or requested or required to be paid, by, or on behalf of, a person, or persons, transported, or to be transported; nor to those engaged solely in the carriage or transportation to and from work, of employees engaged in farm work on any farm of the State of California, nor to those engaged solely in the carriage or transportation to and from work of employees of any nonprofit cooperative association organized pursuant to any of the laws of the State of California; nor to movements of persons wholly within the corporate limits of a single municipality; nor to transportation over a route wholly or partly within a National park where such transportation is sold in conjunction with or as part of a rail trip; provided, however, that the transportation of persons whereby there is paid, or requested or required to be paid, by, or on behalf of, the person, or persons, transported, a portion of the expense incurred in course of such transportation, shall be deemed transportation provided by a motor carrier within the meaning of this act.

The provisions of this act shall apply regardless of whether such transportation so sold, or offered to be sold, is interstate or intrastate.

Stats. 1933, p. 1014.

SEC. 2. Section 7 of the act cited in the title hereof is hereby amended to read as follows:

Fees.

Sec. 7. The fees for licenses, and each renewal thereof, shall be one dollar ($1) per year, or fraction thereof. All

applications for licenses shall be accompanied by the fee as herein provided and all licenses, subject to the provisions for renewal, which the Railroad Commission shall prescribe, shall expire on December 31 of each year.

SEC. 3. The provisions of these amendments to the act cited in the title hereof shall not be, or become, effective until January 1, 1936. Effective date.

CHAPTER 666.

An act to amend section 649, 649a, 651a, 651b, 651c, and 651d of the Civil Code, relating to colleges and seminaries of learning.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 649 of the Civil Code is hereby amended to read as follows: Stats 1927, p. 291.

649. Any number of persons who may desire to establish a college or seminary of learning may incorporate themselves as provided in this part, except that in lieu of the requirements of section 290, the articles of incorporation shall contain: Incorporation of colleges.

1. The name of the corporation.

2. The purpose for which it is organized.

3 The place where the college or seminary is to be conducted.

4. Trustees. The number of its trustees, which shall not be fewer than five nor more than thirty, and the names and residences of the trustees. The term for which the trustees named and their successors are to hold office may also be stated. If it is desired that the trustees, or any portion of them, shall belong to any organization, society, or church, such limitation shall be stated.

5. Capital stock. If said corporation is to have capital stock, the amount of its capital stock and the number of shares into which it is divided, and the amount actually subscribed and by whom.

6. If said corporation is organized for the purpose among others of conferring academic or professional degrees, diplomas or certificates there shall be no dividend paying capital stock but the articles shall state the description and value of the real and personal property of such corporation used exclusively for the purposes of education which must not be less than fifty thousand dollars ($50,000) in the case of any college or seminary of learning conferring degrees, diplomas or certificates.

SEC. 2. Section 649a of the Civil Code is hereby amended to read as follows: Stats 1929, p 1284

Duty of Secretary of State.

649a. If the proposed articles of incorporation of any college or seminary of learning provide for the conferring of academic or professional degrees, diplomas or certificates, the Secretary of the State shall ascertain whether the conditions stated in the articles have been complied with and shall not file such articles until he is satisfied that such conditions have been complied with.

Stats 1927, p 291.

SEC. 3. Section 651a of the Civil Code is hereby amended to read as follows:

Power to confer degrees, diplomas or certificates

651a. No person, firm, association or corporation, other than a corporation incorporated under the provisions of this title, shall have power to confer academic or professional degrees, diplomas or certificates. This provision shall not apply to any university, college or seminary of learning which has been chartered under existing laws as an educational institution with the power to confer degrees, or to any university, college or seminary of learning which has heretofore been given, or whose trustees have heretofore been given, the right to exercise corporate powers and privileges by special legislative act.

Stats 1931, p 1513

SEC. 4. Section 651b of the Civil Code is hereby amended to read as follows:

Reports to Superintendent of Public Instruction

651b. Every corporation incorporated under the provisions of this title, and every school, college or seminary of learning chartered under existing laws, or created under special legislative act, as an educational institution with the power to confer any professional degree, diploma or certificate, shall file annually with the Superintendent of Public Instruction a verified report showing the number of students of said corporation, together with the names and addresses of said students, the courses of study offered by said corporation, the names and addresses of the teachers employed by said corporation, the subjects taught by them, the degrees, diplomas or certificates, if any, granted by said corporation, and to whom granted, the curricula upon the basis of which such degrees, diplomas or certificates were granted and any other information concerning the educational work or activities of said corporation that may be required by said Superintendent of Public Instruction.

Stats 1927, p 292

SEC. 5. Section 651c of the Civil Code is hereby amended to read as follows:

Duty of Attorney General

651c. It shall be the duty of the Attorney General, in case he has notice of a failure of any such corporation to comply with the provisions of this title, or of any fraudulent practice by any such corporation, or by any firm, person or association in connection with the granting of degrees, diplomas or certificates, or of any abuse, misuse or violation of the articles of incorporation, to take steps by bill in equity or otherwise to dissolve such corporation or to restrain and enjoin such fraudulent practices, abuse, misuse or violation or to punish any person guilty of fraudulent practices

SEC. 6. Section 651d of the Civil Code is hereby amended to read as follows: Stats 1931, p 1513

651d. Any person or persons, firm, association or corporation who shall confer any academic or professional degree, diploma or certificate in violation of section 651a of this code or shall offer by advertisement or otherwise to confer such degree, diploma or certificate or shall fail to file the annual report referred to in section 651b of this code shall be guilty of a misdemeanor. Violation

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CHAPTER 667.

An act to amend section 622 of the Agricultural Code, relating to dairies and dairy products. Stats 1933, p 60

[Approved by the Governor July 16, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 622 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p 155

622. (a) Every person, except hospitals and sanitariums, engaged in the business of dealing in, receiving, manufacturing, freezing, or processing ice cream, imitation ice cream, ice milk, imitation ice milk, and all similar frozen products shall pay annually a minimum factory license fee of twenty-five dollars for the manufacture of fifty thousand gallons or fraction thereof per year, and for each additional ten thousand gallons or fraction thereof manufactured per year, an additional license fee of one dollar. The renewal fee for a factory license for such products shall be computed on the same basis as the original fee. License fee for frozen products

(b) The fee for a factory license for all other products for which a license is required is ten dollars, and for the renewal thereof is one dollar for each one hundred thousand pounds of milk fat or part thereof, or each four hundred thousand gallons of milk or part thereof, purchased or received during the preceding year, ending the thirty-first day of December. In no case shall the renewal fee for such products exceed ten dollars. Other products

(c) The director at least once each month shall report to the State Controller the total amount of moneys collected under the provisions of paragraph (a) of this section and at the same time shall pay into the State treasury the entire amount of such receipts which shall be credited to the Department of Agriculture fund and expended in carrying out the provisions of this division relating to ice cream, ice milk, and any similar frozen products Disposition of fee for frozen products

(d) The director shall, within thirty days prior to each regular session of the Legislature, submit to the Governor a full and true report of transactions under this law during the current biennium, including a complete statement of receipts and expenditures during the period. Report to Governor

CHAPTER 668.

Stats 1931, p. 587, amended

An act to amend section 1461 of the Probate Code, relating to guardians of insane or incompetent persons.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p 672.

SECTION 1. Section 1461 of the Probate Code is hereby amended to read as follows:

Petition for appointment

1461. Any relative or friend may file a verified petition alleging that a person is insane or incompetent. Thereupon the clerk shall set the same for hearing by the court and issue a citation directed to said alleged insane or incompetent person setting forth the time and place of hearing so fixed by him. Said citation shall be personally served on the alleged insane or incompetent person in the same manner as provided by law for service of summons at least five days before the time of hearing. Such person, if able to attend, must be produced at the hearing, and if not able to attend by reason of physical inability, such inability must be evidenced by the affidavit and certificate of a duly licensed physician or surgeon, or other duly licensed medical practitioner, unless such alleged insane or incompetent person is a patient at a State hospital in this State in which case the certificate of the medical superintendent or acting medical superintendent of such State hospital, to the effect that such patient is unable to attend, shall be prima facie evidence of that fact.

CHAPTER 669.

An act to amend section 2924½ of the Civil Code relating to mortgages and trust deeds

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 1674

SECTION 1. Section 2924½ of the Civil Code is hereby amended to read as follows:

Deficiency judgment limitations

2924½. No judgment shall be rendered for the balance due upon any obligation which was secured by a deed of trust or mortgage with power of sale upon real property following the exercise of such power of sale, if exercised at any time between the effective date of this act and September 1, 1937, unless it shall affirmatively appear that the notice of breach and election to sell provided for in section 2924 of the Civil Code, pursuant to which such sale was held, was recorded at least one year before the date of such sale. This section shall be effective until September 1, 1938.

SEC. 2. This act is declared to be an emergency measure designed to meet the present unusual economic condition of distress. Emergency measure.

CHAPTER 670.

An act to amend section 10 of the State Medical Practice Act, approved June 2, 1913, as amended, relating to courses of study required of applicants for certification under said act. Stats 1913, p 722, amended

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 10 of the State Medical Practice Act is hereby amended to read as follows: Stats 1929, p 623

Sec. 10. Applicants for any form of certificate shall file satisfactory evidence of having pursued in any legally chartered school or schools, approved by the board, a resident course of instruction covering and including the following minimum requirements: Professional courses of study

FOR A "PHYSICIAN'S AND SURGEON'S CERTIFICATE" Physicians and surgeons

Group 1.				
Anatomy, including embryology and histology	14	to	18½	per cent
Group 2.				
Physiology	4½	to	6	per cent
Group 3.				
Biochemistry	3½	to	4½	per cent
Group 4.				
Pathology, bacteriology and immunology	10	to	13	per cent
Group 5.				
Pharmacology, including materia medica and toxicology	4	to	5	per cent
Group 6.				
Preventive medicine and hygiene	3	to	4	per cent
Group 7.				
General medicine, neurology and psychiatry, pediatrics, dermatology and syphilis	20	to	26½	per cent
Group 8.				
General surgery, orthopedic surgery, urology, ophthalmology, otolaryngology, roentgenology	13	to	17½	per cent
Group 9.				
Obstetrics and gynecology	4	to	5	per cent
Total	76	to	100	per cent
Electives	24		0	per cent
Total number of hours required			4000	hours

Drugless practitioners

FOR A "DRUGLESS PRACTITIONER CERTIFICATE"

Group 1. 600 hours.	
Anatomy	485 hours
Histology	115 hours
Group 2. 270 hours.	
Elementary chemistry and toxicology	70 hours
Physiology	200 hours
Group 3. 235 hours.	
Elementary bacteriology	40 hours
Hygiene	45 hours
Pathology	150 hours
Group 4. 370 hours.	
Diagnosis	370 hours
Group 5. 260 hours.	
Manipulative and mechanical therapy	260 hours
Group 6. 265 hours.	
Gynecology	100 hours
Obstetrics	165 hours
Total	2000 hours

Chiropodists.

FOR A CERTIFICATE TO PRACTICE CHIROPODY

Group 1. 320 hours.	
Anatomy	256 hours
Histology	64 hours
Group 2. 160 hours.	
Chemistry	64 hours
Physiology	96 hours
Group 3. 192 hours.	
Bacteriology	96 hours
Hygiene	32 hours
Pathology	64 hours
Group 4. 224 hours.	
Diagnosis:	
Syphilis	64 hours
Dermatology	96 hours
Physical diagnosis of diseases effecting the feet	64 hours
Group 5. 1040 hours.	
Manipulative and mechanical therapy:	
Didactic and clinical chiropody	704 hours
Orthopedics	208 hours
Surgery	128 hours
Group 6. 64 hours.	
Materia medica and therapeutics	64 hours
Total	2000 hours

provided, that on and after July 1, 1930, the minimum requirements of groups five and six and the total number of hours of instruction of the above schedule "For a certificate to practice chiropody" shall be as follows:

Group 5. 1665 hours.

Manipulative and mechanical therapy:	
Didactic and clinical chiropody	1329 hours
Orthopedics	208 hours
Surgery	128 hours
Group 6. 64 hours.	
Materia medica and therapeutics	64 hours
Total	2625 hours

FOR A CERTIFICATE TO PRACTICE MIDWIFERY

Midwives

Group 1. 150 hours.

Anatomy	75 hours
Physiology	75 hours
Group 2. 265 hours.	
Hygiene and sanitation	100 hours
Obstetrics	165 hours
Total	415 hours

In the course of study herein outlined the hours required shall be actual work in the classroom, laboratory, clinic or hospital, and at least eighty per cent of actual attendance shall be required; provided, that the hours herein required in any subject need not exceed seventy-five per cent of the number specified, but that the total number of hours in all the subjects of each group shall not be less than the total number specified for such group.

Hours

Be it further enacted that an applicant for a "physician's and surgeon's" certificate, whose application is based on a diploma issued to him by a foreign medical school approved by the Board of Medical Examiners of this State (a) must furnish documentary evidence satisfactory to said board that he has completed a resident course of instruction in said approved medical school equivalent to that required in this section for a physician and surgeon applicant and (b) that subsequent thereto said applicant had issued to him a medical diploma and in addition to the requirements hereinbefore mentioned, said applicant (c) must also file documentary evidence satisfactory to the board that he has been admitted or licensed to practice medicine and surgery in the country wherein is located the institution wherein he pursued his medical course of instruction referred to herein and in addition thereto, said applicant (d) must present documentary evidence satisfactory to the board that he has completed either the senior or fourth or final year in an approved medical school in the United States, or, in lieu thereof, said applicant (e) must file evidence satisfactory to the board that he has served at least one year in residence in a hospital located in the United States and approved by the board for interneship.

Foreign medical school.

CHAPTER 671.

An act to amend the Vehicle Code by amending sections 142, 147, 150, 151, 159, 160, 161, 165, 184, 186, 205, 206, 207, 211, 215, 239, 252, 375, 376, 378, 382, and 383; by adding section 234, relating to vehicles.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 672.

Stats. 1913, p. 722, amended.

An act to amend sections 2 and 13 of the State Medical Practice Act, relating to taxes and registration fees, and to reciprocity certificates.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1927, p. 110.

SECTION 1. Section 2 of said act is hereby amended to read as follows:

Organization of board meetings

Sec. 2. The board shall be organized on or before the first Tuesday of September, 1913, by electing from its number a president, vice president, and a secretary who shall also be the treasurer, who shall hold their respective positions during the pleasure of the board. The board shall hold one meeting annually beginning on the third Monday in October in the city of Sacramento and at least two additional meetings annually, one of which shall be held in the city of Los Angeles and the other in the city of San Francisco, with power of adjournment from time to time until its business is concluded; provided, however, that examinations of applications for certificates may, in the discretion of the board, be conducted in any part of the State designated by the board. Special meetings of the board may be held at such time and place as the board may designate. Notice of each regular or special meeting shall be given twice a week for two weeks next preceding each meeting in one daily paper published in the city of San Francisco, one published in the city of Sacramento, and one published in the city of Los Angeles, which notice shall also specify the time and place of holding the examination of applicants. The secretary of the board upon an authorization from the president of the board or the chairman of a committee, may call meetings of any duly appointed committee of the board at a specified time and place and it shall not be necessary to advertise such committee meetings. The board shall receive through its secretary applications for certificates provided to be issued under this act and shall, on or before the first day of January of each year, transmit to the Governor a full report

Examinations.

Notice.

Secretary

Report.

of all its proceedings together with a report of its receipts and disbursements. The board shall, on or before the first day of January of each year, compile and may thereafter publish and sell, a complete directory giving the addresses of all persons within the State of California who hold unrevoked licenses to practice under any medical practice act of the State of California, which license shall in any manner authorize the treatment of human beings for diseases, injuries, deformities, or any other physical or mental conditions. The board is hereby authorized to require said persons to furnish such information as it may deem necessary to enable it to compile the directory. The directory shall contain in addition to the names and addresses of said persons, the names and symbols indicating the title, name or names, school or schools, which such person has attended and from which graduated, the date of issuance of the license, the present residence of said person and a statement of the form of certificate held. The directory shall be prima facie evidence of the right of the person or persons named therein to practice. It shall be the duty of every person holding a license to practice under any medical act of this State, or who may hereafter be so licensed to practice, to report immediately each and every change of residence, giving both the old and the new address. To comply with the provisions of this section relating to the compilation, publication and sale of a directory in addition to the fee required for the filing of any application, or the issuance of any certificate hereinafter provided for, each licentiate granted a certificate under the provisions of this act, or any preceding medical practice act of the State of California, shall, on or before the first day of January of each year, pay to the secretary-treasurer of the board of medical examiners an annual tax and registration fee of two dollars ($2); provided, that each licentiate of the Board of Osteopathic Examiners residing in California shall, on or before the first day of January of each year, pay to the secretary-treasurer of the Board of Osteopathic Examiners an annual tax and registration fee of five dollars ($5); provided further, that each licentiate residing outside the State of California shall, on or before the first day of January of each year, pay to the secretary-treasurer of the Board of Osteopathic Examiners an annual tax and registration fee of two dollars ($2). Receipt or acknowledgment of payment by the secretary-treasurer shall be evidence that the holder and possessor of such certificate is entitled to practice the particular system for which he was granted such certificate for a period of one year from the first day of January; but notwithstanding the possession by any certificate holder of such receipt or acknowledgment of payment, the license or certificate issued to such licentiate to practice any system recognized by this or any preceding medical practice act of the State of California, may, at any time, be forfeited or revoked for a violation of the further provisions and requirements of this act. The failure, neglect and refusal of any person

Directory.

Change of address.

Fees.

Revocation

holding a license or certificate to practice a system under this or any preceding medical practice act of the State of California, to pay said annual tax of two dollars ($2) during the time his or her license remains in force, shall, after a period of sixty days from the first day of January of each year, ipso facto, work a forfeiture of his or her license or certificate, and it shall not be restored except upon the written application therefor, and the payment to the said board of a fee of ten dollars ($10) except that such licentiate who fails, refuses or neglects to pay such annual tax within a period of sixty days after the first day of January of each year shall not be required to submit to an examination for the reissuance of such certificate; provided, that the failure, neglect or refusal of any licentiate of the Board of Osteopathic Examiners to pay said annual tax as hereinbefore provided relating to licentiates of said board during the time his or her license remains in force, shall, after a period of sixty days from the first day of January of each year, ipso facto, work a forfeiture of his or her license or certificate, and it shall not be restored except upon the written application therefor, and the payment to the said Board of Osteopathic Examiners of a fee of twenty dollars ($20), except that such licentiate who fails, refuses or neglects to pay such annual tax within a period of sixty days after the first day of January of each year shall not be required to submit to an examination for the reissuance of such certificate.

Forfeiture

Restoration

Directories

It shall be the duty of the executive officer herein designated as the secretary-treasurer of said board of medical examiners to mail to the last known address of each licentiate who has paid said annual tax a copy of the said directory, and all new issues thereof and copies of all supplements thereto. The receipts of the said annual tax referred to herein shall be paid into the contingent fund of the board of medical examiners of California, and after the expenses of issuing said directories have been paid, in the event that there shall be a surplus of such funds, the board may from time to time, in its discretion, apply said surplus for any other expenses incurred by the board under the provisions of this act; provided, that this act shall not be construed as affecting or limiting the powers or duties of the "Board of Osteopathic Examiners of the State of California" under the "Osteopathic Act" approved November 7, 1922.

Disposition of fees

Osteopathic examiners

Stats 1929, p 1701

SEC. 2. Section 13 of the said act is hereby amended to read as follows:

Licensees of other States Qualifications

Sec. 13. Said board must also issue a certificate to practice a system or mode of treating the sick or afflicted recognized by this act or any preceding practice act in the State of California to any applicant, without any examination, authorizing the holder thereof to practice a system or mode of treating the sick or afflicted in the State of California, upon payment of a registration fee of one hundred dollars, and filing a verified application showing (a) the full name of the applicant; (b)

all institutions at which he has studied and the period of such study and all institutions from which he has graduated; (c) a statement of whatever certificate or certificates to practice a system or mode of treating the sick or afflicted recognized by this act or any preceding medical practice act in the State of California issued to such applicant either by the medical board, or by any other board or officer authorized by the law to issue a certificate entitling such applicant to practice a system or mode for treating the sick or afflicted either in the District of Columbia or in any State or Territory of the United States, together with the date of such certificate or certificates and a description of the same, and if required by the board the certificates themselves, or if such certificate shall have been lost, then a copy thereof, with proof satisfactory to the Board of Medical Examiners of the State of California that the copy is a correct copy and that said certificate or certificates (was) were secured by (issued to) said applicant without fraud or misrepresentation; (d) satisfactory evidence from the applicant and from the board which issued said certificate that the requirements of said board which was legally authorized to issue such certificate permitting such applicant to practice a system or mode of treating the sick and afflicted were not at the time such certificate was issued in any degree or particular less than those required for the issuance of a similar certificate to practice a system or mode of treating the sick and afflicted in the State of California at the date of issuance of such certificate or which may hereafter be required by law and which may be in force at the date of issuance of any such certificate. Such certificate must have been issued to such applicant within a period of ten years immediately preceding the filing of the application herein at the office of the board in the city of Sacramento, State of California, and the requirements from the college from which such applicant may have graduated, and the requirements of the board which was legally authorized to issue such certificate permitting such applicant to practice a system or mode of treating the sick or afflicted shall not have been at the time such certificate was issued, in any degree or particular less than those which were required for the issuance of a similar certificate to practice a system or mode of treating the sick or afflicted in the State of California at the date of the issuance of such certificate, or which may hereafter be required by law and which may be in force at the date of the issuance of any such certificate; (e) satisfactory evidence of good moral character; (f) satisfactory evidence that said applicant has not failed in a written examination given by the board for a similar certificate, as provided in this act or any prior medical practice act of the State of California; (g) such other general information as to his past practice or vocation as may be required by the board The said board shall make such independent investigation of the educational qualifications, the character, ability and standing of the applicant as it may deem proper and necessary and if after such investigation as may

Independent investigation

be deemed necessary by the board of medical examiners of the State of California and any other or further examination or investigation which said board may see fit to make on its own part, it shall be found that the requirements of the board issuing such certificate were, when said certificate was issued, in any degree or particular less than the requirements provided by the law of the State of California at the date of the issuance of such certificate or that the applicant has not been a resident of the State from which the application is based for a period of one year subsequent to the issuance of such certificate he will not be entitled to practice within the State of California without an examination; provided that in lieu of the requirement of a year of residence in the State which issued the certificate used as the basis of application, the applicant may show evidence of two years of licensed practice of his profession in another State. An oral examination shall not be deemed to be of equal merit with a written examination and no certificate shall be issued in the case where a written examination was given in California and an applicant was given an oral examination in another State at the same time. The board is hereby authorized to enter into a contract or contracts of reciprocity with other States wherein the standard of such States is not in any degree or particular less than were the requirements in the State of California in the same year, for the issuance of a certificate to practice a system or mode of treating the sick or afflicted, such certificate to be similar in scope of practice as the certificate issued in the other State. The board of medical examiners shall require an oral examination of an applicant when ten or more years have intervened between the date of the filing of his application with the California board and the date of the certificate issued by a medical examining board or any other board or officer authorized by law to issue a certificate entitling such applicant to practice a system or mode of treating the sick or afflicted either in the District of Columbia or in any State or territory of the United States and used as the basis of said application to the California board. Said applicant must have complied with all the provisions in this section following the letters (a), (b), (c), (d), (e), (f), and (g), and must have been a resident of the State which issued the certificate used as the basis of application for a period of one year prior to date of filing his application in the State of California, and following the date of issuance of the State certificate used as the basis of application hereunder, or in lieu thereof may show evidence of two years of licensed practice of his or her profession in another State, and if the board shall find that the applicant has met all the requirements hereunder, they shall afford him an examination on a day suiting the convenience of the board not more than six months subsequent to the presentation of said application. Said examination shall be oral, practical, and clinical in nature, and full consideration shall be given to the duration and character of the applicant's practice. If after such last mentioned

Oral examination

Reciprocity.

examination it is determined by a majority vote of the said medical examiners conducting said examination, that such applicant is so qualified to practice a system or mode of treating the sick and afflicted within the State of California, and that his reputation and standing in the community in which he has previously practiced is good, and that said applicant has not failed in any written examination given by the board of examiners as provided in this or any prior Medical Practice Acts of the State of California, the said applicant shall be entitled to receive a physician and surgeon certificate. Each applicant on making such application hereunder shall pay to the secretary of the board, a fee of one hundred dollars, which shall be paid to the treasurer of the board, of which sum ninety dollars shall be returned to him should he not receive a certificate hereunder. All certificates issued pursuant to this section shall be marked across the face thereof "reciprocity certificate." Any person granted a "reciprocity certificate" to practice any system or mode for treating the sick or afflicted recognized by this or any preceding medical practice act in this State, such certificates not being of equal scope with the certificates known and designated as the "physician and surgeon certificate," will not be eligible for the "physician and surgeon certificate" as designated in this act without a full and complete compliance with the terms and provisions of sections 9, 10 and 11 hereof; provided, that the Board of Osteopathic Examiners of the State of California, in the event that an applicant files a verified application on a form adopted by said board and based on a reciprocity certificate to practice osteopathy issued under the provisions of the Medical Practice Act of California, may in its discretion admit such applicant to an oral, practical, clinical examination for a physician's and surgeon's certificate in the event that such applicant in said application presents satisfactory proof that he has fulfilled all the requirements of section 10 of the Medical Practice Act for a physician's and surgeon's certificate and in addition has fulfilled all the provisions of this section following the letters (a), (b), (c), (d), (e), (f), and (g). If after such oral, practical, and clinical examination it is determined by the said board of osteopathic examiners, by a majority vote thereof, that such applicant is qualified to practice as a physician and surgeon in the State of California and that his reputation and standing in the community in which he has practiced is good, the said applicant shall be granted a "physician and surgeon certificate." The fee for filing such application shall be twenty-five dollars, fifteen dollars to be returned to the applicant in the event a certificate is not issued under the provisions hereof.

Fee.

Reciprocity certificates

Osteopaths

CHAPTER 673.

An act to amend sections 4041.8 and 4041.18 of the Political Code, relating to jurisdiction and powers of boards of supervisors.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1929, p. 1454.

SECTION 1. Section 4041.8 of the Political Code is hereby amended to read as follows:

Tree planting

4041.8. (1) Under such limitations and restrictions as are prescribed by law, and in addition to jurisdiction and powers otherwise conferred, the boards of supervisors, in their respective counties, shall have the jurisdiction and powers to plant shade and ornamental trees on or about the public grounds and buildings of the county and providing for the care of the same. The cost of the planting and caring for such trees is to be paid for out of the county general fund.

(2) To encourage, under such regulations as they may adopt, the planting and preservation of shade and ornamental trees on and about the public grounds and buildings of the county, and pay to persons planting and cultivating the same, for every living tree thus planted, at the age of four years, a sum not exceeding one dollar.

Stats. 1931, p. 150.

SEC. 2. Section 4041.18 of the Political Code is hereby amended to read as follows:

Buildings.

4041.18. (1) Under such limitations and restrictions as are prescribed by law, and in addition to jurisdiction and powers otherwise conferred, the board of supervisors, in their respective counties, shall have the jurisdiction and powers to construct or lease, build or rebuild, furnish or refurnish or repair hospital and almshouse, courthouse, jail, historical museum, aquarium, county free library building, branch library building, art gallery, art institute, exposition building or buildings for exhibiting and advertising farming, mining, manufacturing, live stock raising, and other resources of the county, stadium and such other public buildings as may be necessary to carry out the work of the county government, and to provide all necessary officers, employees, attendants, and supplies for the proper maintenance of the same; provided, with respect to county free libraries that are now or may be hereafter maintained either under the provisions of this section or under the provisions of an act of the Legislature of the State of California entitled "An act to provide for the establishment and the maintenance of county free libraries," approved February 16, 1911, the provisions of said act shall control except as to section 12 thereof and said libraries shall be maintained under either the provisions of this section or said section 12 at the option of the board of supervisors. Whenever the cost of construction of any wharf, chute, or other shipping facilities, or of any hospital, almshouse, courthouse, jail, historical

County free libraries.

Stats. 1911, p. 80.

Construction in excess of $500.

museum, aquarium, county free library building, branch library building, art gallery, art institute, exposition building or buildings, stadium or other public buildings, or the cost of any repairs thereto or furnishing thereof shall exceed the sum of five hundred dollars, such work shall be done by contract, and any contract therefor shall be void unless the same shall be let as hereinafter provided. The board of supervisors shall adopt plans and specifications, strain sheets and working details therefor, and must advertise for bids for the performance of the said work in a newspaper of general circulation published in the county. Such advertisement shall be published for at least ten consecutive times in a daily newspaper of general circulation published in the county or for at least two consecutive times in a weekly newspaper published in the county. In case there is no newspaper published in said county, then such notice shall be given by posting in three public places for at least two weeks. All bidders shall be afforded opportunity to examine such plans and specifications, strain sheets and working details, and said board shall award the contract to the lowest responsible bidder, and the person, firm or corporation to whom the contract shall be awarded must perform the work in accordance with the said plans and specifications, strain sheets and working details, unless the same be modified by a four-fifths vote of the members of the board of supervisors; and in every such case if the cost of the work be reduced by reason of the modification, compensation must be made to the county therefor, and the person, firm or corporation, to whom the contract shall be awarded must execute a bond to be approved by the said board for the faithful performance of such contract; provided, that for the construction of any wharf, chute, or other shipping facilities, or any repairs thereto if the board of supervisors shall be advised by the county surveyor or engineer that the work can be done for a sum less than the lowest responsible bid, it shall then be their privilege to reject all bids and to order the work done or structure built by day's work, under the supervision and direction of the said surveyor or engineer; provided, that in case of great emergency, by the unanimous consent of the whole board, they may proceed at once to replace or repair any and all structures without adopting the plans and specifications, strain sheets, or working details or gving notice for bids to let contract; the work to be done by day labor under the direction of the board, or by contract, or by a combination of the two; if wholly or in part by contract, the contractor to be paid the actual cost of material and labor expended by him in doing the work, plus not more than fifteen per cent to cover all profits, supervision, use of machinery, and tools, and other expenses; provided, that no more than the lowest current market prices shall be paid for materials; provided, however, that in counties employing a purchasing agent, furnishings, materials and supplies used in the work mentioned in this subdivision costing not more than two thousand dollars, may be purchased by said purchasing agent

Bids

Award.

Rejection of bids.

Emergency.

Purchasing agent.

in accordance with the provisions of section 4041.13 of this code without the formality of obtaining bids, letting contracts, preparing specifications and doing the other things required by this section for purchases costing more than five hundred dollars.

Machinery. (2) To purchase, acquire, construct, equip and maintain all necessary tanks, reservoirs, pumps, apparatus, motor vehicles and other machinery necessary or proper to facilitate the performance of the work in the county.

CHAPTER 674.

Stats 1933, p 394. *An act to amend section 459 of the Fish and Game Code, as added by Chapter 374, Statutes of 1933, and to renumber said section to be section 460, relating to the transportation of fish and game into this State.*

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 440 SECTION 1. Section 459 of the Fish and Game Code, as added by Chapter 374, Statutes of 1933, is hereby renumbered to be section 460, and amended to read as follows:

Importation of game 460. Birds, mammals, fish, mollusks and crustaceans, legally taken outside of this State, may be brought into this State under a written permit issued by the commission.

The commission may also allow the bringing in of such birds, mammals, fish, mollusks and crustaceans, without such written permit if a record is made at the time of entry with the nearest justice of the peace or notary public, or with any State or Federal agency designated by the commission

Such record shall be in a form prescribed by the commission. One copy of the record shall be carried by the person bringing in such birds, mammals, fish, mollusks and crustaceans, while the same are in his possession; one copy left on file with the person or agency before whom such record is made, and one copy sent to the commission.

Common carriers The provisions of this section shall not apply to a shipment handled by a common carrier under a bill of lading nor to supplies carried into this State in the dining cars of common carriers for service to the patrons of such cars.

CHAPTER 675.

"California Unemployment Relief Act of 1935" *An act relating to the relief of hardship and destitution due to and caused by unemployment, setting forth the powers and duties of the relief commission and the relief administrator and making an appropriation for the purposes*

thereof and providing for the expenditure of unexpended balances heretofore appropriated for such purposes, setting forth certain acts to be misdemeanors and providing for the punishment and penalties therefor.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. There is hereby appropriated out of the general fund of the State not otherwise appropriated, the sum of twenty-four million dollars to be expended during the eighty-eighth fiscal year to carry into effect the purposes of this act, the same to be paid by the State Treasurer upon warrants drawn by the State Controller. Appropriation.

SEC. 2. The unexpended balance of any other appropriation heretofore made for the relief of hardship and destitution due to and caused by unemployment shall be expended pursuant to the provisions of this act. Unexpended balance of other appropriation.

SEC. 3. The Relief Administrator, under the guidance of the Relief Commission, is hereby authorized and empowered to expend the money hereby appropriated and that which may otherwise be made available for the purposes and in the manner provided for in this act, subject, however, to the limitations herein provided and the limitations provided in section 10, Article XVI of the Constitution. Such expenditure may be made either directly or through such governmental agencies as he may select and deem necessary. All such money shall be expended for relief of hardship and destitution due to and caused by unemployment, as provided herein and as in section 10 of Article XVI of the Constitution; and such purposes shall be deemed to include, and such money may be expended by the Relief Administrator for the following uses and purposes: Expenditure of funds.

(a) For materials, equipment, tools, supervision, transportation and general administration for work relief projects approved by the Relief Administrator for which relief or security wages are furnished or paid by the Federal or State governments; provided, that materials, equipment, tools, supervision, transportation and general administration may be purchased for or furnished to work relief projects when not supplied by the Federal government or any governmental department or agency of the State or by any political subdivision or district thereof or by any municipality in the State. Purposes

(b) For home or direct relief, including money, food, housing, clothing, fuel, light, water, medicines, medical and other treatment, medical or corrective appliances, nursing, and such other care, services, household equipment and commodities as he shall determine to be reasonable or necessary for such persons or their dependents.

(c) For rural relief and rehabilitation, including the establishment and operation of relief camps and relief for migratory workers

(d) For the establishment and operation of such relief camps as may be reasonably necessary.

(e) For aid to self-help cooperative organizations and associations when, in his opinion, such expenditure will aid in the relief of hardship and destitution due to and caused by unemployment. For the purposes specified in this section, he may extend such aid, either in money or goods, as he shall deem most effective to accomplish such purposes.

(f) For the payment of relief or security wages for work on public relief projects at rates fixed by the Relief Commission in conformity with rates established under the provisions of the Federal "Emergency Relief Appropriation Act of 1935." Public work relief projects may be sponsored or supervised by any agency or department of the State including the Relief Administrator, or by any political subdivision, municipality, district or governmental agency therein.

(g) For construction, reconstruction, replacement and/or repair of public buildings and public works, and for such purpose may spend such funds, either for material or labor as hereinabove set forth, or for both, as he shall determine.

(h) For all costs of administration, including compensation insurance.

Persons not entitled to relief.

SEC. 4. No person shall be entitled to relief under this act who refuses to accept employment other than relief work when the same is available unless the Relief Administrator or his duly authorized agent shall certify in writing to the Relief Commission that, in the opinion of such Relief Administrator or his duly authorized agent, such person was justified in refusing to accept such employment.

Safety regulations

SEC. 5. The Relief Commission may establish and the Relief Administrator may enforce safety regulations governing safety conditions of work on work relief projects. Such regulations shall have the same legal force and effect as safety regulations issued by the Industrial Accident Commission governing employment and work conditions and violations thereof.

Violation of safety rules

SEC. 6. Any person supervising services of relief workers or any person directing or supervising any work performed by relief workers under the provisions of this act, who knowingly or negligently permits or requires any relief worker to perform work at a location or on a project where the work is being performed in a manner or under conditions contrary to the safety rules of the Industrial Accident Commission, or the Relief Administrator, or who hinders or obstructs any officer or authorized inspector attempting to inspect the location or work being performed, or who destroys or defaces or removes any notice posted thereon by any such officer or inspector, or who permits the use of any machine, vehicle, tool, appliance, contrivance, structure, structural appurtenance or other thing after it has been declared unsafe or unhealthy by the Indus-

trial Accident Commission or the Relief Administrator, or who fails to remove workmen and keep them removed from a location declared unsafe or unhealthy by an officer or authorized inspector of the Industrial Accident Commission or Relief Administrator unless otherwise ordered by such officer or inspector, shall be guilty of a misdemeanor.

Misappropriation of relief commodities

SEC. 7. Any relief recipient to whom any goods, wares, merchandise or commodities are furnished or supplied under the provisions of this act who sells, disposes, exchanges or otherwise misappropriates the same or any part thereof contrary to the conditions under which said goods, wares, merchandise or commodities were furnished or supplied shall be deemed guilty of a misdemeanor and shall be punishable by imprisonment in a county jail not exceeding one year or by a fine of not exceeding one thousand dollars or by both fine and imprisonment in the discretion of the court. Any person who, knowingly, assists such relief recipient to sell, dispose of or otherwise misappropriate goods, wares, merchandise or commodities furnished under this act shall be guilty of a misdemeanor and shall be punishable by imprisonment in a county jail not exceeding one year or by a fine not exceeding one thousand dollars or by both fine and imprisonment in the discretion of the court.

Relief Commission rules

SEC. 8. The Relief Commission shall establish rules and regulations relating to eligibility for aid under this act, investigation of relief applications, assignment of applicants to work relief projects, removal of applicants from work relief projects, amounts of aid to be granted, eligibility, approval and operation of work relief projects, preparation of estimates, costs, plans and specifications for work relief projects, operation of relief and rehabilitation camps, and provide for any and all other matters or things necessary or convenient to carry out the objects and purposes of this act. The provisions of Chapter 417, Statutes of 1915, or the provisions of Chapter 398, Statutes of 1931, shall not apply to the employment of persons upon work relief projects under the provisions of this act.

Force account costs and work details

SEC. 9. Work relief may be conducted by force account as set forth in section 3, subdivision (f) hereof without regard to the total cost of relief labor on any public work relief project or the total cost of such project. Such reports of the costs and details of work relief projects shall be kept by the Administrator as are prescribed by the Relief Commission.

Powers of commission and administrator

SEC. 10. The Relief Commission and the Relief Administrator, respectively, shall have and exercise the powers conferred upon them, respectively, by section 10, Article XVI of the Constitution.

Employees

SEC. 11. The Relief Administrator is authorized and empowered to employ such number of assistants and persons as he shall deem necessary to aid and assist in carrying out the purposes of this act and to fix the salaries and compensation of such assistants and employees. None of such assistants or persons thus employed shall be subject to civil service, except

as provided in subdivision (h) of section 10 of Article XVI of the Constitution.

County citizens' relief committees.

SEC. 12. For the purpose of assisting the administration and in carrying out the purposes hereof and the policies and plans determined by the Relief Commission, the Relief Administrator may, with the consent and approval of the commission, appoint in each county and city and county a citizens' relief committee of such number, not exceeding eleven, as the commission shall determine. The members of such committee shall serve without pay. The relief committee in each county and city and county shall have and exercise such powers and duties as may be prescribed by law and/or as may be prescribed by said commission.

Unemployment survey

SEC. 13. The Relief Administrator is authorized to make, with such aid as may be available, a thorough and comprehensive study and survey of unemployment within the State, the occupations, industries and trades most seriously affected thereby and the number of persons suffering or in want by reason thereof or for other causes, and shall ascertain the citizenship of such persons, their time of residence within the State of California, their place of residence next prior to coming to California, and may also ascertain the extent and nature of public work required or useful to be done by the State or any political subdivision or municipality thereof. The Relief Administrator shall maintain an adequate division of research and statistics and keep full records of the administration of relief under this act.

Expenditure of Federal funds.

SEC. 14. The Relief Commission and the Relief Administrator are authorized to receive and to expend such funds as are made available to them or either of them or to the State of California by the Federal government or any agency or department or board thereof for relief, work relief or rehabilitation or cooperation with the Federal government for the relief of hardship and destitution due to and caused by unemployment, and all such funds made available to the State or to the Relief Commission or Relief Adminstrator shall be expended in accordance with the rules and regulations of the Federal government or the rules and regulations of the appropriate agency, department or board thereof, and in the manner therein prescribed and for all of the uses, purposes and intents authorized, directed, or specified by said rules and regulations.

Administrator and commission as Federal agents

SEC. 15. The Relief Administrator and the Relief Commission or either of them may act as agents or agent of the Federal government in the expenditure of any moneys made available by the Federal government for relief, work relief or rehabilitation.

Validity

SEC. 16. If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Definitions

SEC. 17. Wherever the words "Relief Administrator" or "Relief Commission" are used herein, they shall refer to the

office of Relief Administrator and the Relief Commission created in and by section 10, Article XVI of the Constitution.

SEC. 18. This act shall be known and may be cited as the "California Unemployment Relief Act of 1935." Short title

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CHAPTER 676.

An act to amend section 994 of and to add sections 995, 996, 997 and 998 to the Agricultural Code, relating to capri figs and their diseases, the elimination of fig endosepsis, and authorizing boards of supervisors to accept donations for the enforcement of the provisions of said sections. Stats 1933, p 60

[Approved by the Governor July 16, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 994 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p 229.

994. The commissioner shall be the enforcing officer of the provisions of this chapter. All enforcing officers under this chapter may enter any place where capri figs are produced, packed, stored, shipped, delivered for shipment, or sold, and inspect the same, and seize and hold for evidence any capri figs packed, shipped, delivered for shipment, or sold in violation of any of the provisions of this chapter, and prosecute actions for violation of the provisions hereof. Enforcement.

SEC. 2. A new section is hereby added to the Agricultural Code to be numbered 995 and to read as follows: New section

995. Capri fig trees unless properly controlled and regulated under supervision constitute a menace because they are a source of infection and pests, and capri figs unless properly treated contribute to, and are responsible for the transmission of endosepsis and other plant diseases by the blastophaga therein. In the interest of the public welfare and general prosperity of the State and to provide for the control, eradication, elimination and prevention of endosepsis and other plant diseases, all capri fig trees used for shade, ornamental or decorative purposes, and all capri fig trees in or associated with a fig orchard or orchards producing Calimyrna or other Smyrna type figs aggregating in number more than one and one-half per centum of the fig trees therein, are hereby declared a public nuisance; provided, that every grower of Calimyrna or other Smyrna type fig shall be entitled to maintain at least one capri fig tree in connection with his planting. Declaration of policy

The commissioner shall notify the owner of such tree or trees declared by this section to be a public nuisance to graft or destroy the same within a time specified in the notice, and upon failure of the owner so to do within the time specified in the notice, shall cause the grafting or destruction of such tree or trees in a summary manner and at the expense of the Notice Treatment and destruction of trees.

owner. Instructions by the commissioner for application of methods best designed to accomplish the purposes of the notice by the owner may be furnished to such owners at the time of serving the notice.

New section.

SEC. 3. A new section is hereby added to said act to be numbered 996 and to read as follows:

Prevention and elimination of endosepsis

996. Every person who owns, raises, uses, packs, ships, or delivers for shipment or sells any capri figs of the mamme crop for use within the county, shall cause same to be treated by a method approved by the commissioner for the prevention or elimination of endosepsis or the transmission of endosepsis by the blastophaga therein, and when same are to be shipped or used without the county, such person shall notify the commissioner of the county within which same are to be used of such shipment, the nature thereof and the name and residence of the consignee, whereupon such commissioner shall cause such consignee to properly treat such figs for the prevention or elimination of endosepsis before using. Every person violating the requirements of this provision shall be guilty of a misdemeanor.

New section

SEC. 4. A new section is hereby added to said act to be numbered 997 and to read as follows:

Misdemeanor

997. Every person who wilfully or otherwise interferes with the enforcement of the provisions of this chapter is guilty of a misdemeanor.

New section.

SEC. 5. A new section is hereby added to said act to be numbered 998 and to read as follows:

Authority to accept donations.

998. The board of supervisors of any county may receive and except on behalf of the county, contributions or donations of money from individuals, firms, corporations, associations, departments, divisions, bureaus, boards or commissions of this State or of the United States for the purpose of enforcing the provisions of this chapter. All money so received shall be credited to the budget of the commissioner and shall be expended solely for such enforcement

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CHAPTER 677

"The California Marketing Agreement Act of 1935."

An act to establish legislative standards in relation to the rehabilitation of agriculture and the regulation of producers, packers, distributors, shippers, marketers, handlers, processors and others dealing in agricultural, viticultural, horticultural, and poultry products and of any competing commodity or product thereof; to provide for the issuance, administration and enforcement of State marketing agreements and State licenses: to prescribe the powers, duties and jurisdiction of the State Director of Agriculture in relation thereto; to suspend all antitrust and unfair competition laws of this State in conflict herewith and therewith; to prescribe remedies, rights, duties and penalties

with respect to violations hereof and thereof; to provide ways, means and moneys for the administration and enforcement of said State marketing agreements and licenses; to limit the effective period of this act; to declare the existence of a State and National agricultural emergency.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. It is hereby declared that a State and National emergency productive of widespread agricultural collapse and disorganization of trade and industry now exists, vitally affecting the public welfare of this State and Nation, and preventing agricultural producers from earning a fair return on their labor and farms and thereby preventing them from contributing their fair share to the support of ordinary governmental and educational functions and unduly increasing tax burdens of others in the State for those purposes. It is hereby declared to be the policy of this State to cooperate with and assist the National government in promoting the rehabilitation of agriculture and in eliminating the causes of the collapse of agricultural purchasing power, and to that end: Declaration of emergency.

(1) To provide for the formulation and enforcement of marketing agreements between the director of agriculture of this State and the producers, packers, processors, distributors, shippers, handlers, or marketers of agricultural products or the products thereof within the State, and the issuance by the Director of Agriculture of licenses covering the production, processing, handling, packing, shipping, distribution or marketing of agricultural products or the products thereof within the State.

(2) To prevent the unreasonable and unnecessary waste of agricultural wealth through disorderly, improper or uneconomic marketing or overproduction of agricultural commodities or the marketing of agricultural commodities in excess of reasonable market demands, but preserving to all producers thereof, equality of opportunity in the available market;

(3) To declare that the conditions in the basic industry of agriculture have affected transactions in these commodities within the State of California with a public interest, having so burdened and obstructed the normal current of commerce in such commodities as to effect seriously the credit structure of the State.

SEC. 2. It is hereby declared to be the purpose of this legislation and the Legislature hereby fixes the legislative or primary standards hereof to govern and control all executive or administrative officers in relation thereto: Legislative or primary standards.

(1) To establish and maintain such balance between the production and consumption of agricultural commodities and the marketing conditions therefor, as will reestablish prices to farmers and growers at a level that will give agricultural

commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities during the period of August, 1909–July, 1914, except for the grape industry the period shall be August, 1919–July, 1926.

(2) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic markets.

(3) To prevent the unreasonable or unnecessary waste of agricultural wealth because of overproduction, improper preparation for market, disorderly marketing, unfair methods of competition, improper economic planning, the breaking down of the ordinary channels of distribution, or other causes beyond the reasonable control of the producers.

(4) To provide for equal opportunities to all growers and producers in the available markets.

(5) To protect the consumers' interests by readjusting farm production at such levels as will not increase the percentage of the consumers' retail expenditures for agricultural commodities or products derived therefrom which is returned to the farmer, above the percentage which was returned to the farmer in the prewar period, August, 1909–July, 1914.

(6) To enable and assist farmers, growers and producers to obtain a fair and reasonable return on their labors, and farms, and for their products produced.

Definitions.

SEC. 3. When used in this act the following terms shall, unless the context otherwise indicates, have the following respective meanings:

(1) The words "agriculture," "agricultural commodity" or "agricultural industry" shall also include horticultural or viticultural commodities or industries, and the products of the poultry industry; but shall not include cattle, sheep, hogs, melons, cantaloupe, lettuce or grapefruit.

Stats 1907, p. 984.

(2) The words "Cartwright Act" shall mean the act passed by the Legislature of this State entitled: "An act to define trust and to provide for criminal penalties and civil damages and punishment of corporations, persons, firms and associations, or persons connected with them and to promote free competition in commerce and all classes of business in this State," approved March 23, 1907, as amended.

Stats. 1913, p 508.

(3) The words "Unfair Competition Act" shall mean an act passed by the Legislature of this State entitled: "An act relating to unfair competition and discrimination, making certain unfair and discriminatory practices unlawful, defining the duties of the Attorney General in regard thereto, declaring certain contracts illegal and forbidding recovery thereon, providing for actions to enjoin unfair competition and discrimination and to recover damages therefor, making the violation of the provisions of this act a misdemeanor and providing penalties," approved June 10, 1913, as amended.

(4) The words "Fair Trade Act" shall mean the act passed by the Legislature of this State entitled: "An act to protect trade-mark owners, distributors and public against injurious and uneconomic practices in the distribution of article of standard quality under a distinguished trade-mark, brand or name," approved May 8, 1931, as amended. Stats 1931, p. 583.

(5) The word "producer" shall mean any person, firm or corporation engaged within this State in the production for market of any agricultural commodity.

(6) The word "processor" shall mean any person, firm or corporation engaged within this State in preparing any agricultural commodity for market, or manufacturing therefrom, or from products thereof, other products, in such manner as to effect a substantial change in the form of such commodity, and shall include "packers."

(7) The word "distributor" shall mean any person, firm or corporation, other than a producer or a processor, engaged within this State in marketing or distributing at wholesale any agricultural commodity, and shall include "shippers," "handlers" and "marketers."

(8) The words "Agricultural Prorate Act" shall mean the act passed by the Legislature of this State entitled: "An act to conserve the agricultural wealth of the State of California, and to prevent economic waste in the marketing of agricultural crops produced in the State of California, and in that behalf creating an Agricultural Prorate Commission; providing for the appointment of members of said commission, fixing the term of office of the members of said commission; prescribing the powers, duties and authority of said commission and the members thereof; providing for the institution of proration programs with respect to agricultural crops; providing for the enforcement of such programs; providing penalties for violation of such programs; providing for the creation of funds for the purposes of said act and providing for the collection thereof; and making an appropriation therefor," as approved June 5, 1933. Stats 1933, p 1969.

SEC. 4. In order to carry out the purposes of this act it shall be lawful for any persons, or members of one or more agricultural associations, corporations or groups, to meet, confer and agree upon marketing agreements for any particular branch of the agricultural industry, or for any agricultural products or commodity or product thereof, but no marketing agreement adopted under this section shall be subject to the penalties or provisions of this act other than this section unless and until approved by the State Director of Agriculture under, subject to and in the manner prescribed in section 4a hereof. Marketing agreements.

SEC. 4a. In order to carry out the purposes of this act it shall be lawful for the State Director of Agriculture, and it shall be his duty, to carry out the policy hereof and under the standards herein set forth to determine what conditions in intrastate transactions and commerce within this State in the Powers and duties of Director of Agriculture

Same.

producing, marketing, processing, packing, shipping, handling, or distributing of agricultural products or commodities or products thereof, or any competing products or commodities or product thereof, will tend to carry out the purposes of this act and to that end said director shall have power, after reasonable notice or opportunity for hearing:

(a) To enter into marketing agreements with producers, processors, or distributors engaged in intrastate transactions or commerce within this State, provided:

1. That each such agreement shall embrace only persons, firms or corporations engaged as producers, processors, or distributors in a specific and naturally, inherently and intrinsically distinctive agricultural trade or industry within this State or within a defined area thereof; and

2. That each such agreement, if embracing or affecting producers, is assented to in writing by producers constituting at least seventy-five per cent (75%) of the number of producers engaged in the production of such commodity within the State, or within the defined area thereof covered by such marketing agreement, for the preceding season, and also representing at least seventy-five per cent (75%) in volume of the business done in the production of such commodity within the State, or within the defined area thereof covered by such marketing agreement, for the preceding season; and, if embracing processors, is assented to in writing by processors constituting at least seventy-five per cent (75%) of the number of processors engaged in the processing of such commodity within the State, or within the defined area thereof covered by such marketing agreement, for the preceding season, and also representing at least seventy-five per cent (75%) in volume of the business done in the processing of such commodity within the State, or within the defined area thereof covered by such marketing agreement, for the preceding season; and, if embracing distributors, is assented to in writing by distributors constituting at least seventy-five per cent (75%) of the number of distributors engaged in the distributing of such commodity within the State, or within the defined area thereof covered by such marketing agreement, for the preceding season, and also representing at least seventy-five per cent (75%) in volume of the business done in the distributing of such commodity within the State, or within the defined area thereof covered by such marketing agreement, for the preceding season.

Any nonprofit agricultural cooperative marketing association existing under the provisions of the Agricultural Code may assent to any such agreement for and on behalf of its members as producers, when specifically authorized by its members, in a separate document, to so assent.

Subject to the foregoing limitations, any marketing agreement may embrace producers only, or processors only, or distributors only, or may embrace any two or three of such classes, provided, that unless the producers of an agricultural

commodity covered by a marketing agreement give their assent as provided in this section, the Director of Agriculture shall not enter into a marketing agreement with processors or distributors of an agricultural commodity where such agreement embraces or affects the producers thereof. Same.

(b) To license and issue licenses to producers, processors, or distributors engaged in intrastate transactions or commerce within this State, provided:

1. That no license shall be issued to or shall apply to producers, processors, or distributors unless a marketing agreement embracing such producers, processors, or distributors has been entered into in accordance with the provisions of this act.

2. That each license issued hereunder shall contain all substantive provisions of its corresponding marketing agreement and shall contain no provision, prohibition, or restriction unless the same is contained in a marketing agreement which has been entered into in accordance with the provisions of this act and which embraces the producers, processors, or distributors to whom such license is issued:

3. That whenever any member of any class of producers, processors, or distributors is licensed hereunder, an identical license shall be issued to all members of the same class of producers, processors, or distributors;

4. That upon the issuance of any license or any amendment thereof a notice of said license shall be posted on a public bulletin board to be maintained by the Director of Agriculture in his office and a copy of such notice shall be published in a newspaper of general circulation published in the capital of the State and in such other paper or papers as the Director of Agriculture may prescribe. No license nor any amendment thereof shall become effective until five days after such posting and publication. It shall also be the duty of the director to mail a copy of the notice of said license to all known licensees whose names and addresses may be on file in the office of the director and to every person who files in the office of the director a written request for such notice;

5. That upon the written request of producers, processors, or distributors of any agricultural commodity constituting at least fifty per cent (50%) of the number of producers, processors, or distributors, respectively, engaged in producing, processing, or distributing said commodity within the State, or within the defined area thereof covered by such marketing agreement, during the preceding season, and representing at least fifty per cent (50%) in volume of the business done within this State, or within the defined area thereof covered by such marketing agreement, in the producing, processing, or distributing of such commodity for the preceding season, the director shall rescind any license issued hereunder and terminate any marketing agreement entered into hereunder embracing such class of producers, processors, or distributors,

and thereupon such license and marketing agreement shall cease to be of any force or effect.

(4) The Director of Agriculture may adopt and enforce all rules, regulations, and orders necessary or desirable to carry out the provisions of this act and not inconsistent with law. Every general rule, regulation or order of the director shall be posted for public inspection in the main office of the director and in the office of the Secretary of State at least three days before it shall become effective, and shall be given such further publicity, by advertisement in a newspaper of general circulation in the territory affected by the issuance of such rule, regulation or order, or otherwise as the director shall deem advisable. An order applying only to a person or persons named therein shall be served on the person or persons affected; (a) by personal delivery of a certified copy, or (b) by mailing a certified copy in a sealed envelope with postage prepaid, to each natural person, or in the case of a corporation, in like manner to any officer or agent thereof. The complying with these provisions shall constitute due and sufficient notice to all persons affected by such rule or order.

Violations.

SEC. 5. (a) Every person who

(1) Violates any provision of this act other than section 10 hereof; or

(2) Violates any provision of any State license or order, rule or regulation duly made or promulgated thereunder to which he is subject or who after due revocation of his State license or while the same stands duly suspended engages in transactions mentioned therein and regulated thereby, shall be guilty of a misdemeanor and on conviction thereof punished by a fine of not less than fifty dollars or more than five hundred dollars, or by imprisonment of not less than ten days or more than six months, or by both such fine and imprisonment.

(b) Each day any of the violation above referred to shall continue shall constitute a separate offense.

(c) Any person wilfully exceeding any quota or allotment fixed for him by or under a license issued by the Director of Agriculture, and any other person knowingly participating, or aiding, in the exceeding of said quota or allotment, shall become civilly liable to the State a sum equal to three times the current market value of such excess, which sum shall be recoverable in a civil suit brought in the name of the State.

Duty of Attorney General and district attorneys

SEC. 6. (1) The Attorney General of this State or any district attorney of this State, may upon his own initiative and shall upon complaint of any person if after investigation he believes a violation to have occurred, bring an action in the name of the people of this State in the superior court of the State of California for an injunction against any person

(a) Violating any provision of this act other than section 10 hereof; or

(b) Violating any provisions of any State marketing agreement or State license or order, rule or regulation duly made or promulgated thereunder to which he is subject or who after

due revocation of his State license or while the same stands duly suspended engages in transactions mentioned therein and regulated thereby.

(2) Any board, committee, or administrative authority under any State marketing agreement or license may in like manner bring a like action against any such person as to any of such offenses as affect the particular trade or industry subject to the terms of the State marketing agreement or license under which such board, committee or administrative authority was created.

(3) Upon compliance with section 527 of the Code of Civil Procedure of the State of California, the court may issue a temporary restraining order and preliminary injunction as in other actions for injunctive relief and upon the trial of such action if judgment be in favor of plaintiff the court shall permanently enjoin defendant from further violations.

(4) Such action may be commenced either in the county where any defendant resides, or where any act or omission or part thereof complained of occured.

(5) In any action brought to enforce any of the provisions of this act the judgment, if in favor of the plaintiff, shall provide that the defendant pay all costs of suit.

Nature of penalties and remedies.

SEC. 7. The penalties and remedies herein prescribed with regard to any violation mentioned in section 6 hereof, shall be concurrent and alternative and neither singly nor combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal or administrative rights, remedies, forfeitures or penalties provided or allowed by law with respect to any such violation.

Defense to proceedings under other acts.

SEC. 8. In any civil or criminal action or proceeding for violation of the Cartwright Act, or the Unfair Competition Act, or the Fair Trade Act, or of section 1673 of the Civil Code, proof that the act complained of was done in compliance with the provisions of any marketing agreement, license, order, rule or regulation in effect, under the terms of this act, to which the defendant was subject at the time of the doing of the act shall be a complete defense to such action or proceeding.

Suspension or revocation of license

SEC. 9. The Director of Agriculture may, after reasonable notice and opportunity to be heard, revoke or suspend the license of any person issued hereunder for violation of such license or any provision hereof.

Fees.

SEC. 10. (1) In all marketing agreements executed by or any license issued by the director, provision shall be made therein for the levying and collection of an assessment or fee upon the signatories to such marketing agreement or upon the members of the industry for which said license has been issued in order to raise the sum or sums necessary to carry on the performance and execute the duties of said director and all other persons under such marketing agreement or license.

(2) Any such assessment or fee duly fixed and levied pursuant to any such marketing agreement or license, shall constitute a personal debt of every person so assessed and shall

be immediately due and payable to the administrative authority charged with the collection thereof and the latter may in its own name bring an action in a State court of competent jurisdiction for the collection thereof.

Disposition of funds.

(3) Any funds collected by the board, committee, commission or administrative authority from the levying of such fees and assessments shall be used for the purposes set forth in the marketing agreement or license under which collected. A full and complete record thereof shall be kept to which the director may have access at any time, and a report of the activities and proceedings shall be filed with the director in December of each year.

Report.

Contents of marketing agreement.

SEC. 11. (1) Any marketing agreement entered into hereunder shall contain provisions requiring producers, processors, or distributors subject thereto to maintain books and records reflecting their operations under said marketing agreement, and to furnish to the State Director of Agriculture, or his duly authorized representatives, such information as may be requested by them relating to operations under said marketing agreement and to permit the inspection by said director or his duly authorized agents or any officer, employee, board, commission, or committee provided for in any such marketing agreement, of such portions of such books and records as relate to operations under said marketing agreement.

Confidential information.

(2) Information obtained by any person hereunder shall be confidential and shall not be by him disclosed to any other person save to a person with like right to obtain the same or any attorney employed by such person, board, commission or committee to give legal advice thereon, or by court order.

Hearings

(3) For the purpose of carrying out the terms of this act the director may hold hearings, take testimony, administer oaths, subpena witnesses and issue subpenas for the production of books, records or documents of any kind.

(4) No person shall be excused from attending and testifying or from producing documentary evidence before the director in obedience to the subpena of the director on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may be so required to testify, or produce evidence, documentary or otherwise, before the director in obedience to a subpena issued by him; provided, that no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Common carriers.

(5) Nothing in this act contained shall apply to common carriers subject to the California Railroad Commission or the Interstate Commerce Commission.

Discretionary powers of director.

SEC. 12. (1) The director is hereby empowered in his discretion:

(a) To confer and cooperate with the legally constituted authorities of other States and of the United States, in order to secure uniformity in the administration of Federal and State marketing agreements and licenses and in the regulations thereby prescribed, and said Director of Agriculture shall have power to conduct joint hearings and issue joint or concurrent orders for the foregoing purposes, and may exercise his powers under this act to effect such uniformity of administration and regulation.

(b) To receive from any source money or other value for services rendered, or as a gift, for use in work within or to carry out the purposes hereof.

(c) To use, and to permit the boards, committees or administrative authorities established under any marketing agreement or license issued pursuant hereto to use, upon such conditions as he shall prescribe the various employees or officers of the State Department of Agriculture in carrying out the provisions hereof or of any marketing agreement or license issued hereunder.

(2) Every officer and employee of every board, commission, committee or administrative authority established under any State marketing agreement or license, shall have the power to carry out and enforce the provisions of this act, the provisions of every State license, and of every rule, regulation, or order duly made under either thereof.

Filing fee

SEC. 13. (1) Every State marketing agreement submitted to the State Director of Agriculture for approval shall be accompanied by a filing fee of one hundred dollars. Said director shall submit his expenses in connection with every marketing agreement or license issued hereunder to the appropriate board thereunder charged with the collection of other expenses, which board shall collect and pay the same to the said director.

Disposition of funds

SEC. 14. (1) All moneys received by the State Director of Agriculture hereunder shall be by him at the end of each month reported to the State Controller and at the same time deposited in the State treasury to the credit of the State Department of Agriculture fund. All moneys so credited are hereby appropriated for the use of said director to be expended in accordance with law in carrying out the provisions hereof.

Report to Governor

(2) Within thirty days prior to each regular session of the Legislature, the director shall submit to the Governor a full and true report of transactions under this act during the preceding biennium, including a complete statement of receipts and expenditures during the period.

Certain commodities, trades and industries

SEC. 15. The provisions of this act shall have no application to any agricultural product or commodity, trade or industry subject to any of the provisions of, or then eligible for a State marketing agreement or license under, that certain act known as "The California Agricultural Adjustment Act of 1935" as adopted at the 1935 session of the Legislature of this State and while there exists a Federal marketing agree-

ment or license regulating the same under that certain act of the Congress of the United States entitled "An act to relieve the existing National economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes," being Public Act No. 10, of the seventy-third Congress as amended.

Prohibited agreements

SEC. 16. No marketing agreement entered into by producers under the provisions of this act shall contain any provisions which are designed to provide for the institution and enforcement of a program of surplus control, in conflict with the provisions of, or in the manner provided for in, the Agricultural Prorate Act and any amendments thereto.

No marketing agreement entered into by processors, or distributors under the provisions of this act shall be inconsistent with, or in conflict with, any program of surplus control entered into by producers in accordance with the provisions of said Agricultural Prorate Act.

Constitutionality

SEC. 17. If any section, sentence, clause or part of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, sentence, clause and part thereof despite the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional.

Short title

SEC. 18. This act may be known and cited as "The California Marketing Agreement Act of 1935."

Termination of act

SEC. 19. This act shall terminate and cease to be in effect on and after midnight, September 30, 1937.

CHAPTER 678.

Stats. 1915, p. 1225, amended.

An act to amend section 19x23 of the Juvenile Court Law, relating to the probation officer.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p. 860.

SECTION 1. Section 19x23 of the Juvenile Court Law is hereby amended to read as follows:

Marin County probation officer.

19x23. In counties of the twenty-third class there shall be one probation officer, whose salary is hereby fixed at the sum of two hundred fifty dollars per month. In counties of this class the probation officer shall be allowed one assistant probation officer, which office is hereby created, who shall act as stenographer, and whose salary is hereby fixed at the sum of one hundred dollars per month. The salary of such assistant

probation officer shall be paid at the same time and in the same manner and out of the same fund as the salary of the probation officer is paid.

CHAPTER 679.

An act to amend sections 1193, 1217, 1228, 1239 and 1243 of the Penal Code, relating to persons convicted of the commission of crime.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1193 of the Penal Code is hereby amended to read as follows: Stats 1931, p. 170

1193. Judgment upon persons convicted of the commission of crime shall be pronounced according to the provisions of this section, as follows: Pronouncement of judgment

1. For felony. If the conviction be for a felony, the defendant must be personally present when judgment is pronounced against him, unless, after the exercise of reasonable diligence to procure the presence of the defendant, the court shall find that it will be in the interest of justice that judgment be pronounced in his absence; provided, that when any judgment imposing the death penalty has been affirmed by the appellate court, sentence may be reimposed upon the defendant in his absence by the court from which such appeal was taken, and in the manner following, to wit: Upon receipt by the superior court from which such appeal is taken of the certificate of the appellate court affirming such judgment, the judge of the said superior court shall forthwith make and cause to be entered an order pronouncing sentence against the defendant, and a warrant signed by the judge, and attested by the clerk under the seal of the court, must be drawn, and it must state the conviction and judgment and appoint a day upon which the judgment shall be executed, which must not be less than thirty days nor more than forty-five days from the time of making such order; and that, within five days thereafter, a certified copy of such order, attested by the clerk under the seal of the court, and attached to the warrant, must, for the purpose of execution, be transmitted by registered mail to the warden of the State prison having the custody of the defendant and certified copies thereof must be transmitted by registered mail to the Governor. Felony.

2. For misdemeanor. If the conviction be of a misdemeanor, judgment may be pronounced against the defendant in his absence. Misdemeanor.

SEC. 2. Section 1217 of the Penal Code is hereby amended to read as follows: Stats 1891, p. 272.

Commitment on judgment of death.

1217. When judgment of death is rendered, a commitment, signed by the judge, and attested by the clerk under the seal of the court, must be drawn and delivered to the sheriff. It must state the conviction and judgment, and must direct the sheriff to deliver the defendant, within ten days from the time of judgment, to the warden of one of the State prisons of this State, to be held pending the decision upon his appeal, such prison to be designated in the commitment.

1872 Code.

SEC. 3. Section 1228 of the Penal Code is hereby amended to read as follows:

Punishment of death, how inflicted

1228. The punishment of death must be inflicted by hanging the defendant by the neck until dead. The judgment of death shall not be executed by the warden until he has in his possession the warrant, properly authenticated as required by section 1193 of this code.

Stats 1917, p. 37.

SEC. 4. Section 1239 of the Penal Code is hereby amended to read as follows:

Appeal, how taken by defendant.

1239. An appeal from a judgment may be taken by the defendant by announcing personally or through his attorney in open court at the time the judgment is rendered that he appeals from the same or by filing a written notice of appeal within two days after the rendition of judgment with the clerk of the court wherein judgment was rendered; and from any order made after judgment, by announcing in open court at the time the same is made that he appeals from the same. When judgment of death is rendered, upon any plea, an appeal is automatically taken without any action by the defendant or his attorney.

Stats. 1927, p. 1062.

SEC. 5. Section 1243 of the Penal Code is hereby amended to read as follows:

Stay of execution pending appeal

1243. An appeal to the Supreme Court or to a District Court of Appeal from a judgment of conviction does not stay the execution of the judgment in any case unless the trial court shall so order. The granting or refusal of such order shall rest in the sole discretion of the trial court. If such order is made, the clerk of the court shall issue a certificate stating that such order has been made In cases where the defendant has been sentenced to death or life imprisonment he shall be confined in a State prison pending the decision upon his appeal.

CHAPTER 680.

An act to amend section 580b of the Code of Civil Procedure, relating to deficiency judgments.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1935, Ch. 650

SECTION 1. Section 580b of the Code of Civil Procedure is hereby amended to read as follows:

580b. No deficiency judgment shall lie in any event after any sale of real property for failure of the purchaser to complete his contract of sale, or under a deed of trust, or mortgage, given to secure payment of the balance of the purchase price of real property. Deficiency judgment prohibited.

CHAPTER 681.

An act making an appropriation to meet a deficiency in the appropriation for the support of the California Nautical School for the eighty-fifth and eighty-sixth fiscal years, declaring the urgency thereof, and providing that this act shall take effect immediately.

[Approved by the Governor July 16, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The sum of thirteen thousand dollars ($13,000) is hereby appropriated out of any moneys in the State treasury not otherwise appropriated to meet a deficiency in the appropriation for the support of the California Nautical School for the eighty-fifth and eighty-sixth fiscal years. Appropriation California Nautical School deficiency.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into immediate effect. The facts constituting the necessity are as follows: Under the terms of the act of Congress approved March 4, 1911, and the current Federal Naval Appropriation Bill, the Federal Government is authorized to reimburse the general fund of the State of California in the sum of twenty-five thousand dollars ($25,000) at the close of each fiscal year during which the State of California has expended from State funds at least twenty-five thousand dollars ($25,000) for the support of the California Nautical School. If this act does not become effective, the State of California will have expended from State funds for the support of the California Nautical School during the current fiscal year approximately twelve thousand dollars ($12,000) only, and the general fund of the State of California will, therefore, not be reimbursed by the Federal Government in the sum of twenty-five thousand dollars ($25,000) for moneys expended by the State for the support of the California Nautical School during the current fiscal year. If, however, this act does become effective during the current fiscal year the general fund of the State of California will be reimbursed at the close of the current fiscal year by the Federal Government in the sum of twenty-five thousand dollars ($25,000). Urgency.

CHAPTER 682.

Stats., First Ex. Sess. 1911, p. 117, amended

An act to amend the "Reclamation Board Act," approved December 24, 1911, as amended, by amending section 37a thereof relating to the application of moneys released, reimbursed, or appropriated under and pursuant to Chapter 176 California Statutes of 1925 and the War Department Appropriations Act of Congress of the United States for the fiscal year ending June 30, 1930, being Public Law No. 843, Seventieth Congress, approved February 28, 1929.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 652.

SECTION 1. Section 37a of said act is hereby amended to read as follows:

Purpose of section. Stats. 1925, p. 325.

Sec. 37a. The purpose of this section is to further the provisions of Chapter 176 of the California Statutes of 1925 approving the modified report of the California Debris Commission dated January 5, 1925, as a plan for controlling the flood waters of the Sacramento and San Joaquin rivers and their tributaries, for the improvement and preservation of navigation and the reclamation and protection of lands that are susceptible to overflow from said rivers and their tributaries, which said report was adopted by the Congress of the United States in section 13 of that certain act of said Congress entitled "An act for the control of floods on the Mississippi River and its tributaries, and for other purposes," approved May 15, 1928.

Money received from United States.

All money or funds which have heretofore or shall hereafter be reimbursed, paid or released by the United States to the State of California under and pursuant to the War Department Appropriations Act of Congress for the fiscal year ending June 30, 1930, being Public Law No. 843, Seventieth Congress, approved February 28, 1929, and any and all acts of similar import adopted by the United States under and pursuant to the modified report of the California Debris Commission aforesaid are hereby appropriated for the uses and purposes hereinafter set forth, and all said money or funds together with all money which shall be or has been appropriated or made available by the State of California for expenditure during the eighty-first, eighty-second, eighty-third, eighty-fourth, eighty-fifth, and eighty-sixth, eighty-seventh and eighty-eighth fiscal years under and pursuant to said Chapter 176 California Statutes of 1925 hereinbefore referred to (except for purposes of bank protection and maintenance and except appropriations pursuant to the provisions of Chapter 556, Statutes of 1919), shall immediately, upon any of said moneys becoming available, be deposited in a fund which is hereby created to be known as "joint navigation and flood control project fund," which said fund shall be expended

Stats 1919, p 1209

Fund created.

and disbursed by the State Reclamation Board for the uses and purposes and subject to the conditions hereinafter set forth at such times and in such manner as said reclamation board in its discretion shall deem necessary or proper; provided further, that in the event any moneys so made available during any of said fiscal years are not expended or encumbranced during such year said moneys shall not revert to the general fund but shall continue to be available for the uses and purposes herein specified from year to year until expended. The State Controller shall issue his warrants upon order by the reclamation board payable out of said fund and the State Treasurer is hereby directed to pay the same. Said money shall be set aside, disbursed and applied by the reclamation board for the uses and purposes hereinafter set forth in such amounts as said board may from time to time determine and declare, as follows, to wit:

Use of fund

(1) For new construction, lands, rights of way, or easements required to be done or acquired by the State of California, pursuant to said plan or project. On all work which, under said report of the California Debris Commission is to be prosecuted jointly by the United States and the State of California, the reclamation board may upon request by the California Debris Commission cause warrants to be drawn by the State Controller and the State Controller shall draw his warrant in favor of the Treasurer of the United States payable out of said fund; provided, however, that no amounts shall be so drawn from said fund and paid to the said Treasurer of the United States unless an equal amount shall have been appropriated or authorized to be appropriated by the Congress of the United States, conditional on the payment of an equal amount by the State of California, for the prosecution of said work so to be undertaken jointly as aforesaid.

New construction

(2) The reclamation board shall have the right to draw upon said fund in an amount not to exceed thirty-five thousand dollars during any one fiscal year for the purpose of defraying the general administrative operations and overhead of the said reclamation board in connection with the prosecution and completion of said modified report of the California Debris Commission.

Overhead

(3) The reclamation board may from time to time set aside for the uses and purposes hereinafter in this subdivision (3) set forth such portion, or portions, of the moneys of said fund as shall not theretofore have been set aside for the uses and purposes in subdivisions (1) and (2) of this section provided, and the State Department of Finance with the consent of the reclamation board is hereby authorized, from time to time and in such manner as it in its discretion shall determine to purchase, retire and cause to be canceled, at such price or prices as it may deem advisable, but not to exceed par plus the accrued interest thereon, all or any warrants or bonds of the Sacramento and San Joaquin Drainage District heretofore or

Certain projects

hereafter issued as provided in the Reclamation Board Act or in Chapter 520, Statutes of California, 1919, and drawn on or based upon or secured by Sutter-Butte by-pass assessment number six, Feather River assessment number seven or Sacramento River outlet assessment number two.

Such of said money as becomes available for the purchase of warrants prior to or during the fiscal year commencing July 1, 1929, shall be allocated to the projects hereinafter set forth in the following proportions, to wit:

Sutter-Butte by-pass project number six	78.97%
Feather River project number seven	3.36%
Sacramento River outlet project number two	17.67%

Such of said money as may become available during the fiscal years commencing July 1, 1930, and July 1, 1931, shall be allocated to the said projects in the following proportions, to wit:

Sutter-Butte by-pass project number six	76.45%
Feather River project number seven	3.76%
Sacramento River outlet project number two	19.79%

Such of said money as may become available during the fiscal year commencing July 1, 1932, and each fiscal year thereafter, shall be allocated to the said projects in the following proportions, to wit:

Sutter-Butte by-pass project number six	95.31%
Feather River project number seven	4.69%

Legislative policy.

The Legislature hereby declares that said percentages are based upon what it has determined to be a relatively fair division and allocation of said funds based upon the proportion which the costs of each of said projects incurred for public benefits bears to the total cost for all of said projects for public benefits as distinguished from private and reclamation benefits and also having in mind appropriations pursuant to the provisions of Statutes of California 1919, Chapter 556 thereof, and also having in mind the retirement heretofore made of obligations of said projects The use of moneys heretofore, or hereafter to be, appropriated or made available by the State of California to further carry out the legislation contained in Chapter 176 of California Statutes of 1925 shall not be restricted to the uses and purposes hereinabove in subdivision (3) set forth, but such money, or any part thereof, may be set aside, applied and disbursed for any and all of the purposes in subdivisions (1), (2) and/or (3) of this section provided and in the manner and to the extent as hereinabove set forth.

Stats 1925, p 325

Repeals.

All other acts or parts of acts in so far as they are in conflict with this act are hereby repealed.

CHAPTER 683.

An act relating to fees to be paid to the Railroad Commission by railroad corporations, express corporation, freight forwarders, persons or corporations operating vessels, and persons or corporations owning or operating motor vehicles in the transportation of property for hire upon the public highways under the jurisdiction of the Railroad Commission of the State of California, providing for the collection thereof by the Railroad Commission, and providing penalties for the violation of this act.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Statement of gross operating revenues of transportation agencies

SECTION 1. For the purpose of correlating and regulating the rates charged for the transportation of property by the various transportation agencies in the State subject to the jurisdiction of the Railroad Commission of the State of California and for the purpose of creating a special fund to administer and enforce the acts conferring upon the Railroad Commission of the State of California jurisdiction to regulate the rates of transportation agencies carrying property for compensation and to administer and enforce the "Highway Carrier Act" and the "City Carriers' Act" every railroad corporation, express corporation, freight forwarder, and every person or corporation operating vessels, as these terms are defined in the Public Utilities Act of the State of California, and every person or corporation owning or operating motor vehicles in the transportation of property for hire upon the public highways under the jurisdiction of the Railroad Commission of the State of California, shall between the first and fifteenth days of October, 1935, and thereafter between the first and fifteenth days of January, April, July and October of each year, file with the Railroad Commission a statement showing the gross operating revenue derived by such person or corporation from the transportation of property for the preceding three calendar months, and shall at the time of filing such report pay to the said Railroad Commission of the State of California a fee of one-fourth of one per cent of the amount of such gross operating revenue. The term "gross operating revenue" as used herein shall include all revenue derived from the transportation of property having origin and destination within the State of California, including the transportation of such property in interstate or foreign commerce between ports in the State of California and inland points in the State of California, but shall not include revenue derived by ferries from the transportation of vehicles.

Stats 1935, Ch 223
Stats 1935, Ch. 312
Stats 1915, p. 115.

"Gross operating revenues" defined.

Disposition of money.

SEC. 2. All fees charged and collected under this act shall be deposited at least once a month in the State treasury to the credit of the Railroad Commission transportation rate fund,

Fund created.

which special fund is hereby created, and shall be in augmentation of the current appropriation by the Legislature for the support of the Railroad Commission of the State of California and shall be expended by the Railroad Commission for the purpose of administering and enforcing the "Highway Carrier Act," and the "City Carriers' Act" and also for the purpose of administering and enforcing those provisions of the Public Utilities Act and other acts of the State of California conferring upon the Railroad Commission jurisdiction over the rates, charges and classifications, and the rules, regulations and practices relating thereto, of carriers of property for compensation.

Report to Governor.

The Railroad Commission shall, within thirty days prior to the regular session of the Legislature, submit to the Governor a full and true report of transactions under this law during the preceding biennium, including a complete statement of receipts and expenditures during the period.

Delinquency penalty.

SEC. 3. If any transportation agency referred to herein shall be in default in the payment of the fees prescribed, for a period of thirty (30) days or more, the Railroad Commission of the State of California is hereby authorized to maintain suit in its own name or in the name of the people of the State of California, in any court of competent jurisdiction of the State of California, for the collection of such delinquent fees, together with a penalty of twenty-five per cent for such delinquency.

Constitutionality.

SEC. 4. If any section, sentence, clause or part of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, except as hereinbefore specifically provided, irrespective of the fact that one or more sections, sentences, clauses or parts shall be declared unconstitutional.

CHAPTER 684.

Stats 1933, p. 60.

An act to add section 159a to the Agricultural Code, relating to the elimination of Austrian field cress, and to make an appropriation therefor.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 159a is hereby added to the Agricultural Code to read as follows:

Austrian field cress.

159a. Austrian field cress is hereby declared a public nuisance and may be abated by summary action or otherwise under the provisions of law relating to the abatement of public nuisances.

Eradication expense

The director shall eradicate Austrian field cress wherever the same exists in this State. The expense thereof shall be

borne as follows: not more than one-half by the State, to be paid out of any sum appropriated for such purpose, not more than one-half by the county in which the land is located on which such Austrian field cress exists and any person or persons may contribute money or its equivalent in labor, equipment or materials for such purpose. The board of supervisors may allow and pay the share of the county out of the general fund of the county.

In the event the board of supervisors shall not allow sufficient money to pay the share of the county, and such necessary amount or its equivalent is not contributed by any person or persons then only so such of the money appropriated to pay the share of the expenses to be borne by the State shall be used as will equal the amount allowed by the board of supervisors or contributed by any person or persons in money or its equivalent.

The amounts of money contributed by any person or persons under the provisions hereof shall be deposited with the State Treasurer in accordance with the provisions of section 453a of the Political Code.

Appropriation.

SEC. 2. Out of any moneys in the State treasury not otherwise appropriated, the sum of ten thousand dollars is hereby appropriated to be expended in accordance with law by the Director of Agriculture for the elimination of Austrian field cress. Such sum, or so much thereof as may be required, shall be expended as the State's share of the cost of eliminating Austrian field cress.

CHAPTER 685.

An act appropriating money for the restoration and rehabilitation of Marshall's cabin at Coloma.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Appropriation: Restoration, rehabilitation of Marshall's cabin

SECTION 1. The sum of $2,000 is hereby appropriated out of any money in the State treasury, not otherwise appropriated, to be expended in accordance with law by the State Park Commission for the restoration and rehabilitation of Marshall's cabin at Coloma.

CHAPTER 686.

An act to appropriate the sum of twenty-four thousand dollars to be used in construction, renewal, and repair of works for restraining, impounding and control of debris resulting from mining operations and other causes along the Yuba River, to provide for the manner of expending such appro-

priation, to create the Yuba River debris control fund, and to provide for the deposit in said fund of any unexpended balances of previous appropriations made for this purpose.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Appropriation: Control of debris along Yuba River.

SECTION 1. There is hereby appropriated out of any money in the State treasury not otherwise appropriated, the sum of twenty-four thousand dollars to be used in the construction, renewal, and repair of works for restraining, impounding, and control of debris resulting from mining operations, natural erosion, and other causes along the Yuba River.

Execution of work.

SEC. 2. All work to be paid for from this appropriation shall be executed by or under the direction of the California Debris Commission, according to plans approved by the Department of Public Works.

Disposition of money.

SEC. 3. The moneys hereby appropriated shall be deposited in the Yuba River debris control fund, which fund is hereby created and shall become available to the Division of Water Resources, Department of Public Works, for transmittal to California Debris Commission at the time and in the event any sum is appropriated or allotted by the government of the United States for the same work, and only in amounts equal to the sums so appropriated or allotted by the government of the United States.

Controller's warrants.

SEC. 4. The Controller of the State of California is hereby authorized and directed, upon claim of the Division of Water Resources, Department of Public Works, submitted at the request of the California Debris Commission, to draw his warrants on the Yuba River debris control fund in the State treasury from time to time in such amounts as the said California Debris Commission may require, and the Division of Water Resources, Department of Public Works, shall transmit the warrants or the proceeds therefrom to the California Debris Commission. The State Treasurer is authorized and directed to pay such warrants.

Appropriations heretofore made

SEC. 5. Any balance remaining unexpended of appropriations heretofore made for the same purpose shall be deposited in the Yuba River debris control fund.

CHAPTER 687.

An act granting certain tidelands and submerged lands of the State of California to the county of Santa Cruz.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Lands granted to county of Santa Cruz.

SECTION 1. There is hereby granted to the county of Santa Cruz and to its successors all right, title and interest of the State of California, held by said State by virtue of its sov-

ereignty, in and to all those tidelands and submerged lands in the present county of Santa Cruz, and more particularly bounded and described as follows, to wit: All tidelands and submerged lands in Monterey Bay fronting the village of Capitola in said county, situated east of a prolongation of the easterly line of Forty-ninth Avenue, produced southerly, and west of a prolongation of the westerly line of Central Avenue, produced southeasterly; to be forever held by said county of Santa Cruz in trust for the uses and purposes and upon the expressed conditions following, to wit:

Description.

(a) That said lands shall be used by said county for the establishment, improvement and conduct of the harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities, structures and appliances necessary or convenient for the promotion of commerce, navigation and fisheries, and for the establishment and maintenance of bathhouses and bathing facilities and boathouses necessary or convenient for the inhabitants of said county, and said county shall not at any time grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatever; provided, however, that said county of Santa Cruz may grant franchises thereon for wharves, docks, piers, slips, quays, bathhouses and bathing facilities, boathouses and any other public uses and purposes, and may lease said lands, or any part thereof, for any of said uses or purposes hereinabove enumerated, for any purposes consistent with the trust upon which said lands are held by the State of California, and with the requirements of commerce or navigation of said harbor, to persons, firms or corporations for a period not exceeding fifty years; provided, however, that said county may have the right to renew such lease or leases for the further term not exceeding twenty-five years, or to terminate the same upon such terms, reservations and conditions as may be stipulated in such lease or leases.

Use.

Every such lease shall provide for the payment of rentals to the county of Santa Cruz, which said rentals shall be either at an agreed figure, or shall be arrived at in such manner as may be mutually agreed upon, and provided for in said lease or leases.

Contents of leases.

Said leases shall also provide that at no time during their term, shall the said county of Santa Cruz be required to make any improvements on or for the benefit of the leased lands. Every lease so executed shall reserve to the board of supervisors and to the people of the county of Santa Cruz the right and privilege by ordinance duly adopted, to terminate, change or modify such lease or leases on such terms, reservations and conditions as may be stipulated in such lease or leases.

(b) That said harbor shall be improved by said county without expense to the State of California, and shall always remain a public harbor for all purposes of commerce and navigation, and the State of California shall have at all times

the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said land or any part thereof for any vessel or other water craft or railroad owned and operated by the State of California.

Right to fish and of access to waters

SEC. 2. There is hereby reserved, however, for the people of the State of California the absolute right to fish in the waters of said harbor, with the right of convenient access to said waters over said lands when improved as aforesaid.

Minerals, oil and gas

SEC. 3. There is hereby excepted and reserved to the State of California all deposits of minerals, including oil and gas, in the lands granted by this act.

CHAPTER 688.

An act making an appropriation to pay the claim of the disbursing officer of the Department of Industrial Relations against the State of California.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Appropriation Disbursing officer, Department of Industrial Relations.

SECTION 1. The sum of $33,300 is hereby appropriated to pay, with the approval of the Department of Finance, the claim of the disbursing officer of the Department of Industrial Relations against the State of California. Of said sum, $31,577.75 shall be paid out of the subsequent injuries fund and the remainder thereof, $1,722 25, shall be paid out of any money in the State treasury not otherwise appropriated.

CHAPTER 689.

An act to amend the Streets and Highways Code, by adding to Division I thereof a new chapter, to be numbered 6, relating to proceedings to change the grade or to establish the boundaries of State highways, and other proceedings affecting private property.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 690.

An act to amend sections 5.400, 5.402, 5.403, 5.408, 5.420, 5.500, 5.502, 5.503, 5.510, 5.520, 5.521, 5.640, 5.680, 5.690, 5.691, 5.710, 5.711 and 5.712 of the School Code, and to

add new sections to the School Code, to be numbered 5.409, 5.505, 5.506, 5 666 and 5.667, all relating to the employment, classification, dismissal and resignation of persons employed in school districts in positions requiring certification qualifications.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 5.400 of the School Code is hereby amended to read as follows: Sch. C., 1929, p 236.

5.400. The term governing boards of school districts as used in this Part III means boards of school trustees, and city, and city and county boards of education. Governing boards and employees

Governing boards of school districts shall have power and it shall be their duty to employ persons in public school service requiring certification qualifications as provided in this code.

SEC. 2. Section 5.402 of the School Code is hereby amended to read as follows: Stats 1933, p. 2117.

5.402. Any certificated employee not under permanent tenure who shall fail to signify his acceptance within twenty days after notice of his election or employment shall have been given him or mailed to him by United States registered mail with postage thereon prepaid, to such employee at his last known place of address, by the clerk or secretary of the governing board of the school district, shall be deemed to have declined the same. Failure to accept employment, etc.

SEC. 3. Section 5.403 of the School Code is hereby amended to read as follows: Sch. C., 1929, p. 237.

5.403. The county superintendent of schools shall be given immediate notice in writing by the governing board of the district of the employment of persons for positions requiring certification qualifications, on blanks furnished by the superintendent of public instruction, stating the name and address of each person so employed. Notice to county superintendent.

SEC. 4. Section 5.408 of the School Code is hereby amended to read as follows: Stats 1933, p. 1176

5.408. The governing board of any school district, subject to such rules and regulations as may be prescribed by the State Board of Education, and notwithstanding anything to the contrary in an act entitled "An act to secure to native born and naturalized citizens of the United States the exclusive right to be employed in any department of the State, county, city and county, and city government in this State, except in certain schools, to validate certain acts, and to repeal all acts in conflict therewith," approved May 19, 1915, may enter into an agreement, through the State Department of Education with the proper authorities of any foreign country, or State, Territory or possession of the United States, or other district within this State, for the exchange and employment of teachers having permanent classification, employed in any school district, also teachers, whether or not having per- "Exchange teachers." Stats 1915, p 690.

manent classification, employed in districts having an average daily attendance of less than eight hundred fifty pupils, and teachers employed in the public schools of such foreign country or State, Territory or possession, or other district within this State, of a grade corresponding to that in which the teachers of said district are employed. Any teacher employed as herein provided shall be known as an "exchange teacher." No such exchange shall be made without the consent of the teacher to be exchanged.

Credentials

No exchange teacher may be employed by a school district in this State unless such teacher holds a valid credential issued by the State Board of Education authorizing such exchange teacher to teach in the school district proposing to employ such exchange teacher for a period not to exceed one year; provided, however, by unanimous consent of the governing boards, and the certificated employees concerned, this period may be extended to two years. The State Board of Education is hereby authorized to establish minimum standards for such credential.

New section

SEC. 5. A new section to be numbered section 5.409 is to be added to the School Code, such section to read as follows:

Acceptance of exchange position as affecting other rights

5.409. Acceptance of any such exchange position by any employee of any school district in this State shall not affect the right of such employee to the permanent classification to which he shall be entitled, at the time of such acceptance, under the provisions of this code, or any rights of such employee under the State teachers retirement salary provisions of this code, or under any local or district retirement plan, or system and the time served in such exchange position shall be counted as time served in the service of the district in which such teacher is employed immediately prior to acceptance of such exchange position in determining the status of such teacher under the provisions of this Part III, and under the provisions of this code relating to State retirement salary, and under any local or district retirement plan of such district.

Sch. C., 1929, p. 237.

SEC. 6. Section 5.420 of the School Code is hereby amended to read as follows:

Certificates.

5.420. Governing boards of school districts shall have power and it shall be their duty to employ for positions requiring certification qualifications, only persons who hold legal certificates in full force and effect and on file at the time such employment becomes effective in the office of the county superintendent of schools, to serve as temporary, exchange, substitute, probationary or permanent employees.

Stats. 1931, p. 1394.

SEC. 7. Section 5.500 of the School Code is hereby amended to read as follows:

Permanent employees defined.

5.500. Every employee of a school district of any type or class, who after having been employed by the district for three complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certifica-

tion qualifications shall, except as hereinafter otherwise provided, at the commencement of said succeeding school year, be classified as and shall become a permanent employee of the district.

Provided that nothing in these parts shall be construed to give permanent classification to a person in the evening school who is already classified as a permanent employee in the day school; provided further, that in case a teacher obtains permanent classification in the evening school and later is eligible for the same classification in the day school by reason of having served the probationary period therein, he shall be given his choice as to which he shall take. Nothing in this section contained shall be construed to affect the classification of any employee as it exists at the time this act takes effect.

SEC. 8. Section 5 502 of the School Code is hereby amended to read as follows: Stats 1931, p 1395.

5 502. A permanent employee when advanced from a teaching position to an administrative or supervisory position, or assigned any special or other type of work, or given special classification or designation requiring certification qualifications, shall retain his permanent classification as a classroom teacher. Persons employed in administrative or supervisory positions requiring certification qualifications upon completing a probationary period, as hereinbefore provided, including any time served as a classroom teacher if any, in the same district, shall, in districts having an average daily attendance of 850 or more pupils, be classified as and shall become a permanent employee as a classroom teacher. In districts having an average daily attendance of less than 850 pupils, they may be so classified. A person employed in an administrative or supervisory position by more than one district shall be given permanent classification in whichever district he may select for such permanent classification. Provided that other permanent classification shall be given to such employee in a district situated within, partly within, or coterminous with a city, or city and county, where the charter, if any, of such city, or city and county, provides for such other classification. Permanent classification: Employees in administrative or supervisory positions

SEC. 9. Section 5.503 of the School Code is hereby amended to read as follows: Stats 1931, p. 1395.

5.503. A probationary employee who, in any one school year, has served for at least seventy-five per cent of the number of days the regular schools of the district in which such employee is employed are maintained shall be deemed to have served a complete school year; provided that in case of evening schools, seventy-five per cent of the number of days such evening schools of the district are in session shall be deemed a complete school year. Probationary employees

SEC. 10. A new section to be numbered section 5.505 is to be added to the School Code, such section to read as follows: New section.

5.505. Excepting in districts situated within, partly within, or coterminous with the boundaries of a city, or city and county, where the charter, if any, of such city, or city Employment of persons over 65 years

and county provides an age at which employees, including certificated employees of such districts, shall be retired, when a permanent employee reaches the age of sixty-five years, or if a permanent employee has reached the age of sixty-five years, the permanent classification of such employee shall cease and thereafter employment shall be from year to year at the discretion of the governing board; provided that any certificated employee who is not reemployed under the provisions of this section, and who has not completed the requirements for full retirement salary, shall be deemed to have been retired on account of physical disability within the meaning of the provisions of this code relating to retirement of certificated employees of school districts. Provided that the effective date of this section shall be September 1, 1937.

Effective date.

New section

SEC. 11. A new section to be numbered section 5.506 is to be added to the School Code, such section to read as follows:

Retirement.

5.506. Every certificated permanent employee of any school district which has provided a retirement salary for such employee supplementary to the State retirement salary, shall be retired at the close of the school year in which he attains the age of compulsory retirement provided in the teacher retirement plan of such district, provided that such age is not less than sixty-five years; provided further, that any certificated employee retired under the provisions of this section and who has not completed the requirements for full retirement salary, shall be deemed to have been retired on account of physical disability within the meaning of the provisions of this code relating to retirement of certificated employees of school districts.

Sch. C., 1929, p 240

SEC. 12. Section 5.510 of the School Code is hereby amended to read as follows:

Probationary employees.

5.510. Governing boards of school districts shall have power and it shall be their duty to classify as probationary employees, those persons employed in positions requiring certification qualifications for the school year, and who have not been classified as permanent employees under the provisions of this code, or as substitute employees, as provided for in section 5.520 of this code.

Stats. 1931, p. 1398.

SEC. 13. Section 5.520 of the School Code is hereby amended to read as follows:

Substitute employees

5.520. Governing boards of school districts shall have power and it shall be their duty to classify as substitute employees those persons employed in positions requiring certification qualifications, to fill positions of regularly employed persons absent from service.

Stats 1931, p. 1716.

SEC. 14. Section 5.521 of the School Code is hereby amended to read as follows:

Temporary employees.

5.521. Governing boards of school districts shall have power and it shall be their duty to classify as temporary employees those persons requiring certification qualifications, other than substitute employees, who are employed to serve from day to day during the first three school months of any school term to

teach temporary classes not to exist after the first three school months of any school term or to perform any other duties which duties do not last longer than the first three school months of any school term, or to teach in schools of migratory population for not more than four school months of any school term. Provided also that if the classes or duties continue beyond the first three school months of any school term, or four school months for schools for migratory population, the certificated employee so employed under the provisions of this section, unless a permanent employee, shall be classified as a probationary employee. The school year may be divided into not more than two school terms for the purposes of this section.

SEC. 15. Section 5.640 of the School Code is hereby amended to read as follows: Sch. C., 1929, p. 247.

5.640. Governing boards of school districts shall have power and it shall be their duty to accept the resignation of any employee and to fix the time when such resignation shall take effect, which date shall not be later than the close of the school year during which such resignation shall have been received by the board. Resignations

SEC. 16 A new section to be numbered 5.666 is hereby added to the School Code, such section to read as follows: New section

5.666. Any certificated employee having permanent classification in any district who may be transferred from such district to another district, the governing board of which shall be composed of the same persons as the first district, shall retain such permanent classification in the district in which such permanent classification has been attained, until permanent classification has been attained in the district to which said teacher is transferred. Transfer to district having same governing board

A certificated employee who serves or has served in a position or positions requiring certification qualifications in two or more districts, each having an average daily attendance of 850 or more and governed by governing boards of identical personnel, for a total of three complete consecutive school years shall, upon being elected for the fourth consecutive school year to a position or positions requiring certification qualifications in any of said districts, be classified as a permanent employee of the last district in which he was employed prior to such election for the fourth consecutive school year Employee serving three years in districts having same governing board

SEC. 17. A new section to be numbered 5.667 is hereby added to the School Code, such section to read as follows: New section

5.667. The division, union or consolidation of any school district or districts, or any change in school district boundaries or organization, shall not affect the classification of certificated employees already employed by any school district affected and such employees shall have the same status with respect to their classification, including time served as probationary employees, in the schools of the district after such division, unionization or consolidation, or change in school district boundaries as they had prior thereto; provided, however, Division, union or consolidation of district as affecting employees' status.

that in case the union or consolidation of two or more school districts shall result in a district in which, under the provisions of this code then in effect, the certificated employees are entitled to probationary and/or permanent classification, the employees of such union, joint or consolidated district shall be entitled to, and shall be given, such classification, on the same basis as certificated employees in other districts of like average daily attendance.

Effective date.

The provisions of this section, and all rights hereby granted, shall apply to any such division, union or consolidation of school dstricts, or change in school district boundaries, made at any time subsequent to January 1, 1931, to the same extent as changes made subsequent to the effective date of this section, and the provisions hereof shall be, and shall be construed to be retroactive to January 1, 1931.

Probationary period in certain districts.

Provided, on the consolidation of one or more school districts in which the average daily attendance for the preceding school year was less than 850 pupils, with a district or districts in which the average daily attendance was or may become 850 or more pupils, the regular three-year probationary period must be served after the effective date of the consolidation, by any probationary employee who has been serving in a district of less than eight hundred fifty average daily attendance.

Sch. C., 1929, p. 248.

SEC. 18. Section 5.680 of the School Code is hereby amended to read as follows:

Probationary employees. Dismissal.

5.680. Governing boards of school districts shall have power and it shall be their duty to dismiss probationary employees during the school year for cause only, as in the case of permanent employees.

Sch. C., 1929, p. 249

SEC. 19. Section 5.690 of the School Code is hereby amended to read as follows:

Substitute employees: Dismissal.

5.690. Governing boards of school districts shall have power, and it shall be their duty to dismiss substitute employees at any time at the pleasure of the board.

Stats. 1931, p. 1716.

SEC. 20. Section 5.691 of the School Code is hereby amended to read as follows:

Temporary employees Dismissal.

5.691. Governing boards of school districts shall have power and it shall be their duty to dismiss temporary employees requiring certification qualifications at the pleasure of the board. A temporary employee who is not dismissed during the first three school months, or in the case of migratory schools during four school months of the school term for which he was employed and who has not been classified as a permanent employee shall be deemed to have been classified as a probationary employee from the time his services as a temporary employee commenced.

Sch. C., 1929, p 249.

SEC. 21. Section 5.710 of the School Code is hereby amended to read as follows:

Permanent employees: Dismissal.

5.710. Whenever it becomes necessary to decrease the number of permanent employees in a school district on account of a decrease in the number of pupils attending the schools of such district, the governing board may dismiss so many of

such employees as may be necessary at the close of the school year. In making such dismissals employees shall be dismissed in the inverse of the order in which they were employed; provided, however, that no permanent employee may be dismissed under the provisions of this section while a probationary employee is retained or employed to render a service which such permanent employee is certificated and competent to render.

SEC. 22. Section 5.711 of the School Code is hereby amended to read as follows: Sch. C., 1929, p. 249.

5.711. Whenever it becomes necessary to decrease the number of permanent employees in a school district on account of the discontinuance of a particular kind of service in such district, the governing board may dismiss so many of such employees as may be necessary at the close of the school year. In making such dismissals, employees shall be dismissed in the inverse of the order in which they were employed. Same.

Provided, however, that no permanent employee may be dismissed under the provisions of this section while a probationary employee is retained or employed to render a service which such permanent employee is certificated and competent to render.

SEC. 23. Section 5.712 of the School Code is hereby amended to read as follows: Sch. C., 1929, p. 249.

5.712. If the number of teachers be increased, or such service is reestablished within one year from the time of such dismissal, the employees so dismissed shall have the preferred right to reappointment, in the order of their original employment, unless any such employee in the meantime shall have attained the age of sixty-five years. Reappointment.

SEC. 24. If any section, subsection, clause, sentence or phrase of this act is for any reason held to be unconstitutional or void, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act irrespective of the fact that any such section, subsection, clause, sentence, or phrase of this act be declared unconstitutional. Constitutionality

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CHAPTER 691.

An act to amend the School Code by amending sections 5.650, 5.651, 5.652, 5.653, 5.654, 5.661, and by repealing sections 5.655, 5.656, 5.657, 5.658, 5.659, 5.660, 5.662, 5.663, all relating to the employment and dismissal of persons employed in school districts in positions requiring certification qualifications.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 5.650 of the School Code is hereby amended to read as follows: Stats. 1933, p 1017

Grounds for dismissal

5.650. No permanent employee shall be dismissed except for one or more of the following causes: immoral or unprofessional conduct, commission or aiding or advocating the commission of acts of criminal syndicalism, as prohibited by Chapter 188, Statutes of 1919, or in any amendment thereof, dishonesty, incompetency, evident unfitness for service, physical or mental condition unfitting him to instruct and/or associate with children, persistent violation of or refusal to obey the school laws of California, or reasonable regulations prescribed for the government of the public schools, by the State Board of Education or prescribed by the governing board of the school district employing said employee, or conviction of a felony or of any crime involving moral turpitude.

Stats 1931, p. 1395.

SEC. 2. Section 5.651 of the School Code is hereby amended to read as follows:

Notice of dismissal

5.651. Upon the filing of written charges, duly signed and verified by the person filing the same, with the governing board of the school district, or upon a written statement of charges formulated by the governing board, charging that there exists a cause or causes, for the dismissal of a permanent employee of said district, the governing board may, upon majority vote, except as hereinafter provided, if it deems such action necessary, give notice to the said permanent employee of its intention to dismiss him at the expiration of thirty days from the date of service of such notice, unless said employee demands a hearing as hereinafter provided. Such notice must not be given between May 15 and September 15 in any year; it must be in writing and served upon the employee personally or by United States registered mail addressed to such employee at his last known address. A copy of the charges filed together with a copy of this article shall be attached to the notice. If the employee does not demand the hearing hereinafter provided for, he may be dismissed at the expiration of such thirty day period.

Stats. 1931, p. 1396

SEC. 3. Section 5.652 of the School Code is hereby amended to read as follows:

Notice of incompetency.

5.652. Governing boards of school districts shall not act upon any charges of incompetency other than incompetency due to physical or mental disability unless during the preceding term or half school year prior to the date of the filing of such charge, and at least ninety days prior to the date of such filing, the board or its authorized representative shall have given the employee against whom the charge is filed, written notice of such incompetency, specifying the nature thereof with such particularity as to furnish the employee an opportunity to correct his faults and overcome his incompetency.

Stats. 1933, p. 1018

SEC. 4. Section 5.653 of the School Code is hereby amended to read as follows:

Suspension and notice of dismissal.

5.653. Upon the filing of written charges, duly signed and verified by the person filing the same with the governing board of a school district, or upon a written statement of charges formulated by the governing board, charging a permanent

employee of said district with immoral conduct, or conviction of a felony or of any crime involving moral turpitude the said governing board may, if it deems such action necessary, immediately suspend said employee from his duties and give notice to said employee of his suspension, and that thirty days after service of such notice, he will be dismissed, unless said employee demands a hearing as hereinafter provided. Said notice of suspension and intention to dismiss, must be in writing and served upon the employee personally or by United States registered mail addressed to said employee at his last known address. A copy of the charges filed, together with a copy of this article, shall be attached to such notice. If said employee does not demand the hearing hereinafter provided for, within such thirty day period he may be dismissed upon the expiration of thirty days after service of such notice.

SEC. 5. Section 5.654 of the School Code is hereby amended to read as follows: Stats 1931, p. 1396.

5.654. When any employee who has been served with notice of the governing board's intention to dismiss him, shall demand such hearing, the governing board shall have the option either to (1) rescind its action, or (2) file a complaint in the superior court of the county in which the school district or the major part thereof is located, setting forth the charges against such employee and asking that the court inquire into such charges and determine whether or not such charges are true, and if true, whether or not they constitute sufficient grounds for the dismissal of such employee, under the provisions of this code, and for judgment pursuant to its findings. Hearing

The employee within ten days after service upon him of the summons, and a copy of the complaint may demur to such complaint or may file an answer, to which the governing board may demur. If the employee shall fail to answer or demur within such ten day period, or any extension thereof, made by stipulation or order of court, his default shall be entered and judgment shall be entered by the court declaring the right of the governing board to dismiss such employee. Both the complaint and the answer shall be verified. Demurrers to the complaint or answer may be upon any of the grounds specified in the Code of Civil Procedure for demurrer to a complaint or answer, and procedure on such demurrer shall be the same as in any civil proceeding. When the employee has filed his answer to such complaint, either party may, upon five days' notice to the other, move the court to set the matter for trial. Such proceeding shall be set for trial at the earliest possible date and shall take precedence over all other cases, except older matters of the same character and matters to which special precedence may be given by law. Upon motion of either party, or on its own motion, the court may appoint three disinterested persons over twenty-one years of age as referees, to ascertain the facts and report their findings to the court. The persons appointed as such referees must be persons of suitable experience and educational quali- Procedure after service of summons Referees

fications, and in sympathy with the merit system for employing teachers.

Each of such referees within five days after his appointment must take and file with the court an oath to discharge his duties faithfully and impartially. If any of such referees fails to qualify, or resigns, or is removed by order of court, or is, or becomes unable to act, the vacancy so created shall be filled by the court. The referees shall at once organize by electing one of their number chairman, and shall fix a date and place for a hearing which date shall be not less than ten days and not more than twenty days after the date of their appointment, but either the board or the employee shall have the right to one continuance for a period of not more than ten days. The hearing shall be open to the public except upon stipulation of the parties. Written notice of the time and place of the trial or hearing shall be served upon the employee or his attorney at least five days before the date of the hearing. Upon the date set for the trial or hearing, both the board and the employee shall have the right to be represented by counsel, and to introduce such testimony and other evidence as may be relevant to the issue. The referees shall have power to examine witnesses under oath, to be administered by any of them, and the referees and either party may have subpoenas issued by the clerk requiring the attendance of witnesses or the production of evidence before them. All records regularly kept by the governing board concerning employees which relate to the employee charged shall be admissible in evidence, but no dismissal, or judgment that a governing board may dismiss may be made on said records alone. Technical rules of evidence shall not apply to hearings before such referees. They shall make and file with the court a written report of their findings, and of their necessary expenses, within thirty days after their appointment, but such time may be extended by the court, for good cause shown for an additional period not exceeding sixty days; provided that if any vacancy in the referees is created and filled, or if new referees are appointed, or a new report from the same referees ordered, the time for the filing of such report shall run from the date of filling such vacancy or appointment of new referees or ordering a new report from the same referees. Any majority of such referees, who have been present during the entire hearing or trial and who agree thereto may make such report. Attached to such report shall be a complete transcript of all the testimony and evidence, which shall be taken by a competent reporter who shall be paid by such governing board. A copy of such report and such transcript shall be delivered to each of the parties.

Rules of evidence. Referees' report

Upon the filing of such report the court, upon motion of either party, must set a day for hearing the same, not over fifteen days thereafter. Notice of the time and place of such hearing must be served upon the other party at least five days before the time so set.

Either party may file exceptions, in writing, to such report, specifying the grounds upon which such exceptions are based, at any time within not less than two days prior to the hearing; and any party so filing such exceptions may appear at the hearing of said report and contest the same.

Exceptions to report.

After hearing the report and any exceptions thereto, the court may confirm the report or may set aside the report and order a new report from the same referees or from other referees appointed by it, in which case the same procedure shall be had as upon the first reference.

The court in its discretion may take additional evidence of or concerning any fact with respect to which the report of the referees is not sufficient to justify a judgment.

No witness shall be permitted to testify at such trial or hearing before such referees, except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters which occurred more than three years prior to the date of the filing of such complaint. This shall not be construed to prevent the introduction in evidence of records regularly kept by the governing board concerning the employee, but no judgment permitting the dismissal or suspension of any employee shall be made or entered based on charges or evidence of any nature relating to matters occurring more than three years prior to the filing of such complaint.

Evidence on matters which occurred over three years prior to complaint.

After the trial or after hearing the report of the referees, as hereinbefore provided, the court shall make and enter its judgment which judgment may be at variance with any report of any referees appointed by it, and which judgment shall determine whether or not the governing board may dismiss such employee.

Judgment

If the judgment shall determine that such employee may be dismissed, the governing board may dismiss him upon entry of the judgment; otherwise the employee may not be dismissed as the result of such charges or of any charges which could have been made or heard at such hearing.

Should the cause be incompetency due to physical or mental disability, in lieu of dismissal the judgment may require the employee to take a leave of absence for only such period as may be necessary for rehabilitation from such incompetency, such leave of absence not to exceed two years; in which event such employee shall be entitled to the benefits provided or authorized by this code to employees of school districts absent from their duties on account of sickness.

Leave of absence due to incompetence

If the judgment shall determine that the employee may be dismissed, it shall provide that each party shall pay its own costs; if the judgment shall determine that the employee may not be dismissed, it shall provide that the district shall pay the costs and necessary disbursements of the employee, a memorandum of which costs and disbursements may be filed and taxed by the court within the time and in the manner specified by section 1033 of the Code of Civil Procedure

Costs

relating to costs in actions in the superior and municipal courts of this State.

Salary during suspension.

If the employee shall have been suspended pending the hearing, he shall be reinstated within five days after the entry of such judgment in his favor, and shall be paid full salary by the governing board for the period of his suspension. Either the employee or, the governing board may appeal from any such judgment to the District Court of Appeal, or Supreme Court of this State.

Appeal

Sections repealed

SEC. 6. Section 5.655 of the School Code is hereby repealed.

SEC. 7. Section 5.656 of the School Code is hereby repealed.

SEC. 8. Section 5.657 of the School Code is hereby repealed.

SEC. 9. Section 5.658 of the School Code is hereby repealed.

SEC. 10. Section 5.659 of the School Code is hereby repealed.

SEC. 11. Section 5.660 of the School Code is hereby repealed.

Stats 1933, p. 1018.

SEC. 12. Section 5.661 of the School Code is hereby amended to read as follows:

Dismissal: Immorality, etc

5.661. Should an employee be dismissed under this article for immoral conduct or conviction of a felony or crime involving moral turpitude the governing board shall transmit to the State Board of Education and to the county board of education which issued the certificate or certificates under which the employee was serving at the time of his dismissal, a copy of the reporter's transcript of the hearing accompanied by a request that any certificate or certificates issued by said county board of education to the employee dismissed, be revoked in the event that the employee is not reinstated upon appeal.

Sections repealed

SEC. 13. Section 5.662 of the School Code is hereby repealed.

SEC. 14. Section 5.663 of the School Code is hereby repealed.

Legislative intent as to constitutionality.

SEC. 15. The Legislature hereby declares that it was the legislative intent to establish a complete new plan or system for the trial of cases involving the dismissal of permanent employees of school districts, and that the adoption of the amendment to sections 5.650, 5.651, 5.652, 5.653, 5.654, and 5.661, and the repeal of sections 5.655, 5.656, 5.657, 5.658, 5.659, 5.660, 5.662 and 5.663, at this session of the Legislature was contingent upon the constitutionality of such sections as amended, and that the Legislature would not have adopted such amendments except in the belief that such sections as amended and each thereof, are constitutional, and that the adoption of each of said sections, amendments, and the repeal of each of said sections hereby repealed, was contingent upon the adoption and the constitutionality of the amendment to each of the other sections.

If any of such sections as so amended shall be declared to be unconstitutional or void, then this act would not have been adopted and this entire act must be held to be unconstitutional.

CHAPTER 692.

An act to authorize the Division of Water Resources of the Department of Public Works to gather and correlate information and data pertinent to an annual forecast of seasonal water crop, including the making of snow surveys, and to cooperate with other agencies in such work, and making an appropriation therefor.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The Division of Water Resources of the Department of Public Works is hereby authorized and directed to gather and correlate information and data pertinent to an annual forecast of seasonal water crop, including the making of snow surveys, and to do all or any of such work either independently or in cooperation with one or more persons, firms, associations, corporations, or other agencies, including county, State and Federal agencies.

Division of Water Resources. Annual forecast of seasonal water crop

SEC. 2. For the purpose of carrying out the provisions of this act the sum of fifteen thousand dollars ($15,000), or so much thereof as may be necessary, is hereby appropriated out of any money in the State treasury, not otherwise appropriated, and the State Controller is hereby directed to draw warrants upon such sum from time to time upon demand of the Division of Water Resources and the State Treasurer is hereby directed to pay such warrants.

Appropriation

CHAPTER 693.

An act to amend section 5.21 of the School Code, relating to the support of State teachers colleges.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 5.21 of the School Code is hereby amended to read as follows:

Stats. 1933, p. 2173.

5.21. The Director of Education shall control and expend all moneys appropriated for the support and maintenance of the teachers colleges, and all moneys received as donations. With the approval of the Director of Education, tuition fees and deposits may be required of and collected from students enrolled in State teachers colleges. Special fees to cover cost of materials and services for specific courses in either regular or summer sessions, and fees for extension courses may be collected if authorized by the Director of Education, but such fees shall not be considered as part of the general tuition fee, and unexpended portions of such fees may, upon approval of

Control of funds

the Director of Education, be refunded to the students from whom they were collected. All fees collected from students in any State teachers college are hereby appropriated for the support of the State teachers college in addition to such other funds as may be appropriated therefor by the Legislature. The total tuition fees charged any such student shall not exceed twenty-five dollars per year or twelve dollars and fifty cents per semester. The Director of Education shall prescribe rules and regulations subject to the approval of and audit by the Department of Finance covering the collection, custody and disposition of any and all moneys collected by any State teachers college.

Appropriation.

Tuition fees

CHAPTER 694.

Stats 1913, p 1097, amended

An act to amend section 7 of an act entitled "An act to regulate the practice of optometry; to provide for the appointment of a Board of Optometry, define its duties and powers and prescribing a penalty for the violation of this act," approved June 16, 1913, relating to the regulation of the practice of optometry.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 847.

SECTION 1. Section 7 of the act cited in the title hereof is hereby amended to read as follows:

Notice of place of business

Sec. 7. Before engaging in the practice of optometry, it shall be the duty of each registered optometrist to notify the board in writing of the place or places where he is to engage, or intends to engage, in the practice of optometry and of any changes in his place of business, and any notice required to be given by the board to any registered optometrist may be given by mailing to such address, through the United States mail, postage thereon prepaid.

Annual registration fee.

Each registered optometrist shall annually, between the first day of January and the first day of February of each year, pay to the Director of the Department of Professional and Vocational Standards, Sacramento, California, a fee of twelve dollars, for a renewal of his registration certificate, and shall keep such certificate conspicuously posted in his office or place of business at all times. Failure, neglect or refusal of any person who is a regularly licensed optometrist to pay in advance on or before February first of each year, said license fee of twelve dollars, during the time his license remains in force shall ipso facto work a forfeiture of his license and it shall not be restored except upon a written application therefor and the payment to said board of the sum of twenty-five dollars, in addition to all delinquent annual license fees, except that such persons shall not be required to submit to any

examination if he makes application for restoration of his license and pays all delinquent license fees and penalties within three years after such forfeiture; and provided that unless he makes such application and pays all delinquent fees and penalties within said period of three years he shall not have his license restored unless he passes the regular examination, provided by section 6 of this act.

From each annual renewal license fee of twelve dollars there shall be paid to the University of California by the Director of the Department of Professional and Vocational Standards, Sacramento, California, on or before the tenth day of March of each year, the sum of eight dollars, said sum to be used at and by said University of California solely for the advancement of optometrical research, and the maintenance and support of the department at said University of California, in which the science of optometry shall be taught. The balance of each said annual renewal fee amounting to four dollars as required hereby, shall be paid into the State treasury. Any registered optometrist who shall temporarily practice optometry outside or away from his regular registered place of business shall deliver to each client or person there fitted or supplied with glasses a receipt which shall contain his signature and show his permanent registered place of business and the number of his certificate, together with a specification of the lenses furnished and the amount charged therefor.

Payment to University of California.

To State treasury.

The Director of Professional and Vocational Standards shall, within thirty days prior to each regular session of the Legislature, submit to the Governor a full and true report of transactions under this act during the current biennium, including a complete statement of receipts and expenditures during that period.

Report to Governor.

CHAPTER 695.

An act to amend section 718 of the Civil Code and section 842 of the Probate Code and to add a new section numbered 1538.5 to the Probate Code, relating to the leasing of property of a minor, insane or incompetent person, or of a decedent.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 718 of the Civil Code is hereby amended to read as follows:

Stats. 1929, p. 322.

718. No lease or grant of any town or city lot for a longer period than ninety-nine years, in which shall be reserved any rent or service of any kind, shall be valid; provided, that the property of any municipality shall not be leased for a longer

Lease or grant of municipal property

period than ten years, excepting that water and sewage discharged from the municipal sewer system, the property and equipment used in treating or disposing of such sewage and the sewer farm of a municipality and all water and sewage used or discharged thereon may be leased for a period not exceeding twenty-five years; and excepting that the tidelands and submerged lands granted to any city by the State, may be leased for a period not exceeding fifty years if the grant from the State of California of the use of said tidelands and submerged lands does not provide specifically for a term of years for which said lands may be leased; and excepting that tidelands and submerged lands owned or controlled by any city, together with the wharves, docks, piers and other structures or improvements thereon, and so much of the uplands abutting thereon as may in the judgment of the city council, or other governing body, of the city be necessary for the proper development and use of its water front and harbor facilities, may be leased for a period not exceeding fifty years; and excepting that the property of any municipality not acquired for park purposes may be leased for the purpose of production of minerals, oil, gas or other hydrocarbon substances for a period not to exceed thirty-five years. Said tidelands, submerged lands and uplands may be leased only for industrial uses, the purpose of improvement and development of the harbor of said city, and the construction and maintenance of wharves, docks, piers or bulkhead piers or for other public uses and purposes consistent with the requirements of commerce or navigation at said harbor.

Stats 1931, p 644.

SEC. 2. Section 842 of the Probate Code is hereby amended to read as follows:

Lease by executor or administrator.

842. At the time appointed, the court shall hear the petition and any objection thereto that may have been presented; and if the court is satisfied that it will be to the advantage of the estate, it shall make an order authorizing and directing the executor or administrator to make such lease. The order shall prescribe the minimum rental or royalty and the period of the lease, and may prescribe other terms and conditions. The period of the lease must not be longer than ten years except that for the purpose of production of minerals, oil, gas or other hydrocarbon substances, the lease may be for a period not to exceed twenty years. A certified copy of the order shall be recorded in the office of the recorder of every county in which the leased land or any portion thereof lies.

New section.

SEC. 3. A new section is hereby added to the Probate Code numbered 1538.5, to read as follows:

Order authorizing lease.
Maximum term.

1538.5. An order authorizing the execution of a lease shall prescribe the minimum rental or royalty and the period of the lease, and may prescribe other terms and conditions. The period of the lease must not be longer than ten years, except that for the purpose of production of minerals, oil, gas or other hydrocarbon substances the lease may be for a period not to exceed twenty years.

CHAPTER 696.

An act authorizing the Governor to execute a compact with the State of Nevada, for the purpose of promoting comity and good will between California and Nevada with reference to the Boulder Canyon Project, and of adjusting matters pertaining to the proposed taxation of property located in Nevada and owned by the State of California or any political subdivision thereof.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. That the Governor be and he is hereby authorized and directed to execute, for and in behalf of and in the name of the State of California, a compact or agreement with the State of Nevada, for the purpose of promoting, fostering, and encouraging a spirit of comity and good will between the people of the State of California and the people of the State of Nevada with reference to the Boulder Canyon Project, and for the purpose of adjusting matters pertaining to the proposed taxation, by the State of Nevada, or by political subdivisions thereof, of property which is or will be located in Nevada, and which is or will be used in connection with the impounding, storage, generation, transmission, distribution, or other handling or disposal of water or electric energy produced in connection with said Boulder Canyon Project, and which is or will be the property of the State of California or any political subdivision thereof; provided, that no such compact or agreement shall be binding on the State of California until the same shall have been approved by the Legislature of this State.

Governor's compact with State of Nevada regarding Boulder Canyon Project

Legislative approval.

CHAPTER 697.

An act to amend section 5.682 of the School Code, relating to tenure of position for teachers.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 5.682 of the School Code is hereby amended to read as follows:

Sch. C. 1929, p. 248.

5.682. Anything in section 5.681 of this code to the contrary notwithstanding, governing boards of school districts having an average daily attendance of 60,000 or more pupils shall have power and it shall be their duty to dismiss probationary employees for cause only. The determination of the board as to the sufficiency of the cause for dismissal shall be conclusive, but such cause must relate solely to the welfare of the schools and the pupils thereof.

Probationary employees' Dismissal

CHAPTER 698.

Stats. 1929, p 1427, amended

An act to amend section 4 of and to add section 8 to an act entitled "An act creating a commission to codify, consolidate, revise or compile the statutes of California and to report thereon to the Legislature, and making an appropriation therefor, and authorizing State departments, boards, bureaus and commissions to contract for the revision of certain laws," approved June 10, 1929, relating to reports and making an appropriation to carry out the provisions of the act.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 1677.

SECTION 1. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

Report.

Sec. 4. The commission shall submit its reports, including its recommendations as to revision of the laws, in bill form, to the Governor and the Legislature, and shall distribute said reports to the Governor, the members of the Legislature, and the heads of all departments of the State. Said reports shall be accompanied by exhibits of various changes, modifications, improvements, and suggest enactments prepared or proposed by it with a full and accurate index thereto. The commission shall, within thirty days prior to each regular session of the Legislature, submit to the Governor a full and true report of transactions under this law during the current biennium, including a complete statement of receipts and expenditures during that period.

New section.

SEC. 2. Section 8 is hereby added to said act to read as follows:

Appropriation.

Sec. 8. Out of the moneys in the State treasury the sum of twenty-seven thousand five hundred dollars is hereby appropriated, in addition to any other moneys otherwise appropriated, to be expended in accordance with law in carrying out the provisions of this act. Said sum of twenty-seven thousand five hundred dollars is appropriated out of and payable from certain moneys and funds, as follows:

Out of the insurance fund five thousand dollars; out of the retail sales tax fund five thousand dollars; out of the petroleum and gas fund two thousand five hundred dollars; out of the motor vehicle fuel fund two thousand five hundred dollars, to be deducted by the State Controller from the first apportionment hereafter made from said fund to the counties and cities and counties; out of the State highway fund two thousand five hundred dollars, to be charged by the Department of Public Works against the moneys apportioned under section 194 of the Streets and Highways Code, and the remainder out of moneys in the general fund not otherwise appropriated.

CHAPTER 699.

An act to amend section 86 of the Agricultural Code, relating to agricultural fairs. Stats 1933 p. 60

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 86 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p. 71.

86. Each district agricultural association is a State institution. Each association by its name has perpetual succession, may have a seal, be sued and, with the approval of the Department of Finance, may: Powers of association

(a) Contract, and sue.

(b) Purchase, acquire, hold, sell, exchange or convey any interest in real or personal property and beautify or improve such property.

(c) Lease any portion of its real estate for the purpose of building museums or coliseums thereon.

(d) Lease lands owned, managed or controlled by it, whether in trust or otherwise, not needed for the permanent use of said association, to any nonprofit agricultural fair association operating a county fair within its district, or to any municipal corporation or county, in which said lands are located, for a period not to exceed fifty years, for purposes not inconsistent with the objects and purposes for which said association is formed and for which said lands are held, owned, or controlled by it.

(e) Contract with any county or county fair association for holding a fair jointly with the same. Such joint fair shall constitute a district fair of the association.

(f) Do any and all things necessary to carry out the above powers and the objects and purposes for which the association is formed.

CHAPTER 700.

An act to amend the public utilities act by adding two new sections numbered sections 13½ and 32½, relating to public utilities. Stats 1915, p. 115, amended.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Public Utilities Act numbered 13½ and reading as follows: New section

Sec. 13½. Nothing herein contained shall be construed to prohibit any common carrier from establishing and charging a lower than a maximum reasonable rate for the transportation of property when the needs of commerce or public interest require. However, no common carrier subject to the juris- Charges at less than maximum reasonable rate under certain conditions

diction of the California Railroad Commission may establish a rate less than a maximum reasonable rate for the transportation of property for the purpose of meeting the competitive charges of other carriers or the cost of other means of transportation which shall be less than the charges of competing carriers or the cost of transportation which might be incurred through other means of transportation, except upon such showing as may be required by the commission and a finding by it that said rate is justified by transportation conditions; but in determining the extent of said competition the commission shall make due and reasonable allowance for added or accessorial service performed by one carrier or agency of transportation which is not contemporaneously performed by the competing agency of transportation.

New section

SEC. 2. A new section is hereby added to the Public Utilities Act numbered 32½ and reading as follows:

Hearing to fix rates among competing agencies

SEC. 32½. Whenever the commission, after a hearing had upon its own motion or complaint, shall find that any rate or toll for the transportation of property is lower than a reasonable or sufficient rate and that said rate is not justified by actual competitive transportation rates of competing carriers, or the cost of other means of transportation, the commission shall prescribe such rates as will provide an equality of transportation rates for the transportation of property between all such competing agencies of transportation. When in the judgment of the Railroad Commission a differential is necessary to preserve equality of competitive transportation conditions a reasonable differential between rates of common carriers by rail and water for the transportation of property may be maintained by said carriers and the commission may by order require the establishment of such rates.

CHAPTER 701.

Stats. 1931, p. 483, amended

An act to amend the Building and Loan Association Act by adding section 12.04b thereto, relating to foreign associations.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the act cited in the title hereof, to be numbered section 12.04b and to read as follows:

New foreign associations prohibited.

SEC. 12.04b. New foreign associations prohibited. No foreign association shall hereafter conduct a building and loan business in this State, unless it shall be (a) an association licensed to transact such business at the date this section takes effect, or (b) an association arising out of the rehabilitation, readjustment, consolidation, merger or reorganization of such an association.

CHAPTER 702.

An act to amend section 17 of the Public Utilities Act, relating to discrimination in relation to transportation by common carriers. Stats 1915, p 115, amended.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 17 of the Public Utilities Act is hereby amended to read as follows: Stats 1931, p. 365

Sec. 17. (a) 1. No common carrier subject to the provisions of this act shall engage or participate in the transportation of persons or property, between points within this State, until its schedules of rates, fares, charges and classifications shall have been filed and published in accordance with the provisions of this act. Filing rate schedules

2. No common carrier shall charge, demand, collect or receive a greater or less or different compensation for the transportation of persons or property, or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in its schedules filed and in effect at the time; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares or charges so specified, except upon order of the commission as hereinafter provided, nor extend to any corporation or person any privilege or facility in the transportation of passengers or property except such as are regularly and uniformly extended to all corporations and persons. Discrimination forbidden.

3. No common carrier subject to the provisions of this act shall, directly or indirectly, issue, give or tender any free ticket, free pass or free or reduced rate transportation for passengers between points within this State, except to blind residents of California, its officers, agents, employees, attorneys, physicians and surgeons, and members of their families; to ministers of religions, traveling secretaries of railroad men's religious associations, or executive officers, organizers or agents of railroad employees' mutual benefit associations giving the greater portion of their time to the work of any such association; inmates of hospitals or charitable or eleemosynary institutions, and persons exclusively engaged in charitable or eleemosynary work, and persons and property engaged or employed in educational work or scientific research or in patriotic work when permitted by the commission; to the executive officers of mercantile or promotion boards or bodies within this State when traveling in the performance of duties affecting the advancement of the business of such boards or bodies, or the development of trade or industry within or without this State, when authorized by the commission; to hotel employees of season resort hotels, when authorized by the commission; to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the Passes forbidden Exceptions.

necessary agents employed in such transportation; to inmates of the National homes or State homes for disabled volunteer soldiers and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge; to necessary caretakers, going and returning, of live stock, poultry, milk, fruit and other freight, under uniform and nondiscriminatory regulations; to employees of sleeping-car corporations, express corporations and telegraph and telephone corporations; to railway mail service employees, United States internal revenue officers, post-office inspectors, customs officers and inspectors and immigration inspectors when traveling in the course of their official duty; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the carrier is interested, persons injured in accidents or wrecks and physicians and nurses attending such persons; provided, that the term "employees," as used in this section, shall include furloughed, pensioned and superannuated employees, persons who have become disabled or infirm in the service of any such carrier, exemployees traveling for the purpose of entering the service of any such carrier, and the remains of persons dying while in the employment of any such carrier; and the term "families," as used in this section, shall include the families of those persons heretofore named in this proviso, and the families of persons killed, and the widows during widowhood and minor children during minority of persons who died while in the service of any such carrier; and provided, further, that no free ticket, free pass or free or reduced rate transportation shall be issued, given or tendered to any officer, agent or employee of a common carrier, who is at the same time a shipper or receiver of freight, or an officer, agent or employee of a shipper or receiver of freight, unless such officer, agent or employee devotes substantially his entire time to the service of such carrier; and provided, further, that the members of the Railroad Commission, their officers and employees, shall be entitled, when in the performance of their official duties, to free transportation over the lines of all common carriers within this State; and provided, further, that passenger transportation may issue to the proprietors and employees of newspapers and magazines and the members of their immediate families, in exchange for advertising space in such newspapers or magazines at full rates, subject, however, to such reasonable restrictions as the commission may impose; provided, further, that passenger stage corporations as in this act defined may issue free or reduced rate passenger transportation to their commission agents or any of them. All blind residents of California may be granted free transportation on all street cars and may be permitted to travel on all other common carriers within the State for one-half the current fare, and when any blind person is accompanied by a guide, the combined fares for such blind person and his guide may be fixed at not to exceed the current fare for an individual.

"Employees" defined

"Families" defined.

Employees who are shippers

Railroad Commission.

Passes in exchange for advertisement

Commission agents of stage corporations.

Blind residents and guides

Nothing in this act contained shall be construed to prohibit the issue by express corporations of free or reduced rate transportation for express matter to their officers, agents, employees, attorneys, physicians and surgeons, and members of their families, or the interchange of free or reduced rate transportation for passenger or express matter between common carriers, their officers, agents, employees, attorneys, physicians and surgeons, and members of their families, where such common carriers are subject in whole or in part to the jurisdiction of the commission or of the interstate commerce commission, or where such common carriers, though not in whole or in part subject to the jurisdiction of this commission or of the interstate commerce commission, but which are engaged in the business of transporting passengers and freight by water between the United States and foreign countries, and are permitted by the interstate commerce act to interchange such free transportation with common carriers which are subject to the jurisdiction of the interstate commerce commission or to the jurisdiction of this commission, or the interchange of free or reduced rate transportation for passengers or express matter between a common carrier, and a corporation engaged in the carriage of persons or property by motor vehicle, or the officers, agents, employees, attorneys, physicians and surgeons of said common carrier or said corporation and their families; provided, that the power to interchange free or reduced rate transportation for passengers or express matter between said common carrier and said corporation shall be applicable only where said corporation is engaged in the carriage by motor vehicle of persons or property as a connecting carrier, or in the carriage by motor vehicle of persons or property over a portion of a route between the point of departure or shipment and arrival or delivery, part of which said route is covered or traveled by a common carrier, whether said carriage by motor vehicle be an initial, an intermediate or a final portion of the entire route between said point of departure or shipment and arrival or delivery; provided, that such express matter be for the personal use of the person to or for whom such free or reduced rate transportation is granted, or of his family; nor to prohibit the issue of reduced rate transportation by a common carrier to children attending an institution of learning; nor to prohibit the issue of passes or franks by telegraph or telephone corporations to their officers, agents, employees, attorneys, physicians and surgeons, and members of their families, or the exchange of passes or franks between such telegraph and telephone corporations or between such corporations and such common carriers, for their officers, agents, employees, attorneys, physicians and surgeons, and members of their families; nor to prevent the carrying out of contracts for free or reduced rate passenger transportation heretofore made, founded upon adequate consideration and lawful when made; nor to prevent a common carrier from transporting, storing or handling, free or at reduced rates, the household

Interchange of passes between common carriers.

Common carrier and motor vehicle carrier.

Limitation on interchanges.

Further exceptions

goods and personal effects of its employees, of persons entering or leaving its service, and of persons killed or dying while in its service.

Passes allowed: Worthy purposes

4. Every common carrier subject to the provisions of this act may transport, free or at reduced rates, persons or property for the United States, State, county or municipal governments, or for charitable purposes, or for patriotic purposes, or to provide relief in cases of general epidemic, pestilence or other calamitous visitation, and property to or from fairs or expositions for exhibit thereat; also contractors and their employees, material or supplies for use or engaged in carrying out their contracts with said carriers, for construction, operation or maintenance work or work incidental thereto on the line of the issuing carrier, to the extent only that such free or reduced-rate transportation is provided for in the specifications upon which the contract is based and in the contract itself. Common carriers may also enter into contracts with telegraph and telephone corporations for an exchange of service.

Construction contracts.

Service contracts

Antidiscrimination clause.

(b) Except as in this section otherwise provided, no public utility shall charge, demand, collect or receive a greater or less or different compensation for any product or commodity furnished or to be furnished, or for any service rendered or to be rendered, than the rates, tolls, rentals and charges applicable to such product or commodity or service as specified in its schedules on file and in effect at the time, nor shall any public utility engaged in furnishing or rendering more than one product, commodity or service, charge, demand, collect or receive a greater or less, or different compensation for the collective, combined or contemporaneous furnishing or rendition of two or more of such products, commodities or services, than the aggregate of the rates, tolls, rentals or charges specified in its schedules on file and in effect at the time, applicable to each such product, commodity or service when separately furnished or rendered, nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates, tolls, rentals and charges so specified, nor extend to any corporation or person any form of contract or agreement or any rule or regulation or any facility or privilege except such as are regularly and uniformly extended to all corporations and persons; provided, that the commission may by rule or order establish such exceptions from the operation of this prohibition as it may consider just and reasonable as to each public utility.

Antirebate clause.

CHAPTER 703.

Stats 1929, p. 910, amended.

An act to amend sections 3 and 9 of, and to add sections 17 and 18 to "An act to provide for needy blind persons, not inmates of any institution supported in whole or in part by

the State or any of its political subdivisions, making appropriation therefor and prescribing penalties for the violation of the provisions of the act," approved May 28, 1929, relating to aid to the needy blind.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 3 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1931, p. 1893.

Sec. 3. In order that any person who may have become blind while a resident of the State of California may be entitled to aid under the provisions of this act, such person must be sixteen years of age and a resident of the county or city and county in which his application is filed for a period of six months immediately preceding the filing of his application; and in order that any person, who became blind while he was not a resident of the State of California, may be entitled to aid under the provisions of this act, such person must be a sixteen years of age and a resident of the county or city and county, in which his application is filed, for a period of one year immediately preceding the filing of his application and a resident of the State of California for a period of ten years immediately preceding the filing of his application; provided, that if, when and during such time as grants in aid are provided by the United States Government for such aid in this State, and accepted by this State, aid may be granted under this act to any person otherwise eligible who resides in the State of California and has so resided continuously for at least one year immediately preceding the date of application and for at least five years within the nine years immediately preceding the date of such application; provided, however, that no applicant shall receive such aid while he is an inmate of any institution supported in whole or in part by the State or any of its political subdivisions; provided, however, that if any applicant receiving aid under the provisions of this act, have residing within the State a spouse, parent, adult child, grandparent or adult grandchild pecuniarily able to support said applicant, the district attorney, or other civil legal officer of the county or city and county granting aid may, on behalf of said county or city and county, maintain an action in the superior court of the county or city and county granting such aid, against said relatives, in the order named, to recover for said county or city and county such portion of said aid granted as the court may find said relative or relatives pecuniarily able to pay; provided, that the receipt of aid by the applicant hereunder shall not be contingent upon such recovery by said legal officer. Such sums so recovered shall be credited by the county or city and county in its semiannual settlement with the State; and provided further, that no one shall receive aid under this act who owns property, the county or city and county assessed valuation of which, less all encumbrances

Who may receive benefits of act.

Residence requirement when Federal aid provided

thereon of record, is in excess of three thousand dollars; and provided further, that in estimating the income of an applicant under this act property owned by such applicant not bearing an income nor used as his actual residence shall be deemed to yield an income of five per cent per annum on its valuation as determined by the county or city and county assessor or assessors less all encumbrances thereon of record; and provided further, that no person shall be eligible to receive aid under this act who publicly solicits alms in any part of the State. The term "publicly solicits" shall be construed to mean either the wearing, carrying or exhibiting of signs denoting blindness for the securing of alms, or the carrying of receptacles, for the purpose of securing alms, or the doing of the same by proxy; or stationary or house to house begging; or any other means of publicly seeking alms; and provided, however, that no applicant shall be denied the aid provided for in this act by reason of the fact that such applicant is attending or intends to attend any public high school in this State, the University of California, or any other institution of higher learning in this State.

"Publicly solicits" defined

Stats 1931, p. 1896.

SEC. 2. Section 9 of the act cited in the title hereof is hereby amended to read as follows:

Financial report

Sec. 9. The board of supervisors of each county or city and county shall, at times to be named by the State Department of Social Welfare, certify to said department the sums of money paid out to blind persons under the provisions of this act during the preceding six months. Such certified claims shall be audited by the State Department of Social Welfare and the State Controller. The State Controller shall draw warrants therefor in the sum of one-half the amount paid out by said county or city and county to blind persons under the provisions of this act during the period for which the claim is made, and the amount of such warrants shall be paid by the State Treasurer to the treasurer of said county or city and county; provided, that if, when and during such time as funds are provided or made available by the United States Government for aid to the needy blind in this State, the State, in addition to said sum equal to one-half of the total amount of payments made by the county or city and county, shall pay to each county or city and county one-half of the total amount of payments made to the State by the United States for or in respect to aid for the needy blind who receive aid under the provisions of this act, exclusive of the five per cent granted by the Federal Government for administration costs. Any claim certified by the county board of supervisors pursuant to this act shall be disallowed only on the ground that the aid was granted contrary to the provisions of this act.

Payments to counties.

New section.

SEC. 3. A new section to be numbered section 17 is hereby added to the act cited in the title hereof and to read as follows:

When aid not to be given

Sec. 17. No aid to needy blind shall be given under the provisions of this act to any individual who receives aid under the Old Age Security Act of the State of California.

SEC. 4. A new section to be numbered section 18 is hereby added to the act cited in the title hereof and to read as follows: New section.

Sec. 18. The acceptance of aid for the needy blind by the State from the Federal Government or any department or agency thereof under this act shall not be deemed to reduce the maximum amount of aid to the blind which may be granted under the provisions of this act. Acceptance of Federal aid

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CHAPTER 704.

An act creating the California Farm Debt Adjustment Commission, defining its powers and duties and making an appropriation therefor.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A commission is hereby created to be known as the California Farm Debt Adjustment Commission. Said commission shall consist of fifteen members to be appointed by and serve at the pleasure of the Governor. The members of said commission shall serve without compensation and shall not be allowed any expenses incurred in traveling. Farm Debt Adjustment Commission created

SEC. 2. The commission shall meet immediately after its appointment and select one of its members chairman. Powers

It shall be the duty of the commission hereby created to assist in the voluntary adjustment of farm obligations and to that end to provide an agency and means through which farmer debtors and their creditors may enter into voluntary agreements to satisfactorily adjust their obligations.

The commission shall, in so far as possible, coordinate the work of and assist county committees aiding in the voluntary adjustment of farm obligations and shall in the performance of its duties cooperate with the Federal Farm Credit Administration.

SEC. 3. Out of any moneys in the State treasury not otherwise appropriated the sum of four thousand eight hundred dollars is hereby appropriated to be expended in accordance with law in carrying out the provisions of this act. The California Farm Debt Adjustment Commission shall, within thirty days prior to the regular session of the Legislature, submit to the Governor a full and true report of transactions under this law during the preceding biennium, including a complete statement of receipts and expenditures during the period. Appropriation. Report

SEC. 4. The commission hereby created shall cease to exist and shall be abolished and have no powers and duties on and after September 15, 1937. Term of existence

CHAPTER 705.

An act to define motor transportation broker; to provide for the regulation, supervision and licensing thereof, and to provide for the enforcement of said act and penalties for the violation thereof.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Declaration of policy.

SECTION 1. The Legislature hereby declares that the public welfare requires the regulation and control of those persons, whether acting individually or as officers, commission agents or employees of any person, firm or corporation, who hold themselves out to act as intermediaries between the public and those motor carriers of property operating over the public highways of the State, for compensation; further, that until such time as Congress of the United States shall act, the public welfare requires such regulation and control of such intermediaries between the public and interstate motor carriers as well as between the public and intrastate carriers.

"Motor transportation broker" defined

SEC. 2. A motor transportation broker within the meaning of this act is a person who, acting either individually or as an officer, commission agent or employee of a corporation, or as a member of a copartnership, or as a commission agent or employee of another person or persons, sells or offers for sale, or negotiates for or holds himself out as one who sells, furnishes or provides, transportation over the public highways of this State, when such transportation is furnished, or offered or proposed to be furnished, by a motor carrier as defined in this act.

"Motor carrier" defined

A motor carrier within the meaning of this act is any person, firm, or corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, transporting or offering or proposing to transport property for compensation over the public highways of the State of California, or any portion thereof.

Exception.

This act shall not apply to the officers, agents or employees of any carrier operating for compensation over the public highways of this State who is under the jurisdiction of the Railroad Commission, or to a passenger stage corporation as the same is defined in section 2¼ of the Public Utilities Act engaged in transporting express when such transportation is incidental to the transportation of passengers.

Stats. 1915, p. 115

The provisions of this act shall apply regardless of whether such transportation so sold, or offered to be sold, is interstate or intrastate.

License required

SEC. 3. From and after sixty (60) days after this act becomes effective, it shall be unlawful for any person, firm or corporation to engage in the business, or act in the capacity, of a motor transportation broker within the meaning of this act without first obtaining a license therefor. No license shall

be issued to any copartnership or corporation, it being the intent hereof to require each person acting as a motor transportation broker, in this State, to be individually licensed therefor; provided, however, that if an applicant is an officer or commission agent or employee of a corporation, or a member of any copartnership, or a commission agent or employee of any person or copartnership, he shall so state in his application, and the corporation, copartnership, or person of which applicant is an officer, member, or employee, as the case may be, shall join in applicant's application and shall set forth therein the relationship between applicant and said person, copartnership and/or corporation so joining.

Persons to be individually licensed

SEC. 4. The Railroad Commission of the State of California is hereby vested with authority to administer this act, with full power to regulate and control the issuance and revocation of licenses to be issued under the provisions of this act, and to perform all other acts and duties provided in this act and necessary for its enforcement.

Administration by Railroad Commission

SEC. 5. All fees charged and collected under this act shall be deposited at least once a month in the State treasury to the credit of the Railroad Commission and in augmentation of the current appropriation for the support of the Railroad Commission and may be expended by the Railroad Commission for the administration of this act.

Disposition of fees.

SEC. 6. An application for a license as a motor transportation broker shall be made in writing to the Railroad Commission, which application shall be duly verified and shall be in such form and contain such information as the commission may from time to time require.

Licenses

The Railroad Commission shall have power, with or without hearing, to issue said license as prayed for, or to refuse to issue the same, or to issue it for the partial exercise of the privilege sought. No license shall be issued to an applicant when, with or without hearing, the Railroad Commission shall determine that (1) the applicant is not a fit and proper person to receive the same, or (2) the motor carriers for whom applicant proposed to sell transportation have not complied, and are not then and there complying and do not propose to comply, with State and/or Federal laws, and/or all general orders of the Railroad Commission of the State of California, applicable to the operations of said motor carrier.

The order of the Railroad Commission granting to any applicant a motor transportation broker's license shall set out the name of the motor carriers for whom said agent is licensed to sell.

In the location at which applicant is licensed to sell transportation, there shall be displayed in a prominent place a certificate setting forth the name of the licensee and such other matter and things as the commission may require.

SEC. 7. The fees for licenses, and each renewal thereof, shall be five dollars ($5) per year, or fraction thereof. All applications for licenses shall be accompanied by the fee as

Fees.

herein provided and all licenses, subject to the provisions for renewal, which the Railroad Commission shall prescribe, shall expire on December 31 of each year.

Surety bond.

SEC. 8. No license shall be issued unless the applicant therefor shall provide a good and sufficient bond in the sum of one thousand dollars ($1,000), which bond shall be filed by such applicant as principal and by some solvent surety company, authorized to do business in the State of California, as surety, payable to the State of California, and/or any person, or persons, for, or to whom, applicant may, or shall, furnish or provide transportation, and shall be conditioned: (1) upon the faithful performance, by the motor carrier or motor carriers for whom applicant is licensed to act, of the contract or agreement of transportation negotiated by the licensee, and (2) the honest and faithful performance by applicant of any undertaking as a licensed motor carrier transportation agent under this act; provided, however, that if any corporation, copartnership, or person of which applicant is an officer, member, commission agent or employee, as the case may be, shall join in applicant's application as provided in section 3 hereof, applicant shall be deemed to have complied with the provisions of this section if applicant shall provide, or there shall, theretofore, have been filed with the Railroad Commission, a good and sufficient bond in a sum to be fixed by the Railroad Commission, not exceeding twenty-five thousand dollars ($25,000), executed by the corporation, copartnership, or person, joining in such application, as principal, and by some solvent surety company, authorized to do business in the State of California, as surety, payable to the State of California, and/or any person, or persons, for, or to whom, any officer, member, commission agent or employee of said principal, licensed under the provisions of this act may, or shall, furnish or provide transportation, conditioned: (1) upon the faithful performance, by the motor carrier or motor carriers for whom any officer, member, commission agent or employee of said principal is licensed to act, of the contract or agreement of transportation negotiated by the licensee, and (2) the honest and faithful performance, by any such officer, member, commission agent or employee so licensed, of any undertaking as a licensed motor transportation broker under this act.

Nothing in this act shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof or the amount remaining unextinguished by any prior recovery or recoveries as the case may be.

No suit or action against the surety on any such bond shall be brought later than one year from the accrual of the cause of action thereon. The surety may terminate its liability under such bond by giving thirty days' written notice thereof, served either personally or by registered mail, to the principal and to the Railroad Commissioner of the State of California, and upon giving such notice the surety shall be discharged from all liability under such bond for any act or omission of

the principal occurring after the expiration of thirty days from the date of service of such notice. Unless on or before the expiration of such period the principal shall duly file a new bond in like amount and conditioned as the original in substitution of the bond so terminated, the license of the principal shall likewise terminate upon the expiration of such period.

License not transferable

SEC. 9. No license issued under the provisions of this act shall give authority, to do any act for which the license is issued, to any person, other than the licensee, and such license shall not be transferable or assignable. No license issued thereunder shall authorize the licensee to do business except in the location stipulated in the license.

Suspension or revocation of licenses.

SEC. 10. The commission may suspend or revoke any license theretofore issued if it shall determine that the licensee is not a fit and proper person to hold the same, or if the commission shall determine that the licensee, in acting as such motor transportation broker, has engaged in false advertising and false representation in violation of the laws of this State, or any political subdivision thereof, or has sold, offered for sale, or negotiated for sale, transportation by any carrier that under the laws of this State is conducted in a manner contrary to the public interest, or without proper authority, or in violation of the provisions of this act or the general orders, rules and regulations of the Railroad Commission pertaining thereto.

Records of brokers

SEC. 11. It shall be the duty of all motor transportation brokers to maintain and keep for a period of two years an exact and permanent record of all transactions had by them as such brokers, including the amount paid to such broker for all property transported, point of destination and the name of the person, firm, or corporation, acting as motor carrier. The records hereby required to be kept shall at all times be open to inspection by any officer or agent of the State, county, or city and county within the State.

Hearings by Railroad Commission.

SEC. 12. All powers heretofore, or hereafter to be vested in the Railroad Commission of the State of California, as relates to hearing and determining matters presented to it, are made applicable to the proceedings under the provisions of this act.

Penalties.

SEC. 13. This act shall not have the effect to release or waive any right of action by the State, Railroad Commission, or any person or corporation, for any fine, penalty or forfeits which may have arisen or accrued, or may hereafter arise or accrue, under any laws of this State. All penalties accruing under this act shall be cumulative of each other, and a suit for the recovery of one penalty shall not be a bar to, or affect the recovery of, any other penalty or forfeit, or be a bar to any criminal prosecution, or be a bar to the exercise of the commission of its powers to punish for contempt.

"Acting as a motor transportation broker" defined

SEC. 14. Any person, firm or corporation, shall be understood to be acting as a motor transportation broker within the meaning of this act who shall (1) orally or by card, circular,

pamphlet, newspaper, radio, sign, billboard, or any other way, advertise himself, or itself, as one who sells, furnishes, negotiates for, or provides transportation over the public highways of this State when such transportation is furnished or offered, or proposed to be furnished, by motor carriers as defined in this act; (2) manage or conduct as manager, conductor, agent, proprietor, leasor, lessee, or otherwise, a place where transportation is, or is offered, or proposed to be, sold, furnished, negotiated for, or provided by a motor carrier as defined in this act; (3) aid and abet, or without being present shall have advised and encouraged any person, firm or corporation in acting as, or to act as, a motor transportation broker. One act of the nature herein set forth shall constitute a person, firm or corporation doing or committing such act, a motor transportation broker within the meaning of this act. It is hereby made the duty of any officer arresting any person for violation of this act, to take, and keep in his custody for use as evidence, any materials or indicia used by said person so arrested, for the purpose of advertising said persons acting as, or desiring to act as, a motor transportation broker. Any person who may, or shall, be charged with, or complained of as, acting as a motor transportation broker without a license as herein provided, shall bear the burden of proof of proving as a matter peculiarly within the knowledge of the person so charged or complained of: (1) that such person, firm or corporation so charged or complained of is a licensed motor transportation broker; and (2) that the motor carrier or motor carriers for whom such person, firm or corporation is, or has been, acting, or proposed to act, as an agent, as charged or complained of, is not a motor carrier within the meaning of this act.

Burden of proof.

Complaints.

SEC. 15. The Railroad Commission may prefer a complaint for violation of this act before any court of competent jurisdiction and said commission and its counsel, or other official representatives, may assist in presenting facts at the trial. It shall be the duty of the district attorney of each county in this State to prosecute all violations of the provisions of this act in their respective counties in which such violations occur, either with or without request of said commission.

Penalty: Acting as broker without license.

SEC. 16. Any person, firm or corporation, acting on a motor transportation broker within the meaning of this act without a license as herein provided shall, upon conviction of a first offense thereof, if a person, be punished by a fine of not to exceed five hundred dollars ($500), or by imprisonment in the county jail for a term not to exceed six months, or by both such fine and imprisonment, in the discretion of the court; or if a corporation, may be punished by a fine of not to exceed two thousand five hundred dollars ($2,500); and for a second and subsequent offense shall, upon the conviction thereof, if a person, be punished by a fine of not to exceed one thousand dollars ($1,000), or by imprisonment in the county jail or State prison for a term not to exceed one year,

or by both such fine and imprisonment in the discretion of the court; or, if a corporation, may be punished by a fine of not to exceed five thousand dollars ($5,000).

SEC. 17. Any person, duly licensed as a motor transportation broker, who shall violate any of the provisions of this act, shall, upon conviction thereof, be punished by a fine not to exceed five hundred dollars ($500), or by imprisonment in a county jail not to exceed six months, or by both such fine and imprisonment in the discretion of the court; and in addition thereto, the license as motor transportation broker theretofore issued shall be revoked by the Railroad Commission in the manner herein provided. Violations of act

SEC. 18. The term "commission," or "Railroad Commission," when used in this act, means the Railroad Commission of the State of California. "Commission" defined

SEC. 19. If any section, subsection, sentence, clause or phrase of this act is, for any reason, held to be unconstitutional, such decision shall not effect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional. Constitutionality

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CHAPTER 706.

An act making an appropriation for the contingent expenses of the Assembly at its fifty-first session, and declaring that this act shall take effect immediately.

[Approved by the Governor July 16, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. The sum of twenty-five thousand dollars is hereby appropriated out of any moneys in the State treasury not otherwise appropriated, for contingent expenses of the Assembly for the fifty-first session of the Legislature and interim committees thereof. Appropriation: Assembly contingent expenses

SEC. 2. This appropriation shall be available for the purposes for which it is appropriated without regard to fiscal years. When available

SEC. 3. Inasmuch as this act makes an appropriation for the usual current expenses of the State, it shall, under the provisions of section 1 of Article IV of the Constitution, take effect immediately. Current expenses

CHAPTER 707.

An act to amend section 164 of the Civil Code, relating to community property.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1927, p 826

SECTION 1. Section 164 of the Civil Code is hereby amended to read as follows:

Property acquired after marriage

164. All other property acquired after marriage by either husband or wife, or both, including real property situated in this State and personal property wherever situated, heretofore or hereafter acquired while domiciled elsewhere, which would not have been the separate property of either if acquired while domiciled in this State, is community property; but whenever any real or personal property, or any interest therein or encumbrance thereon, is acquired by a married woman by an instrument in writing, the presumption is that the same is her separate property, and if acquired by such married woman and any other person the presumption is that she takes the part acquired by her, as tenant in common, unless a different intention is expressed in the instrument; except, that when any of such property is acquired by husband and wife by an instrument in which they are described as husband and wife, unless a different intention is expressed in the instrument, the presumption is that such property is the community property of said husband and wife. The presumptions in this section mentioned are conclusive in favor of a purchaser, encumbrancer, payor, or any other person dealing with such married woman in good faith and for a valuable consideration.

Presumptions.

Limitation of actions.

In cases where a married woman has conveyed, or shall hereafter convey, real property which she acquired prior to May 19, 1889, the husband, or his heirs or assigns, of such married woman, shall be barred from commencing or maintaining any action to show that said real property was community property, or to recover said real property from and after one year from the filing for record in the recorder's office of such conveyances, respectively.

CHAPTER 708.

An act to amend sections 1, 3, 4 and 5 of an act entitled "An act to authorize and control the deposit in banks of money belonging to or in the custody of the State and to repeal all acts or parts of acts in conflict with this act," approved April 12, 1923, and to add a new section thereto numbered 9a.

Stats. 1923, p. 21, amended

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title of this act is hereby amended to read as follows:

Stats. 1933, p. 2718

Section 1. All moneys under the control of the State Treasurer belonging to or in the custody of the State, shall, so far as possible, be deposited by the State Treasurer to the credit of the State in such State or National bank or banks in the State as the Treasurer, with the approval of the Governor and State Controller, shall select for the safekeeping of such deposits; and any sum so deposited shall be deemed to be in the State treasury; provided, that the bank or banks in which such money is deposited shall furnish security as hereinafter provided; and provided further, that such deposit shall not exceed the paid-up capital, exclusive of reserve and surplus, of any depository bank. The expense of transportation of moneys to and from the State treasury to such depositories shall be borne by such depositories and they shall handle, collect and pay all checks, drafts and other exchange without cost to the State. Said deposits, with interest thereon, shall be subject to withdrawal at any time upon the demand of the State Treasurer; provided, however, that all inactive deposits shall be subject to notice of at least thirty days for the payment thereof; and provided, further, that the Treasurer may with the consent of the Governor and Controller deposit inactive deposits for a definite term and may agree with any depository bank or banks as to the period of time of any such inactive deposit or deposits, but no such agreement shall provide for the deposit of any of said moneys for a longer period than one year; and, provided, further, that the State Treasurer is hereby authorized, under such conditions as he with the approval of the Governor, may fix, to deposit moneys in any bank or banks outside this State, necessary for the payment of the principal or interest of bonds, made payable outside of this State, at the place or places at which the same are payable. Anything in this act to the contrary, nothwithstanding, no security shall be required in case of such part of such deposits as are insured under the provisions of any law of the United States.

Deposit of State moneys in approved banks.

SEC 2. Section 3 of the act cited in the title of this act is hereby amended to read as follows:

Stats 1933, p 659

Active and inactive deposits.

Sec. 3. There shall be two classes of deposits; one class shall be known as inactive deposits and the other class shall be known as active deposits. The State Treasurer, with the consent of the Governor and Controller, shall determine what amount of money shall be deposited as inactive deposits and the rate of interest thereon, not less than one per centum per annum, and shall determine what amount of money shall be deposited as active deposits and the rate of interest, if any, thereon; provided, the maximum amount of such active deposits at any one time shall not be in excess of the greatest total disbursements made by the State Treasurer during sixty consecutive days in the preceding twelve months. The State Treasurer may call in moneys from inactive deposits and place them in active deposits, when it shall be necessary to do so for the purpose of providing for current demands; and, when there are inactive moneys in his possession for which there are no demands, said inactive moneys may be placed as active deposits.

Stats 1931, p 2182.

SEC. 3. Section 4 of the act cited in the title of this act is hereby amended to read as follows:

Security of inactive deposits.

Sec. 4. For the security of inactive deposits, there shall be deposited with the Treasurer treasury notes or bonds of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or bonds of this State or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this State, or registered warrants of this State, which bonds or warrants shall be approved by the Governor, Controller and Treasurer, to an amount in value at least ten per cent in excess of the amount of the deposit with such bank or banks. For the security of active deposits, there shall be deposited with the Treasurer treasury notes or bonds of the United States or those for which the faith and credit of the United States are pledged for the payment of principal and interest or bonds of this State or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this State, or registered warrants of this State, or the surety bond or bonds of any corporation or corporations qualified to act as sole surety on bonds or undertakings required by the laws of this State; provided, that the penalty or the aggregate of the penalties of any surety bond or bonds covering deposits in any one bank given by any surety company shall not exceed ten per cent of the capital and surplus of such company, according to the statement thereof contained in the last preceding report issued by the United States Treasury Department, but in fixing such limit there shall be deducted from such

Active deposits

penalty the amount of any reinsurance the terms of which inure directly to the State of California, placed with a company qualified to execute bonds hereunder within the limits applicable to said company, and evidence of which reinsurance shall be furnished to the Treasurer within twenty days after the date of such surety bond. Such securities shall be approved by the Governor, Controller, and Treasurer to any amount in value at least ten per cent in excess of the amount of the deposit with such bank or banks. No surety bond shall be accepted from any surety company, unless said company shall be approved by the Insurance Commissioner of the State as a company possessing the qualifications herein required to secure deposit of State funds, and it shall be the duty of said commissioner to issue such certificate on demand of the State Treasurer showing the qualifications of such companies; and, unless said company shall also hold a certificate of authority from the United States Treasury Department as being acceptable as a surety on Federal bond. The form of bonds required under this act shall be prescribed by the Attorney General of the State.

Approval of security.

SEC. 4. Section 5 of the act cited in the title of this act is hereby amended to read as follows:

Stats. 1923, p. 23.

Sec. 5. If in any case or at any time the security deposited with the State Treasurer is not deemed satisfactory by the Governor, Controller and Treasurer, they may require such additional security as may be satisfactory to them. Such security, or any part thereof, may be withdrawn or released on the written consent of the Governor, Controller and Treasurer; provided, that a sufficient amount of said bonds or warrants or, when permissible, surety bonds of sufficient penalties, to secure said deposits shall always be kept in the treasury, and in the event that any said bank or banks of deposit shall fail to pay such deposits, or any part thereof, on the demand of the State Treasurer, then it shall be the duty of the State Treasurer to forthwith recover upon or convert said bonds into money and to disburse the same according to law. The surety upon such surety bond may terminate such bond as to future liability by giving ten days' notice in writing of such termination to the Treasurer, and upon receipt of such notice, the Treasurer shall require other security in lieu thereof, or shall withdraw the funds covered by said surety bond within said period of ten days, but such notice of termination shall not affect any liability accruing prior to the expiration of said period of ten days.

Additional security.

SEC. 5. There is hereby added to the act cited in the title hereof a new section to be numbered 9a and reading as follows:

New section.

Sec. 9a. The State Treasurer, with the consent of the bank depositing with any such Treasurer such notes or bonds, as security, may authorize any trust company or trust department of any State or National bank authorized to conduct in this State the business of a trust company (other than the bank depositing with any such Treasurer such notes or bonds)

Designation of agents to receive security.

to act as agent for the purpose of receiving and to receive for such Treasurer from such depositing bank the deposit of any notes and bonds that are approved as security under the provisions of this act.

Redeposit of security

The State Treasurer, with the consent of the bank owning such notes or bonds, may place and maintain for safekeeping as a trust deposit with any trust company or trust department of any State or National bank authorized to conduct in this State the business of a trust company (other than the bank owning such notes or bonds) any notes and bonds that have been received by such Treasurer as security under the provisions of this act.

Any bank or trust company, to which any notes or bonds are delivered, either as agent or depositary for a Treasurer, under any provision of this section, shall make such disposition of such notes and bonds as the Treasurer shall direct and shall be responsible only for a strict compliance with the instructions given to it in writing by such Treasurer and all such notes and bonds shall at all times be subject to the order of such Treasurer.

The State Treasurer shall take from such bank or trust company a receipt for any notes and bonds delivered to it, under any provision of this section, and such Treasurer shall not be responsible for any notes or bonds so delivered to and receipted for by any bank or trust company nor shall the State be responsible for the custody and safe return thereof, until such notes or bonds are withdrawn from such bank or trust company by the Treasurer.

The charges for the handling and safekeeping of any such notes or bonds shall not be a charge against the Treasurer but shall be paid by the bank owning the notes or bonds.

CHAPTER 709.

An act to repeal section 452a of the Political Code, relating to the safe-keeping of bonds deposited with treasurers.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 1791, repealed.

SECTION 1. Section 452a of the Political Code is hereby repealed.

CHAPTER 710.

Stats. 1933, p. 642, amended

An act to amend sections 1, 3, 4 and 10 of an act entitled, "An act to authorize and control the deposit in banks of money belonging to or in the custody of any county, city and county, city, town, municipality or other public or

municipal corporation within the State, and to repeal all acts or parts of acts in conflict with this act," approved April 28, 1933, and to add a new section to said act numbered 9a.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title of this act is hereby amended to read as follows: Stats. 1933, p. 642

Section 1. All moneys belonging to or in the custody of any county, city and county, city, town, municipality or other public or municipal corporation within the State, including all moneys collected by, or paid to the treasurer of any county, city and county, city, town, municipality, or other public or municipal corporation within the State, or other official having authority to collect or receive the same, for the payment of principal, interest or penalties of bonds required by law, ordinance or resolution, to be paid to, or collected by, such treasurer or other official, shall, so far as possible, be deposited in such State or National bank or banks in the State as the treasurer of the county, city and county, city, town, municipality or other public or municipal corporation, as the case may be, or other official having the legal custody thereof, shall select for the safe-keeping of such deposits, and any sum so deposited shall be deemed to be in the treasury of such county, city and county, city, town, municipality or other public or municipal corporation; provided, that the bank or banks in which such money is deposited shall furnish security as hereinafter provided; and said bank or banks are hereby empowered so to do. Such depositary bank or banks shall be selected from those agreeing to pay the highest rate of interest, not less than two per centum per annum, for such deposits, as may be determined by bids to be submitted at such times and in such manner as the treasurer shall direct: provided, however, that until and including September 1, 1937, such treasurer may in the absence of a higher bid or bids deposit such moneys upon interest of not less than one-half of one per centum per annum on active deposits and one per centum per annum on inactive deposits; and provided further, that such deposit shall not exceed the paid-up capital, exclusive of reserve and surplus of any depositary bank. Any and all bids may be rejected by the treasurer and new bids asked for. The expenses of transportation of moneys to and from such depositaries shall be borne by such depositaries and they shall handle, collect and pay all checks, drafts and other exchange without cost to such county, city and county, city, town, municipality or other public or municipal corporation Such deposits, with interest thereon, shall be subject to withdrawal at any time upon the demand of the treasurer or other authorized official; provided, however, that all inactive deposits shall be subject to notice of at least thirty days for the payment thereof; and

Deposit of public funds

Selection of banks

Conditions of deposit

provided, further, that the treasurer may, with the consent of the governing body of the county, city and county, city, town, municipality or other public or municipal corporation, deposit any part of such moneys for a definite term and may agree with any depositary bank or banks as to the period of time of any deposit or deposits, but no such agreement shall provide for the deposit of any of said moneys for a longer period than one year; and provided, further, that such treasurer is hereby authorized, under such conditions as he with the approval of the governing body of such county, city and county, city, town, municipality or other public or municipal corporation may fix, to deposit moneys in any bank, or banks within or without this State, necessary for the payment of the principal and interest of bonds at the place or places at which the same are payable, and the requirements of this act shall not apply to deposits for such purposes.

Stats. 1933, p. 643.

SEC. 2. Section 3 of the act cited in the title of this act is hereby amended to read as follows:

Active and inactive deposits.

Sec. 3. There shall be two classes of deposits; one class shall be known as inactive deposits and the other class shall be known as active deposits. The treasurer, with the consent of the governing body of the county, city and county, city, town, municipality or other public or municipal corporation, shall determine what amount of money shall be deposited as inactive deposits and shall determine what amount of money shall be deposited as active deposits. Such treasurer may call in moneys from inactive deposits and place them in active deposits, when it shall be necessary to do so, for the purpose of providing for current demands; and, when there are inactive moneys in his possession for which there are no demands, said inactive moneys may be placed as active deposits.

Stats. 1933, p. 644.

SEC. 3. Section 4 of the act cited in the title of this act is hereby amended to read as follows:

Security for inactive deposits

Sec. 4. For the security of inactive deposits there shall be deposited with such treasurer treasury notes or bonds of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or of this State or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this State, which bonds shall be approved by the treasurer and attorney of the county, city and county, city, town, municipality or other public or municipal corporation. The market value of the bonds furnished shall be at least ten per cent in excess of the amount of the deposit secured thereby; but the amount of the deposit shall in no case exceed the face value of the bonds furnished as security therefor. For the security of active deposits, there shall be deposited with such treasurer, treasury notes or bonds of the United States, or those for which the faith and credit of the United States are pledged

Active deposits

for the payment of principal and interest, or of this State, or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this State, or the surety bond or bonds of any corporation or corporations qualified to act as sole surety on bonds or undertakings required by the laws of this State; provided, that the furnishing of surety bonds shall be optional with the treasurer; provided, however, that when there is no qualified bank within the county or city and county owning the money, or the county or counties within which the city, town, municipality or other public or municipal corporation owning the money is situated requesting such active deposit, and offering any of the classes of securities, including surety bonds, herein provided for such deposits, then no such surety bond or notes or bonds shall be accepted as security for active deposits in banks outside of such county while any notes or bonds of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or of this State, or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within the State shall be offered as security for active deposits by any bank in the State qualified to accept such deposits; provided further, that the penalty or the aggregate of the penalties of any surety bond or bonds covering deposits in any one bank given by any surety company shall not exceed ten per cent of the capital and surplus of such company, according to the statement thereof contained in the last preceding report issued by the United States Treasury Department, but in fixing such limit there shall be deducted from such penalty the amount of any reinsurance the terms of which inure directly to the county, city and county, city, town, municipality or other public or municipal corporation making the deposit, placed with a company qualified to execute bonds hereunder within the limits applicable to said company and evidence of such reinsurance shall be furnished to the treasurer making the deposits within twenty days after the date of such surety bond.

Approval of securities

Such securities shall be approved by the treasurer and attorney of such county, city and county, city, town, municipality or other public or municipal corporation to an amount in value at least ten per cent in excess of the amount of the deposit with such bank or banks. No surety bond shall be accepted from any surety company, unless said company shall be approved by the Insurance Commissioner of the State as a company possessing the qualifications herein required to secure the deposit of any funds, and it shall be the duty of said commissioner to issue such certificate on demand of the proper

officer of the county, city and county, city, town, municipality or other public or municipal corporation on showing the qualifications of such companies; and, unless said company shall also hold a certificate of authority from the United States Treasury Department as being acceptable as a surety on Federal bonds. The form of bonds required under this act shall be approved by the attorney for such county, city and county, city, town, municipality or other public or municipal corporation.

New section

SEC. 4. There is hereby added to the act cited in the title hereof a new section to be numbered 9a and reading as follows:

Designation of agents to receive security

Sec. 9a. A treasurer, with the consent of the bank depositing with any such treasurer such notes or bonds, as security, may authorize any trust company or trust department of any State or National bank authorized to conduct in this State the business of a trust company (other than the bank depositing with any such treasurer such notes or bonds) to act as agent for the purpose of receiving and to receive for such treasurer from such depositing bank the deposit of any notes and bonds that are approved as security under the provisions of this act.

Redeposit of security

A treasurer, with the consent of the bank owning such notes or bonds, may place and maintain for safe-keeping as a trust deposit with any trust company or trust department of any State or National bank authorized to conduct in this State the business of a trust company (other than the bank owning such notes or bonds) any notes and bonds that have been received by such treasurer as security under the provisions of this act.

Duty of repository

Any bank or trust company, to which any notes or bonds are delivered, either as agent or depositary for a treasurer, under any provision of this section, shall make such disposition of such notes and bonds as the treasurer shall direct and shall be responsible only for a strict compliance with the instructions given to it in writing by such treasurer and all such notes and bonds shall at all times be subject to the order of such treasurer.

Liability of treasurer

A treasurer shall take from such bank or trust company a receipt for any notes and bonds delivered to it, under any provision of this section, and such treasurer shall not be responsible for any notes or bonds so delivered to and receipted for by any bank or trust company nor shall the county, city and county, city, town, municipality or other public or municipal corporation be responsible for the custody and safe return thereof, until such notes or bonds are withdrawn from such bank or trust company by the treasurer.

Charges

The charges for the handling and safe-keeping of any such notes or bonds shall not be a charge against the treasurer but shall be paid by the bank owning the notes or bonds.

Stats 1933, p. 2300

SEC. 5. Section 10 of the act cited in the title of this act is hereby amended to read as follows:

Sec. 10. All moneys belonging to any county, city and county, city, town, municipality or other public or municipal corporation within the State under the control of any officer or employee thereof other than treasurer thereof, and all moneys coming into the possession of any justice of the peace, clerk or other officer of such justice's court, shall, so far as possible, be deposited as active deposits in such State or National bank or banks in this State as such officer, employee or justice of the peace may select and be subject to the requirement of this act relative to other active deposits; provided, however, that no security shall be required in case of such part of any deposit made under the authority of this section as are insured under the provisions of any law of the United States; and provided, further, that no interest shall be required on moneys deposited by any justice of the peace or clerk or other officer of any justice's court nor on those deposited by any officer having control of any revolving fund created under the provisions of an act entitled "An act providing for the creation of revolving funds in the counties of the State," approved May 9, 1923, nor on those deposited by any officer having control of any special fund established pursuant to the provisions of that section 4308 of the Political Code which was approved June 3, 1921, or pursuant to the provisions of section 4310 of said code.

Deposit of public funds not held by treasurer

Stats 1923, p 289

CHAPTER 711.

An act to add a new section to the Code of Civil Procedure, to be numbered 675b, relating to the discharge of a bankrupt from judgment.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Code of Civil Procedure to be numbered 675b, to read as follows:

New section

675b. At any time after one year has elapsed, since a bankrupt was discharged from his debts, pursuant to the acts of Congress relating to bankruptcy, he may apply, upon proof of his discharge, to the court in which a judgment was rendered against him, or if rendered in a court not of record, to the court of which it has become a judgment by docketing it, or filing a transcript thereof, for an order, directing the judgment to be canceled and discharged of record. If it appears upon the hearing that he has been discharged from the payment of that judgment or the debt upon which such judgment was recovered, an order must be made directing said judgment to be canceled and discharged of record; and thereupon the clerk of said court shall cancel and discharge the same by marking on the docket thereof that the same is canceled and discharged

Discharge of judgment against bankrupt.

by order of the court, giving the date of entry of the order of discharge. Where the judgment was a lien on real property owned by the bankrupt prior to the time he was adjudged a bankrupt, and not subject to be discharged or released under the provisions of the Bankruptcy Act, the lien thereof upon said real estate shall not be affected by said order and may be enforced, but in all other respects the judgment shall be of no force or validity, nor shall the same be a lien on real property acquired by him subsequent to his discharge in bankruptcy. Notice of the application, accompanied with copies of the papers upon which it is made, must be served upon the judgment creditor, or his attorney of record in said judgment, in the same manner as prescribed in section 1011 of the Code of Civil Procedure; provided, however, nothing herein contained shall prevent said judgment notwithstanding such discharge of record from being used as a set-off in any action in which it otherwise could be so used.

Notice.

CHAPTER 712.

Stats 1931, p 587, amended

An act to amend the title of the act establishing a Probate Code, approved May 11, 1931, and to add Division IIa thereto, relating to missing persons.

[Approved by the Governor July 16, 1935. In effect September 15, 1935]

The people of the State of California do enact as follows:

Stats 1931, p. 587.

Title amended

SECTION 1. The title of the act establishing a Probate Code, approved May 11, 1931, is hereby amended to read as follows: "An act to revise and consolidate the law relating to probate, including the custody, disposal by will, succession, administration and distribution of estates of decedents, estates of missing persons, the custody and administration of estates of persons under guardianship, and the custody of persons under guardianship; to repeal certain provisions of law therein revised and consolidated and therein specified; and to establish a Probate Code.

SEC. 2. Division IIa is hereby added to the Probate Code to read as follows:

IIa. ADMINISTRATION OF ESTATES OF MISSING PERSONS.

CHAPTER I—TRUSTEES OF ESTATES OF PERSONS MISSING OVER NINETY DAYS.

Petition for appointment of trustee

260. Whenever any resident of this State, who owns or is entitled to the possession of any real or personal property situate therein, is missing, or his whereabouts unknown, for ninety days, and a verified petition is presented to the superior

court of the county of which he is a resident by his wife or any of his family or friends, representing that his whereabouts has been, for such time, and still is, unknown, and that his estate requires attention, supervision, and care of ownership, the court must order such petition to be filed, and appoint a day for its hearing, not less than ten days from the date of the order.

Notice.

261. The clerk of the court must thereupon publish, for at least ten days prior to the day so appointed, a notice in some newspaper published in the county, stating that such petition will be heard at the courtroom of the court at the time appointed for the hearing. The court may direct further notice of the application to be given in such manner and to such persons as it may deem proper.

Hearing and appointment of trustee

262 At the time so fixed for such hearing, or at any subsequent time to which the hearing may be postponed, the court must hear the petition and the evidence offered in support of or in opposition thereto, and, if satisfied that the allegations thereof are true, and that such person remains missing, and his whereabouts unknown, must appoint some suitable person to take charge and possession of such estate, and manage and control it under the direction of the court.

Who may be appointed

263. In appointing a trustee, the court must prefer the wife of the missing person (if any such there is), or her nominee, and, in the absence of a wife, some person, if such there is who is willing to act, entitled to participate in the distribution of the missing person's estate were he dead.

Surety bond.

264. Every person appointed under the provisions of the preceding section must give bond in the amount and as provided for in section 541 of this code.

Duties of trustee

265. The trustee must take possession of the real and personal estate in this State of such missing person, and collect and receive the rents, income, and proceeds thereof, collect all indebtedness owing to him, and pay the expenses thereof out of the trust funds, and pay such indebtedness of the missing person as may be authorized by the court. The court may direct the trustee to pay to the person or persons constituting the family of the missing person such sum or sums of money for family expenses and support from the income of the estate as it may, from time to time, determine.

Accounting

266 The trustee must, from time to time, when directed by the court, account to and with it for all his acts as trustee, and the court may, at any time, upon good cause shown, remove any trustee, and appoint another in his place.

Sale or mortgage of property

267. The trustee may sell any or all of the personal or real property or mortgage or give a deed of trust upon any of the real property of the missing person when it is considered by the court as being to the best interest of the estate and all parties concerned including the heirs at law or legatees, and for that purpose shall file a petition with the court asking for an order directing and authorizing said sale, mortgage, or deed of trust.

Petition and notice

268. This petition shall be set for hearing not sooner than ten days after the filing of said petition and notice thereof shall be given by the clerk of the court by posting a notice at the place where the court is held. Notice shall also be given by registered mail to each of the persons who would be heirs at law of the missing person, if he were dead, and if it appears that such missing person left a will, then like notice to each legatee mentioned therein, at their respective places of address, a return card being requested with each of said notices so registered in the mail. If the address of any such person is unknown said notice must be mailed as aforesaid to said person at the county seat of the county in which the court is held, and an affidavit of the trustee filed showing that such address is unknown, and stating what efforts he has made to learn the same.

Hearing and order

269. On the day of hearing the petition proof shall be offered in behalf thereof showing the reasons for the making of said sale, mortgage, or deed of trust. If the court finds that it will be for the best interests of all persons concerned in the estate of said missing person to have said sale, mortgage, or deed of trust made, it shall order the trustee to sell any or all said property, real, personal or both, or to mortgage or give a deed of trust upon any of said real property, in the manner provided by this code for sales, mortgages, or deeds of trust of property of deceased persons, and all the provisions of law regarding such sale, mortgage or deed of trust shall govern the sale, mortgage or deed of trust of property of missing persons under this section, including the provisions concerning confirmation of the sales by the court; provided, however, that any such sale of real property shall not take place before the expiration of eight months from the date of the appointment and qualification of the trustee.

Accounting if missing person returns

270. In the event the missing person returns, the court, upon application of said person, or upon its own motion, shall require the trustee to render and file a verified account of the administration of the trust, and the provisions of Article III of Chapter 15 of Division 3 of this code shall apply to such accounting.

Delivery of property to owner.

271. Upon the settling of the account of the trustee the court shall order the property of the missing person remaining in the hands of such trustee to be delivered to the owner thereof.

Delivery of property to executor or administrator

272. If, during the existence of a trust provided for in this chapter, administration of the estate of such missing person is had, under the provisions of Chapter 2 of this division, the court shall require an accounting as provided in section 270 and shall order the property of the missing person remaining in the hands of the trustee to be delivered to the administrator or executor of such estate.

CHAPTER II—ADMINISTRATION OF ESTATES OF PERSONS MISSING OVER SEVEN YEARS.

Administration of property of person missing for seven years.

280. Whenever any person owning property in the State of California has been absent from his last known place of residence for the continuous period of seven years, with his whereabouts for such period unknown to the persons most likely to know thereof, he shall be deemed to be a missing person, and all property of such person in the State of California may be administered, as though such person were dead, in the same manner as provided for the administration of deceased persons by this code, subject to the conditions, restrictions and limitations hereinafter prescribed

Jurisdiction of proceedings.

281. If such person was a resident of this State at the time of his disappearance, the superior court of the county of his residence shall have jurisdiction in the premises; if a nonresident the superior court in any county where any real property of the missing person is located, or of the county where any personal property is located, in case there be no real property in the State, shall have jurisdiction in the premises. The title of all proceedings commenced and prosecuted under the preceding sections, shall be entitled in the court, and "In the matter of the estate of ------, a missing person."

Petition

282. Whenever a verified petition is presented to the court having jurisdiction in the premises, as provided in section 281, by his spouse or any of his family or friends, representing that his whereabouts has been for such period of time and still is unknown and that he left an estate which requires administration, the clerk of the court shall appoint a day for hearing such petition, not less than three months from the date of filing. Said petition may be for administration or probate of the last will, as the case may be, of the missing person and shall be verified to the best of the knowledge and belief of the petitioner; said petition shall set forth a statement of the facts required as in the case of the administration of estates of deceased persons, and shall, in addition thereto, contain allegations as to the last known place of residence of the missing person, and when he disappeared therefrom; the fact that he has not been heard from by the persons most likely to hear (naming them and their relationship), for a period of seven years, and the fact that his whereabouts is unknown to such persons and to the petitioner.

Notice of hearing

283. Notice of hearing the petition for administration or probate of the last will of the missing person shall be published in the form of similar notices of hearing in the administration of estates of deceased persons, once each week for two months, the first publication to be at least three calendar months prior to the day set for the hearing of said petition; and in addition, within twenty days after the filing of the petition, copies of the notice shall be sent by registered mail to each person named in the petition as heir-at-law, next of kin, devisee and legatee, and to the last known address of such

missing person; and proof by affidavit of such publication and such mailing shall be filed at or prior to the hearing.

Hearing

284. At the time so fixed for hearing or at any time to which said hearing shall be postponed, the court must hear the petition and the evidence sworn in support of or in opposition thereto, and, if satisfied that the allegations thereof are true, and that such person has remained missing, and his whereabouts unknown, continuously for a period of seven years, must thereupon appoint some duly qualified person as administrator or executor as in the manner provided for the estates of deceased persons If the court grant such order, the court shall fix and determine the time when such person left his last place of residence and abode and became missing and that his whereabouts have not been known continuously for a period of at least seven years. Upon the hearing, the court may consider the testimony of any witnesses likely to know the last place of residence, and whereabouts of said alleged missing person, and may likewise receive in evidence and consider the affidavits and depositions of other competent witnesses and give it such weight as the court may deem proper.

No disposition of property for one year except to pay taxes, etc

285. Except for the purposes of paying taxes, assessments, liens, insurance premiums, allowing claims for debts contracted by the missing person before his disappearance or to prevent the depreciation of property on account of neglect, or waste, or to specifically perform contracts made by the missing person before his or her disappearance, no sale, mortgage or other disposition or distribution of the property of said missing person shall be had until the lapse of one year after the appointment and qualification of the executor or administrator.

Distribution of property

286. No distribution of the property of said estate to the heirs, devisees or legatees, of the missing person shall be made in any event until after the lapse of the period of one year after the appointment and qualification of the executor or administrator; nor shall such distribution be made until after the lapse of three years after the appointment and qualification of the executor or administrator, unless the distributee or assignee execute and deliver to the representative of said estate a surety company bond in a penal sum not less than the value of the property distributed and for such additional amount, as the court may prescribe, said bonds to be approved by the court, and conditioned for the return of the property or the value thereof to the representative of the estate in case the missing person be adjudicated, in the manner hereinafter set forth, to be still living since the commencement of said seven year period, and also conditioned to save the representative harmless from the damages and expenses of all suits brought by the missing person or anyone succeeding to his or her rights, by reason of such distribution having been made during said period of three years.

Petition of one claiming to be the missing person

287. In case any person shall, within the period of three years after the appointment and qualification of a representative, file a verified petition, claiming to be the missing person

and shall also cause a copy thereof to be served personally or by registered mail upon the legal representative and upon each of the heirs, legatees and devisees, an issue shall thereupon be presented to the court to determine the identity of the claimant which issue shall be tried and determined by the court. The court may upon application or of its own motion require the claimant to give security to be approved by the court for all costs, and expenses involved in the hearing and ultimate determination thereof, in case the issue be decided against the claimant.

Contents of petition

288. The verified petition of said claimant shall set forth the facts and circumstances of his disappearance and continued absence, and other facts and circumstances upon which he relies for his identification.

Order vacating proceedings

289. In the event that said issue be determined in favor of the claimant, and it be determined that the missing person be still living, then an order shall be made vacating all of the proceedings for administration, except those providing for the payment of taxes, assessments, liens, insurance premiums, allowed claims, the specific performance of contracts, preservation of the property, and any sale, encumbrance or other disposition of the property made in compliance with an order of the court; and thereupon the residue of said estate, less fees, costs and expenses thus far incurred, shall be surrendered and delivered to said claimant.

Petition claiming death of missing person

290. In case any other person shall within said period of three years appear and file a verified petition, claiming in such petition that the missing person died subsequently to the commencement of said seven year period, and the petitioner is entitled to the property or any portion thereof, as successor in interest to the rights of the absent person because of his death; and if the claimant shall also cause a copy of the petition to be served either personally or by registered mail upon the legal representative of the estate and upon each of the heirs, legatees and devisees, an issue shall thereupon be tried and determined by the court as to the truth of the petition. The court may upon application or on its own motion require the claimant to give security to be approved by the court for all costs and expenses involved in the hearing and ultimate determination thereof, in case the issue be decided against the claimant.

In case the issue last aforesaid be determined in favor of the claimant, the court shall make and enter such order as the circumstances require.

Final distribution

291. In case no person makes claim during said period of three years, either to be the missing person, or to have succeeded to the rights of the missing person since the commencement of said seven year period by reason of the death of the missing person, a conclusive presumption shall arise that the missing person died prior to the filing of the petition for administration or the probate of his will; and the estate shall be finally distributed accordingly, so far as the same has not already been accomplished; and by order of the court the

estate shall be closed and the liability of the representative and his sureties to claimants ended, and the liability of distributees ended, and all bonds given by them canceled. If in any case such period of absence as set forth in section 280 shall have exceeded ten years at the time of filing the petition for the appointment of an administrator or probate of the will, then said estate may be finally distributed and closed, at the end of one year, without a bond being given, with like effect as hereinbefore provided for at the expiration of the three year period.

Statute of limitations

292. After the expiration of the periods of time provided for the final distribution of said estate, and after said missing person shall have been absent and missing for the period of ten years as aforesaid, the statute of limitations shall be deemed to have run against all claimants; and no action, suit, petition or proceeding in any form shall be brought by said missing person or persons claiming under him or otherwise claiming any interest in said estate, against the administrator or executor or against any surety on any bond or against any of the distributees, to recover any part or portion of said estate.

Scope of chapter.

293. The provisions of this chapter shall apply to the property and estates of all missing persons as herein defined, who have been missing and absent from their last known place of residence for the continuous period of seven years, whether such absence commenced heretofore and has been completed, or is still running, or shall hereafter commence to run.

Duties of administrator or executor

294. The administrator or executor to whom letters shall have been issued as provided in this chapter, shall administer and distribute the estate of such missing person in the same general manner, method of procedure and with the same force and effect as provided by this code for the administration and settlement of the estates of deceased persons, except as otherwise modified, limited or directed by the provisions of this act.

Repeal

SEC. 3 Sections 1822, 1822a, 1822b, and 1822bb of the Code of Civil Procedure are hereby repealed.

CHAPTER 713.

An act to add section 384 to and amend section 439 of the Vehicle Code, relating to the registration and storage of vehicles.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 714.

An act to amend the Vehicle Code by amending sections 511, 517, 526, 527, 530, 531, 543, 544, 545, 552, 570, 571, 585, 586, 587, 596, 600, 694, and 696; by repealing sections 534 and 589; by adding sections 542, 588 and 603, relating to vehicles.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 715.

An act to amend section 1094 of the Political Code, relating to elections.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1094 of the Political Code is hereby amended to read as follows: Stats. 1931, p. 2177

1094. Commencing January 1, 1936, except as hereinafter provided, there shall be in each county and city and county of the State, a new and complete registration of the voters of such county or city and county, who are entitled thereto. Such registration shall be in progress at all times except during the thirty-nine days immediately preceding any election, when it shall cease for such election as to electors residing in the territory within which such election is to be held; and transfers of registration for such election may be made from one precinct to another precinct in the same county or city and county at any time when such registration shall be in progress in the precinct to which the elector seeks to transfer; provided, that where any election is held on or after the first day of January and before the first day of April of the year 1936 the original affidavits of registration and indexes used in the last general State election in any county or city and county in the State, together with the original affidavits of registration since the last election, and supplemental indexes, showing all additional registrations, changes and corrections made since the registration for the last general election, completed to and including the fortieth day prior to said election then being held, may be used at such election to determine the persons entitled to vote thereat.

Registration.

Transfers

Original affidavit in use for limited period

All affidavits of registration made prior to the first day of January of the year 1936 shall be deemed canceled upon said day except for the sole purpose of being used as hereinbefore stated at elections held thereafter and before the first day of April of that year, and shall on said last mentioned day be

Cancellation of old affidavits

Board controlling elections to provide for registration

deemed canceled for all purposes. The board having charge and control of elections in each county or city and county, may provide by resolution, for the registration of voters in their respective precincts, by the officer charged with the registration of voters, and may also provide by resolution for the registration of voters at specified times and places, other than the office of the county clerk or registrar of voters, deemed most convenient to large numbers of voters, without reference to respective or particular precincts, in such a manner that the affidavits of registration as provided by law may be taken at such time and place, of any voter within the county who is entitled to register therein; provided, however, that in any city and county no registration outside of the main office of the officer charged with the registration of voters shall be had except that which is without reference to particular precincts as last specified herein; and provided, also, that any registration which may be made at the main office for registration in any such city and county may be made and taken in any place in said city and county in such manner as may be provided by rules and regulations made by the board having control of registration in any such city and county.

Definitions

Whenever in the laws of this State the word "register" or "great register" is used with relation to elections, it shall be deemed to mean and include the relative and proper affidavits of registration, or both thereof, prepared and bound by the county clerk or registrar of voters.

CHAPTER 716.

"Uniform Trust Receipts Law"

An act to add a new chapter to Title XIV of Part IV of Division Third of the Civil Code to be known as Chapter III-A thereof, in relation to trust receipts and pledges of personal property unaccompanied by possession in the pledgee and to make uniform the law relating thereto and to amend section 2988 of the Civil Code relative to the lien of the pledgee.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new chapter to Title XIV of Part IV of Division Third of the Civil Code to be known as Chapter III-A thereof, is hereby added to the Civil Code to read as follows:

CHAPTER III-A.

Trust Receipts.

Short title

3012. This chapter may be cited as "The Uniform Trust Receipts Law."

3013. In this chapter unless the context or subject matter otherwise requires: Definitions

1. "Buyer in the ordinary course of trade" means a person to whom goods are sold and delivered for new value and who acts in good faith and without actual knowledge of any limitation on the trustee's liberty of sale, including one who takes by conditional sale or under a preexisting mercantile contract with the trustee to buy goods delivered, or like goods, for cash or on credit. "Buyer in the ordinary course of trade" does not include a pledgee, a mortgagee, a lienor, or a transferee in bulk. "Buyer in the ordinary course of trade"

2. "Document" means any document of title to goods. "Document"

3. "Entruster" means the person who has or directly or by agent takes a security interest in goods, documents or instruments, under a trust receipt transaction, and any successor in interest of such person. A person in the business of selling goods or instruments for profit, who at the outset of the transaction has, as against the buyer, general property in such goods or instruments, and who sells the same to the buyer on credit, retaining title or other security interest under a purchase money mortgage or conditional sales contract or otherwise, is excluded. "Entruster"

4. "Goods" means any chattels personal other than: money, things in action, or things so affixed to land as to become a part thereof. "Goods"

5. "Instrument" means "Instrument."

(a) Any negotiable instrument as defined in Title XV of Part IV of Division Third of the Civil Code and amendments thereto, or

(b) Any certificate of stock, or bond or debenture for the payment of money issued by a public or private corporation as part of a series, or

(c) Any interim, deposit, or participation certificate or receipt, or other credit or investment instrument of a sort marketed in the ordinary course of business or finance, of which the trustee, after the trust receipt transaction, appears by virtue of possession and the face of the instrument to be the owner, "Instrument" does not include any document of title to goods.

6. "Lien creditor" means any creditor who has acquired a specific lien on the goods, documents or instruments by attachment, levy, or by any other similar operation of law or judicial process, including a distraining landlord. "Lien creditor"

7. "New value" includes new advances or loans made, or new obligation incurred, or the release or surrender of a valid and existing security interest, or the release of a claim to proceeds under section 3016.6; but "new value" shall not be construed to include extension or renewals of existing obligations of the trustee, nor obligations substituted for such existing obligations. "New value"

8. "Person" means, as the case may be, an individual, trustee, receiver or other fiduciary, partnership, corporation, "Person"

business trust, or other association, and two or more persons having a joint or common interest.

"Possession"

9. "Possession," as used in this chapter with reference to possession taken or retained by the entruster, means actual possession of goods, documents or instruments, or, in the case of goods, such constructive possession as, by means of tags or signs or other outward marks placed and remaining in conspicuous places, may reasonably be expected in fact to indicate to the third party in question that the entruster has control over or interest in the goods.

"Purchase"

10. "Purchase" means taking by sale, conditional sale, lease, mortgage, or pledge, legal or equitable.

"Purchaser"

11. "Purchaser" means any person taking by purchase. A pledgee, mortgagee or other claimant of a security interest created by contract is, in so far as concerns his specific security, a purchaser and not a creditor.

"Security interest"

12. "Security interest" means a property interest in goods, documents or instruments, limited in extent to securing performance of some obligation of the trustee or of some third person to the entruster, and includes the interest of a pledgee, and title, whether or not expressed to be absolute, whenever such title is in substance taken or retained for security only.

"Transferee in bulk"

13. "Transferee in bulk" means a mortgagee or a pledgee or a buyer of the trustee's business substantially as a whole.

"Trustee"

14. "Trustee" means the person having or taking possession of goods, documents or instruments under a trust receipt transaction, and any successor in interest of such person. The use of the word "trustee" herein shall not be interpreted or construed to imply the existence of a trust or any right or duty of a trustee in the sense of equity jurisprudence other than as provided by this chapter.

"Value"

15. "Value" means any consideration sufficient to support a simple contract. An antecedent or pre-existing claim, whether for money or not, and whether against the transferror or against another person, constitutes value where goods, documents or instruments are taken either in satisfaction thereof or as security therefor.

Trust receipt transactions

3014. (1) A trust receipt transaction within the meaning of this chapter is any transaction to which an entruster and a trustee are parties, for one of the purposes set forth in subdivision three of this section, whereby

(a) The entruster or any third person delivers to the trustee goods, documents or instruments in which the entruster (i) prior to the transaction has, or for new value (ii) by the transaction acquires or (iii) as the result thereof is to acquire promptly, a security interest; or

(b) The entruster gives new value in reliance upon the transfer by the trustee to such entruster of a security interest in instruments or documents which are actually exhibited to such entruster, or to his agent in that behalf, at a place of business of either entruster or agent, but possession of which is retained by the trustee; or (c) the entruster gives new

value in reliance upon the transfer by the trustee to such entruster of a security interest in goods or documents in possession of the trustee and the possession of which is retained by the trustee; provided that the delivery under paragraph (a) or the giving of new value under paragraph (b) or (c) either

(i) Be against the signing and delivery by the trustee of a writing designating the goods, documents or instruments concerned, and reciting that a security interest therein remains in or will remain in, or has passed to or will pass to, the entruster, or

(ii) Be pursuant to a prior or concurrent written and signed agreement of the trustee to give such a writing.

The security interest of the entruster may be derived from the trustee or from any other person, and by pledge or by transfer of title or otherwise.

If the trustee's rights in the goods, documents or instruments are subject to a prior trust receipt transaction, or to a prior equitable pledge, section 3016.5 and section 3015, respectively, of this chapter, determine the priorities.

(2) A writing such as is described in subdivision one, paragraph (i), of this section signed by the trustee, and given in or pursuant to such a transaction, is designated in this chapter as a "trust receipt." No further formality of execution or authentication shall be necessary to the validity of a trust receipt.

(3) A transaction shall not be deemed a trust receipt transaction unless the possession of the trustee thereunder is for a purpose substantially equivalent to any one of the following:

(a) In the case of goods, documents or instruments, for the purpose of selling or exchanging them, or of procuring their sale or exchange; or

(b) In the case of goods or documents, for the purpose of manufacturing or processing the goods delivered or covered by the documents, with the purpose of ultimate sale, or for the purpose of loading, unloading, storing, shipping, transshipping or otherwise dealing with them in a manner preliminary to or necessary to their sale; or

(c) In the case of instruments, for the purpose of delivering them to a principal, under whom the trustee is holding them, or for consummation of some transaction involving delivery to a depositary or registrar, or for their presentation, collection, or renewal.

Validity of attempted pledge

3015. (1) An attempted pledge or agreement to pledge not accompanied by delivery of possession, which does not fulfill the requirements of a trust receipt transaction, shall be valid as against creditors of the pledgor only as follows:

(a) To the extent that new value is given by the pledgee in reliance thereon, such pledge or agreement to pledge shall be valid as against all creditors with or without notice, for ten days from the time the new value is given;

(b) To the extent that the value given by the pledgee is not new value, and in the case of new value after the lapse of ten days from the giving thereof, the pledge shall have validity as against lien creditors without notice, who become such as prescribed in section 3016.4, only as of the time the pledgee takes possession, and without relation back.

(2) Purchasers (including entrusters) for value and without notice of the pledgee's interest shall take free of any such pledge or agreement to pledge unless, prior to the purchase, it has been perfected by possession taken.

(3) Where, under circumstances not constituting a trust receipt transaction, a person for a temporary and limited purpose, delivers goods, documents or instruments, in which he holds a pledgee's or other security interest, to the person holding the beneficial interest therein, the transaction has like effect with a purported pledge for a new value under this section.

Written contract to give trust receipt

3016. (1) A contract to give a trust receipt, if in writing and signed by the trustee, shall, with reference to goods, documents or instruments thereafter delivered by the entruster to the trustee in reliance on such contract and with reference to goods, documents and instruments in trustee's possession for a security interest in which entruster thereafter gives new value to trustee, be equivalent in all respects to a trust receipt.

(2) Such a contract shall as to such goods, documents, or instruments be specifically enforceable against the trustee; but this subdivision shall not enlarge the scope of the entruster's rights against creditors of the trustee as limited by this chapter.

Validity of trust receipt

3016.1. Between the entruster and the trustee the terms of the trust receipt shall, save as otherwise provided by this chapter, be valid and enforceable. But no provision for forfeiture of the trustee's interest shall be valid except as provided in subdivision five of section 3016.2.

Rights of entruster

3016.2 (1) The entruster shall be entitled as against the trustee to possession of the goods, documents or instruments on default and as may be otherwise specified in the trust receipt.

(2) An entruster entitled to possession under the terms of the trust receipt or of subdivision one of this section may take such possession without legal process, whenever that is possible without breach of the peace.

(3) (a) After possession taken, the entruster shall subject to paragraph (b) of this subdivision and to subdivision five, hold such goods, documents or instruments with the rights and duties of a pledgee.

(b) An entruster in possession may, on or after default, give notice to the trustee of intention to sell, and may, not less than five days after the serving or sending of such notice, sell the goods, documents or instruments for the trustee's account at public or private sale, and may at a public sale himself become a purchaser. The proceeds of any such sale, whether public or private, shall be applied (i) to the pay-

ment of the expenses thereof, (ii) to the payment of the expenses of retaking, keeping and storing the goods, documents, or instruments, (iii) to the satisfaction of the trustee's indebtedness. The trustee shall receive any surplus and shall be liable to the entruster for any deficiency. Notice of sale shall be deemed sufficiently given if in writing, and either (i) personally served on the trustee, or (ii) sent by postpaid ordinary mail to the trustee's last known business address.

(c) A purchaser in good faith and for value from an entruster in possession takes free of the trustee's interest, even in a case in which the entruster is liable to the trustee for conversion.

(4) Surrender of the trustee's interest to the entruster shall be valid, on any terms upon which the trustee and the entruster may, after default agree.

(5) As to articles manufactured by style or model, the terms of the trust receipt may provide for forfeiture of the trustee's interest at the election of the entruster, in the event of the trustee's default, against cancellation of the trustee's then remaining indebtedness; provided that in the case of the original maturity of such an indebtedness there must be canceled not less than eighty per centum of the purchase price to the trustee, or of the original indebtedness, whichever is greater; or, in the case of a first renewal, not less than seventy per centum, or, in the case of a second or further renewal, not less than sixty per centum.

Effect of filing

3016.3. (1) (a) If the entruster within the period of thirty days specified in subdivision one of section 3016.4 files as in this title provided, such filing shall be effective to preserve his security interest in documents or goods against all persons, save as otherwise provided by sections 3016.4, 3016.5, 3016.6, 3016.7, 3016.10, and 3016.11 of this chapter.

(b) Filing after the lapse of the said period shall be valid; but in such event, save as provided in paragraph (b) of subdivision two of section 3016.5, the entruster's security interest shall be deemed to be created by the trustee as of the time of such filing, without relation back, as against all persons not having notice of such interest.

(2) The taking of possession by the entruster shall, so long as such possession is retained, have the effect of filing, in the case of goods or documents; and of notice of the entruster's security interest to all persons in the case of instruments.

Failure to file

3016.4. (1) The entruster's security interest in goods, documents or instruments under the written terms of a trust receipt transaction, shall without any filing be valid as against all creditors of the trustee, with or without notice, for thirty days after delivery of the goods, documents or instruments to the trustee, and thereafter except as in this chapter otherwise provided. But where the trustee at the time of the trust receipt transaction has and retains goods, documents or instruments, the thirty days shall be reckoned, in the case of goods or documents from the time that the entruster

gives new value under the transaction and in the case of instruments from the time such instruments are actually shown to the entruster or the entruster gives new value, whichever is prior.

(2) Save as provided in subdivision one of this section, the entruster's security interest shall be void as against lien creditors who become such after such thirty day period and without notice of such interest and before filing.

(3) Unless prior to the acquisition of notice by all creditors filing has occurred or possession has been taken by the entruster, (i) an assignee for the benefit of creditors, from the time of assignment, or (ii) a receiver in equity from the time of his appointment, or (iii) a trustee in bankruptcy or judicial insolvency proceedings from the time of filing of the petition in bankruptcy or judicial insolvency by or against the trustee shall, on behalf of all creditors, stand in the position of a lien creditor without notice, without reference to whether he personally has or has not, in fact, notice of the entruster's interest.

Purchasers of negotiable instruments

3016.5. (1) Purchasers of negotiable documents or instruments. (a) Nothing in this chapter shall limit the rights of purchasers in good faith and for value from the trustee of negotiable instruments or negotiable documents, and purchasers taking from the trustee for value, in good faith, and by transfer in the customary manner instruments in such form as are by common practice purchased and sold as if negotiable, shall hold such instruments free of the entruster's interest; and filing under this chapter shall not be deemed to constitute notice of the entruster's interest to purchasers in good faith and for value of such documents or instruments, other than transferees in bulk.

(b) The entrusting (directly, by agent, or through the intervention of a third person) of goods, documents or instruments by an entruster to a trustee, under a trust receipt transaction or a transaction falling within section 3015 of this chapter be equivalent to the like entrusting of any documents or instruments which the trustee may procure in substitution, or which represent the same goods or instruments or the proceeds thereof, and which the trustee negotiates to a purchaser in good faith and for value.

Where purchaser from trustee not protected

(2) Where a purchaser from the trustee is not protected under subdivision one hereof, the following rules shall govern:

(a) Sales by trustee in the ordinary course of trade.

(i) Where the trustee, under the trust receipt transaction, has liberty of sale and sells to a buyer in the ordinary course of trade, whether before or after the expiration of the thirty day period specified in subdivision one of section 3016.4 of this chapter, and whether or not filing has taken place, such buyer takes free of the entruster's security interest in the goods so sold, and no filing shall constitute notice of the entruster's security interest to such a buyer.

(ii) No limitation placed by the entruster on the liberty of sale granted to the trustee shall affect a buyer in the ordinary

course of trade, unless the limitation is actually known to the latter.

(b) Purchasers other than buyers in the ordinary course of trade. In the absence of filing, the entruster's security interest in goods shall be valid, as against purchasers, save as provided in this section; but any purchaser, not a buyer in the ordinary course of trade, who, in good faith and without notice of the entruster's security interest and before filing, either (i) gives new value before the expiration of the thirty day period specified in subdivision one of section 3016.4, or (ii) gives value after said period, and who in either event before filing also obtains delivery of goods from a trustee shall hold the subject matter of his purchase free of the entruster's security interest; but a transferee in bulk can take only under (ii) of this paragraph (b).

(c) Liberty of sale. If the entruster consents to the placing of goods subject to a trust receipt transaction in the trustee's stock in trade or in his sales or exhibition rooms, or allows such goods to be so placed or kept, such consent or allowance shall have like effect as granting the trustee liberty of sale.

(3) As to all cases covered by this section the purchase of goods, documents or instruments on credit shall constitute a purchase for new value, but the entruster shall be entitled to any debt owing to the trustee and any security therefor, by reason of such purchase; except that the entruster's right shall be subject to any set-off or defense valid against the trustee and accruing before the purchaser has actual notice of the entruster's interest.

Where trustee has no liberty of sale

3016.6. Where, under the terms of the trust receipt transaction, the trustee has no liberty of sale or other disposition, or, having liberty of sale or other disposition, is to account to the entruster for the proceeds of any disposition of the goods, documents or instruments, the entruster shall be entitled, to the extent to which and as against all classes of persons as to whom his security interest was valid at the time of disposition by the trustee, as follows:

(a) To the debts described in subdivision three of section 3016.5 hereof; and also

(b) To any proceeds or the value of any proceeds (whether such proceeds are identifiable or not) of the goods, documents or instruments, if said proceeds were received by the trustee within ten days prior to either application for appointment of a receiver of the trustee, or the filing of a petition in bankruptcy or judicial insolvency proceedings by or against the trustee, or demand made by the entruster for prompt accounting; and to a priority to the amount of such proceeds or value; and also

(c) To any other proceeds of the goods, documents or instruments which are identifiable, unless the provision for accounting has been waived by the entruster by words or conduct; and knowledge by the entruster of the existence of proceeds,

without demand for accounting made within ten days from such knowledge, shall be deemed such a waiver.

Liens

3016.7. Specific liens arising out of contractual acts of the trustee with reference to the processing, warehousing, shipping or otherwise dealing with specific goods in the usual course of the trustee's business preparatory to their sale shall attach against the interest of the entruster in said goods as well as against the interest of the trustee, whether or not filing has occurred under this chapter; but this section shall not obligate the entruster personally for any debt secured by such lien; nor shall it be construed to include the lien of a landlord

Entruster not responsible as principal or vendor

3016.8. An entruster holding a security interest shall not, merely by virtue of such interest or of his having given the trustee liberty of sale or other disposition, be responsible as principal or as vendor under any sale or contract to sell made by the trustee.

Statement filed with Secretary of State

3016.9. (1) Any entruster undertaking or contemplating trust receipt transactions with reference to documents or goods is entitled to file with the Secretary of State a statement, signed by the entruster and the trustee, containing:

(a) A designation of the entruster and the trustee, and of the chief place of business of each within this State, if any; and if the entruster has no place of business within the State, a designation of his chief place of business outside the State; and

(b) A statement that the entruster is engaged, or expects to be engaged, in financing under trust receipt transactions the acquisition of goods by the trustee; and

(c) A description of the kind or kinds of goods covered or to be covered by such financing.

Form

(2) The following form of statement (or any other form of statement containing substantially the same information) shall suffice for the purposes of this chapter:

"Statement of Trust Receipt Financing

"The entruster, _____ whose chief place of business within this State is at _____, (or who has no place of business within this State and whose chief place of business outside this State is at _____), is or expects to be engaged in financing under trust receipt transactions the acquisition by the trustee, _____ whose chief place of business within this State is at _____ of goods of the following description: (coffee, silk, automobiles, or the like).

(Signed)_____Entruster
(Signed)_____Trustee."

(3) It shall be the duty of the filing officer to mark each statement filed with a consecutive file number, and with the date and hour of filing, and to keep such statement in a separate file; and to note and index the filing in a suitable index, indexed according to the name of the trustee and containing a notation of the trustee's chief place of business as given in the statement. The fee for such filing shall be one dollar.

(4) Presentation for filing of the statement described in subdivision one, and payment of the filing fee, shall constitute filing under this chapter, in favor of the entruster, as to any documents or goods falling within the description in the statement which are within one year from the date of such filing, or have been, within thirty days previous to such filing, the subject-matter of a trust receipt transaction between the entruster and the trustee.

(5) At any time before expiration of the validity of the filing, as specified in subdivision four, a like statement, or an affidavit by the entruster alone, setting out the information required by subdivision one, may be filed in like manner as the original filing. Any filing of such further statement or affidavit shall be valid in like manner and for like period as an original filing, and shall also continue the rank of the entruster's existing security interest as against all junior interests. It shall be the duty of the filing officer to mark, file and index the further statement or affidavit in like manner as the original.

Rights against purchasers and creditors.

3016.10. As against purchasers and creditors, the entruster's security interest may extend to any obligation for which the goods, documents or instruments were security before the trust receipt transaction, and to any new value given or agreed to be given as a part of such transaction; but not, otherwise, to secure past indebtedness of the trustee; nor shall the obligation secured under any trust receipt transaction extend to obligations of the trustee to be subsequently created.

Scope of chapter

3016.11. This chapter shall not apply to single transactions of legal or equitable pledge, not constituting a course of business, whether such transactions be unaccompanied by delivery of possession, or involve constructive delivery, or delivery and redelivery, actual or constructive, so far as such transactions involve only an entruster who is an individual natural person, and a trustee entrusted as a fiduciary with handling investments or finances of the entruster; nor shall it apply to transactions of bailment or consignment in which the title of the bailor or consignor is not retained to secure an indebtedness to him of the bailee or consignee.

Other laws requiring filing or recording

3016.12. As to any transaction falling within the provisions both of this chapter and of any other law requiring filing or recording, the entruster shall not be required to comply with both, but by complying with the provisions of either at his election may have the protection given by the law complied with; except that buyers in the ordinary course of trade as described in subdivision two of section 3016.5, and lienors as described in section 3016.7, shall be protected as therein provided, although the compliance of the entruster be with the filing or recording requirements of another law.

Cases not provided for

3016.13. In any case not provided for in this chapter the rules of law and equity, including the law merchant, shall continue to apply to trust receipt transactions and purported pledge transactions not accompanied by delivery of possession.

Rule of interpretation

3016.14. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the States which enact it.

Constitutionality

3016.15. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Provisions of chapter shall control

3016.16. Notwithstanding the provisions of any general or special law, the provisions of this chapter shall control, excepting as to trust receipts and pledge transactions entered into before this chapter becomes effective.

1872 Code

SEC. 2. Section 2988 of the Civil Code is hereby amended so as to read as follows:

When delivery essential to validity of pledge

2988. Except as otherwise provided in Chapter III-A of Title XIV of Part IV of Division Third of the Civil Code, the lien of a pledge is dependent upon possession, and no pledge is valid until the property pledged is delivered to the pledgee, or to a pledge-holder, as hereafter prescribed

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CHAPTER 717.

Stats. 1933, p. 1980, amended

An act to amend section 9 of "An act defining clinics and dispensaries, providing for the operation, conduct, maintenance, examination and regulation thereof, requiring permits therefor, providing for the issuance and revocation of such permits by the State Board of Public Health, fixing the amount of and providing for the collection and disposition of annual fees for such permits, creating the clinic and dispensary fund, prescribing the powers and duties of the State Board of Public Health and of the Director of Public Health in reference to such clinics and dispensaries, and prescribing penalties for the violation of the provisions of this act," approved June 5, 1933, relating to annual fee for permits.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1985.

SECTION 1. Section 9 of the act cited in the title hereof is hereby amended to read as follows:

Permits: Contents.

Sec. 9. Said permits shall contain at least the following: the name and address of the clinic and dispensary; the name or names with addresses of the owners of the clinic and dispensary; the name or names and addresses of the persons charged with the management, conduct and operation of the clinic; the class of clinic and dispensary licensed to be operated thereunder; and the year covered by the permit. All permits shall be signed or countersigned by the Director of Public

Health. All clinics and dispensaries and the several classes thereof as herein specified other than governmental clinics and dispensaries shall pay prior to the issuance of permit thereto an annual permit fee to the State Board of Public Health in the sum of twenty (20) dollars. Fee.

CHAPTER 718.

An act to amend sections 1093, 1127, 1323, and 1139 of the Penal Code, relating to instructions and comment in criminal cases.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1093 of the Penal Code is hereby amended to read as follows: Code amdts 1880, p. 21

1093. The jury having been impaneled and sworn, the trial must proceed in the following order, unless otherwise directed by the court: Order of trial

1. If the indictment or information be for a felony, the clerk must read it, and state the plea of the defendant to the jury, and in cases where it charges a previous conviction, and the defendant has confessed the same, the clerk in reading it shall omit therefrom all that relates to such previous conviction. In all other cases this formality may be dispensed with.

2. The district attorney, or other counsel for the people, must open the cause and offer the evidence in support of the charge.

3. The defendant or his counsel may then open the defense, and offer his evidence in support thereof.

4. The parties may then respectively offer rebutting testimony only, unless the court, for good reason, in furtherance of justice, permit them to offer evidence upon their original case.

5. When the evidence is concluded, unless the case is submitted to the jury on either side, or on both sides, without argument, the district attorney, or other counsel for the people, and counsel for the defendant, may argue the case to the court and jury; the district attorney, or other counsel for the people, opening the argument and having the right to close.

6. The judge may then charge the jury, and must do so on any points of law pertinent to the issue, if requested by either party; and he may state the testimony, and may comment on the failure of the defendant to explain or deny by his testimony any evidence or facts in the case against him, whether the defendant testifies or not, and he may make such comment on the evidence and the testimony and credibility of any witness as in his opinion is necessary for the proper Comment by judge

determination of the case and he may declare the law. If the charge be not given in writing, it must be taken down by the phonographic reporter.

Stats 1897, p 184

SEC. 2. Section 1127 of the Penal Code is hereby amended to read as follows:

Duty of court in charging jury.

1127. All instructions given (except such as may incidentally be given during the admission of evidence) shall be in writing, unless both parties request the giving of an oral instruction, or consent thereto. In charging the jury the court may instruct the jury regarding the law applicable to the facts of the case, and may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the case and in any criminal case, whether the defendant testifies or not, his failure to explain or to deny by his testimony any evidence or facts in the case against him may be commented upon by the court. The court shall inform the jury in all cases that the jurors are the exclusive judges of all questions of fact submitted to them and of the credibility of the witnesses. If the instructions are given orally, they must be taken down by the phonographic reporter. Either party may present to the court any written charge on the law, but not with respect to matters of fact, and request that it be given. If the court thinks it correct and pertinent, it must be given; if not, it must be refused. Upon each charge presented and given or refused, the court must indorse and sign its decision. If part be given and part refused, the court must distinguish, showing by the indorsement what part of the charge was given and what part refused.

Code amdts 1873-4, p 451

SEC. 3. Section 1323 of the Penal Code is hereby amended to read as follows:

Defendant as witness.

1323. A defendant in a criminal action or proceeding can not be compelled to be a witness against himself; but if he offers himself as a witness, he may be cross-examined by the counsel for the people as to all matters about which he was examined in chief. The failure of the defendant to explain or to deny by his testimony any evidence or facts in the case against him may be commented upon by counsel.

1872 Code

SEC. 4. Section 1439 of the Penal Code is hereby amended to read as follows:

Powers of court.

1439. The court must decide all questions of law which may arise in the course of the trial, and may comment on the failure of the defendant to explain or to deny by his testimony any evidence or facts in the case against him, whether a defendant testifies or not, and it may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the case, and it may declare the law. The court shall inform the jury in all cases that the jurors are the exclusive judges of all questions of fact submitted to them and of the credibility of the witnesses.

CHAPTER 719.

An act to amend section 3 of an act entitled "An act to provide for the regulation and licensing of horse racing, horse race meetings, and the wagering on the results thereof; to create the California Horse Racing Board for the regulation, licensing and supervision of said horse racing and wagering thereon; to provide penalties for the violation of the provisions of this act, and to provide that this act shall take effect upon the adoption of a constitutional amendment ratifying its provisions," approved June 5, 1933, relating to wagering and to the powers of the California Horse Racing Board.

Stats 1933, p 2046, amended.

[Approved by the Governor July 16, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 3 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1933, p 2047

SEC 3 Said racing board shall have full power to prescribe rules, regulations and conditions consistent with the provisions of this act under which all horse races, upon the results of which there shall be wagering, shall be conducted within the State of California. Said board shall make rules governing, permitting and regulating mutual wagering on horse races under the system known as pari-mutuel method of wagering, which shall be conducted only by such licensee and only within the enclosure and only on the dates for which such horse racing has been licensed by the board. A wager made inside an enclosure under the pari-mutuel system for a principal who is not within the enclosure shall be considered a wager made within the enclosure for the purpose of this act and any activity of the principal in connection with such wager shall not be considered a wager made outside the enclosure. All other forms of wagering or betting on the result of a horse race shall be and remain illegal and any and all wagering or betting on horse races outside the enclosure where such horse races shall have been licensed by the board shall be and remain illegal.

Powers and duties

Wagering

Agents

All horse owners, riders, agents, trainers, stewards, starters, timers, judges and others acting as officials at any such racing meeting shall be licensed by the board, pursuant to such rules and regulations as the board may adopt, and by the payment of a license fee as fixed and determined by said board. All licenses shall be granted for a period of one year and shall be valid at all race meetings in said State during said period. Said licenses shall be subject to revocation and no person shall be eligible to, or permitted to participate in such racing unless so licensed, and only during the time such license remains unrevoked. No qualified person shall be refused such license, nor shall such license be revoked without just cause.

Licenses

Powers of board

Said board shall have power to compel the production of any and all books, memorandum or documents showing the receipts and disbursements of any person, corporation or association licensed under the provisions of this act to conduct race meetings. The board may at any time require the removal of any employee or official employed by any licensee hereunder in any case where it shall have reason to believe that such employee or official has been guilty of any dishonest practice in connection with horse racing and has failed to comply with any condition of such licensee's license, or has violated any law or any rule or regulation of said board. The board shall also have the power to require that the books and financial or other statements of any person, corporation or association licensed under the provisions of this act shall be kept in any manner which to the board may seem best, and the board shall also be authorized to visit, investigate, and place expert accountants and such other persons as it may deem necessary in the offices, tracks or places of business of any such person, corporation or association, for the purpose of satisfying itself that the board's rules and regulations are strictly complied with. The said board shall have power to summon witnesses before it and to administer oaths or affirmations to such witnesses whenever, in the judgment of the board, it may be necessary for the effectual discharge of its duties; and any person failing to appear before said board at the time and place specified in answer to said summons or refusing to testify, shall be deemed guilty of a misdemeanor and, upon conviction in a court of competent jurisdiction, shall be punishable by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court.

CHAPTER 720.

Stats 1927, p. 1049, amended

An act to amend sections 1, 3, 4, 6 and 7 of "An act to prevent the unauthorized use and disposition of, and traffic in human bodies, to prescribe the keeping of proper records, to promote medical education and public health by regulating the disposition and utilization of the unclaimed dead, to provide penalties for the violation of this act and to repeal sections 3094 and 3095 of the Political Code and all other acts or portions of acts in conflict with this act," approved May 18, 1927, relating to the use of dead bodies.

[Approved by the Governor July 16, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1927, p 1049

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Section 1. It shall be the duty of every sheriff, coroner, keeper of a county poorhouse or reformatory, public hospital or asylum, county jail, State prison, or city or county undertaker, or any and all State, county, town and city officers having knowledge of the existence of and possession, charge or control of bodies to be buried at public expense, or the legally constituted representatives of any or all of these, to use due diligence to notify the relatives of the deceased and in the absence of any known relative of deceased desiring to direct the disposition of the body in a manner other than in this act provided, and upon written request of the State Board of Health or the duly authorized agent of same to the effect that such notices are required for a definite period which shall be specified in the request, to notify by telegraph collect, immediately after the lapse of twenty-four hours after death, the State Board of Health or the duly authorized agent of the same, stating, whenever possible, the name, age, sex, and cause of death of any such person or persons required to be buried at public expense and without a known relative desiring to direct the disposition of the body in a manner other than in this act provided.

Bodies of unclaimed dead

SEC. 2. Section 3 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1927, p 1049

Sec. 3 The unclaimed dead retained by the State Board of Health for scientific or educational purposes within the State shall be embalmed according to directions of said board, and disposed of in accordance with the instructions, of the said board or duly authorized officer or agent of same, provided, however, that such unclaimed dead shall be held for a period of thirty days by those to whom they may have been assigned for scientific or educational purposes, subject to claim and identification by any authenticated relative of the deceased for purpose of burial or other disposition in accordance with the directions of such relative.

Embalming and holding

SEC. 3. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1927, p 1050

Sec. 4. The bodies of the unclaimed dead so retained shall be used solely for the purpose of instruction and study in the promotion of medical and chiropractic education and science within the State of California, and any person or persons found guilty of the unlawful disposition, use or sale of the body or bodies of the unclaimed dead or violating any of the provisions of this act shall be guilty of a misdemeanor.

Use for instruction and study

SEC. 4. Section 6 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1929, p 674

Sec. 6. Whenever, through the failure of any person to duly notify, or to promptly deliver into the custody of the scientific or educational institutions at the place of death, the body of a deceased indigent as required by this act, such body shall become unfit for scientific or educational purposes, the duly authorized officer or agent of said State Board of Health shall so certify and such body shall be buried at the expense

Bodies not to be used for scientific purposes

of those guilty of noncompliance with such provisions of this act.

Stats. 1927, p. 1050.

SEC. 5. Section 7 of the act cited in the title hereof is hereby amended to read as follows:

Obtaining material in the recent state

Sec. 7. All persons authorized by law with the performance of post mortem examinations are hereby authorized and directed to permit with the consent of relatives or in the absence of such relatives, with the consent of the State Board of Health or the duly authorized agent of the same, any representative of the anatomical or pathological departments of properly incorporated medical, chiropractic, or osteopathic departments, schools or colleges to obtain at the time of necropsy or inquest, such material in the recent state as may be needed for scientific purposes, if said material is not required for the legal purposes of the State

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CHAPTER 721.

An act granting to the city of Sacramento certain lands lying within the city of Sacramento.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Grant to city of Sacramento

SECTION 1. There is hereby granted to the city of Sacramento, a municipal corporation, and to its successors, grantees, and assigns, all of the right, title, and interest of the State of California, vested in said State by reason of that certain deed by the mayor and common council of the city of Sacramento to the State of California, dated April 28, 1854, and recorded in book "O" of deeds, page 219, in the office of the recorder of the county of Sacramento, in and to all that certain piece, parcel, or tract of land situate, lying, and being in the city of Sacramento in the county of Sacramento, known as the public square, and bounded as follows: On the north by I Street, on the east by Tenth Street, on the south by J Street, and on the west by Ninth Street, containing one block or square of ground.

CHAPTER 722.

An act to amend sections 396, 396a, 399, 539, 540, 542, 581, 594, 618, 629, 650, 659a, 667a, 689, 953a, 978a, 980, 983, 983a, 988a, 988b, 988c, 988h, 989, 990, 1005 and 1010 of the Code of Civil Procedure, and to add section 655 thereto, all relating to civil actions.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 396 of the Code of Civil Procedure is hereby amended to read as follows: Stats. 1933, p. 1841

Transfer of action for lack of jurisdiction

396. If an action or proceeding is commenced in a court which lacks jurisdiction of the subject matter thereof, as determined by the complaint or petition, if there is a court of this State which has such jurisdiction, the action or proceeding shall not be dismissed (except as provided in section 581b, and as provided in subdivision one of section 581 of this code) but shall, on the application of either party, or on the court's own motion, be transferred to a court having jurisdiction of the subject matter which may be agreed upon by the parties, or, if they do not agree, to a court having such jurisdiction which is designated by law as a proper court for the trial or determination thereof, and it shall thereupon be entered and prosecuted in the court to which it is transferred as if it had been commenced therein, all prior proceedings being saved. In any such case, if summons is served prior to the filing of the action or proceeding in the court to which it is transferred, as to any defendant, so served, who has not appeared in the action or proceeding, the time to answer or otherwise plead shall date from service upon such defendant of written notice of the filing of such action or proceeding in the court to which it is transferred.

If an action or proceeding is commenced in or transferred to a court which has jurisdiction of the subject matter thereof as determined by the complaint or petition, and it thereafter appears from the verified pleadings, or at the trial, or hearing, that the determination of the action or proceeding, or of a counterclaim arising out of the transaction set forth in the complaint or petition as the foundation of the plaintiff's claim, or of a cross-complaint, will necessarily involve the determination of questions not within the jurisdiction of the court, in which the action or proceeding is pending, the court, whenever such lack of jurisdiction appears, must suspend all further proceedings therein and transfer the action or proceeding, and certify the pleadings (or if the pleadings be oral, a transcript of the same), and all papers and proceedings therein, to a court having jurisdiction thereof which may be agreed upon by the parties, or, if they do not agree, to a court having such jurisdiction which is designated by law as a proper court for the trial or determination thereof.

An action or proceeding which is transferred under the provisions of this section shall be deemed to have been commenced at the time the complaint or petition was filed in the court from which it was originally transferred.

Nothing herein shall be construed to preclude or affect the right to amend the pleadings as provided in this code.

Nothing herein shall be construed to require the superior court to transfer any action or proceeding because the judgment to be rendered, as determined at the trial or hearing, is one which might have been rendered by a municipal or justices' court in the same county or city and county.

In any case where the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be remitted and the action may continue in the court where it is pending.

Upon the making of an order for such transfer, proceedings shall be had as provided in section 389 of this code, the costs and fees thereof, and of filing the case in the court to which transferred, to be paid by the plaintiff unless the court ordering the transfer shall otherwise direct.

Stats 1933, p 1841

SEC. 2. Section 396a of the Code of Civil Procedure is hereby amended to read as follows:

Venue in Class B justice courts

396a. In all actions and proceedings within the subject matter jurisdiction of justices' courts of Class B, whether commenced in a justices' or municipal court, plaintiff must state facts in the complaint, verified by his oath, or in an affidavit of the plaintiff filed with the complaint, from which it can be determined which court is, under the provisions of this title, the proper court for the trial of such action or proceeding. When such affidavit is filed with the complaint, a copy thereof must be served with the summons. Except as herein provided, if such complaint or affidavit be not so filed, no further proceedings shall be had in the action or proceeding, except to dismiss the same, unless defendant consents, in the manner hereinafter provided, to the keeping of the action or proceeding in the court where commenced. The court, judge, or justice, may, on such terms as may be just, allow the complaint to be amended to conform to the requirements of this paragraph, or permit such affidavit to be filed subsequent to the filing of the complaint, and in such event a copy of the amended complaint, or of such affidavit, shall be served on the defendant, and time to answer or otherwise plead shall date from such service. If it appears from such complaint or affidavit, or otherwise, that the court in which such action or proceeding is commenced is not the proper court for the trial thereof, as determined by the provisions of this title, the court in which such action or proceeding is commenced, or a judge or justice thereof, shall, whenever such fact appears, transfer it to such proper court, on its own motion, or on motion of the defendant, unless the defendant consents in writing, or in open court (such consent in open court being entered in the minutes or docket of the court), to the keeping of the action or proceeding in the court

Affidavit

Consent to jurisdiction

where commenced. If such consent be given, the action or proceeding may continue in the court where commenced. In any such case where the transfer of the action or proceeding is ordered under the provisions of this paragraph, if summons is served prior to the filing of such action or proceeding in the court to which it is transferred, as to any defendant, so served, who has not appeared in the action or proceeding, the time to answer or otherwise plead shall date from service upon such defendant of written notice of such filing.

Transfer on motion

When it appears from such complaint or affidavit of the plaintiff that the court in which such action or proceeding is commenced is a proper court for the trial thereof, all proper proceedings may be had, and the action or proceeding may be tried therein; provided, however, that in such case a motion for a transfer of the action or proceeding may be made as in other cases, within the time, upon the grounds, and in the manner provided in this title, and if upon such motion it appears that such action or proceeding is not pending in the proper court, or should for other cause be transferred, the same shall be ordered transferred as provided in this title.

When any such action or proceeding is ordered transferred as herein provided, proceedings shall be had, and the costs and fees shall be paid, as provided in sections 398 and 399 of this code.

Stats 1933, p 1844

SEC. 3. Section 399 of the Code of Civil Procedure is hereby amended to read as follows:

Transfer of records, etc

399. When an order is made transferring an action or proceeding under any of the provisions of this title, the clerk, or the justice where there is no clerk, must, upon payment of the costs and fees, transmit the pleadings and papers therein (or if the pleadings be oral a transcript of the same) to the clerk (or to the justice where there is no clerk) of the court to which the same is transferred. When the transfer is sought on any ground specified in subdivisions 2, 3 and 4 of section 397 of this code, the costs and fees thereof, and of filing the papers in the court to which the transfer is ordered, shall be paid at the time the notice of motion is filed, by the party making the motion for such transfer. When the transfer is sought solely, or is ordered, because the action or proceeding was commenced in a court other than that designated as proper by the provisions of this title, such costs and fees must be paid by the plaintiff before such transfer is made; and if, in any such case, the defendant has paid such costs and fees at the time of filing his notice of motion, the same shall be repaid to him, upon the making of such order. The court to which an action or proceeding is transferred under the provisions of this title shall have and exercise over the same the like jurisdiction as if it had been originally commenced therein, all prior proceedings being saved, and said court may require such amendment of the pleadings, the filing and service of such amended, additional or supplemental pleadings, and the giving of such notice, as may be necessary for the proper

Costs

presentation and determination of the action or proceeding in said court.

Stats 1933, p 1859.

SEC. 4. Section 539 of the Code of Civil Procedure is hereby amended to read as follows:

Undertaking on attachment.

539. Before issuing the writ, the clerk or justice must require a written undertaking on the part of the plaintiff with two or more sufficient sureties, to the effect that if the defendant recovers judgment, the plaintiff will pay all costs that may be awarded to the defendant and all damages which he may sustain by reason of the attachment, not exceeding the sum specified in the undertaking, and that if the attachment is discharged on the ground that the plaintiff was not entitled thereto under section 537, the plaintiff will pay all damages which the defendant may have sustained by reason of the attachment, not exceeding the sum specified in the undertaking. The sum specified in the undertaking shall be such as the clerk, judge or justice of the court in which the action is pending may require, not less than fifty dollars, nor more than the amount claimed by the plaintiff, but nothing herein shall be construed to preclude the acceptance of an undertaking in which a larger sum is specified, if such undertaking be offered.

Exception to sureties.

At any time after the issuing of the attachment, but not later than five days after actual notice of the levy thereof, the defendant may except to the sufficiency of the sureties. If he fails to do so, he is deemed to have waived all objections to them. When excepted to, the plaintiff's sureties, within five days from service of written notice of exception, upon notice to the defendant of not less than two nor more than five days, must justify before the judge, justice, or clerk of the court in which the action is pending, in the same manner as upon bail on arrest; and upon failure to justify, or if others in their place fail to justify, at the time and place appointed, the writ of attachment must be vacated.

Stats 1933, p 1859

SEC. 5. Section 540 of the Code of Civil Procedure is hereby amended to read as follows:

Officer to attach and hold property

540. The writ must be directed to the sheriff, or a constable, or marshal of any county in which property of such defendant may be, and must require him to attach and safely keep all the property of such defendant within his county not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand against such defendant, the amount of which must be stated in conformity with the complaint, unless such defendant give him security by the undertaking of at least two sufficient sureties, which must first be approved by a judge or justice of the court issuing the writ, or if said writ of attachment is issued to another county then by a judge or justice of a court, having jurisdiction in cases involving the amount specified in the writ, in the county where the levy shall have been, or is about to be, made, or deposit a sum of money with the sheriff, constable, or marshal in an amount sufficient to satisfy such demand against such

Defendant may give undertaking in lieu of property

defendant, besides costs, or in an amount equal to the value of the property of such defendant which has been or is about to be attached, in which case to take such undertaking or sum of money in lieu of the property which has been or is about to be attached; provided, however, that whenever a levy shall be made upon personal property, other than money, belonging to a going concern, and no undertaking is given as herein provided, then the officer making the levy must, if the defendant consents, place a keeper in charge of said attached property, at plaintiff's expense, for at least two days, and said keeper's fees must be prepaid by the attaching creditor. After the expiration of said two days, the sheriff, constable, or marshal shall take said property into his immediate custody, unless other disposition is made by the court or the parties to the action.

Where two or more defendants

In the event that the action is against more than one defendant, any defendant whose property has been or is about to be attached in the action may give the sheriff, constable or marshal such undertaking which must first be approved by the judge or justice as hereinabove provided, or deposit such sum of money, and the sheriff, constable, or marshal shall take the same in lieu of such property. Such undertaking, or the deposit of such sum of money, shall not subject such defendant to, or make him answerable for, any demand against any other defendant, nor shall the sheriff, constable, or marshal thereby be prevented from attaching, or be obliged to release from attachment, any property of any other defendant; provided, however, that such defendant, at the time of giving such undertaking to, or depositing such sum of money with the sheriff, constable, or marshal shall file with the sheriff, constable, or marshal a statement, duly verified by his oath, wherein such defendant shall state the character of his title to the attached property and the manner in which he acquired such title, and aver and declare that the other defendant or defendants, in the action in which said undertaking was given or such sum of money was deposited, has or have not any interest or claim of any nature whatsoever in or to said property.

Several writs may be issued upon the same affidavit and undertaking, within sixty days after the filing of the affidavit and undertaking, to the sheriffs, constables, or marshals of any county or counties

Stats 1933, p. 1860.

SEC. 6. Section 542 of the Code of Civil Procedure is hereby amended to read as follows:

Manner in which property is to be attached

542. The sheriff, constable, or marshal to whom the writ is directed and delivered, must, upon receipt of instructions in writing, signed by the plaintiff or his attorney of record, and containing a description of the property, and in the case of real property, a statement as to whether or not it is registered under the land title law, an initiative act adopted by election November 3, 1914, execute the same without delay, and if the

undertaking mentioned in section 540 of this code be not given, as follows:

Real property.

1. Real property, standing upon the records of the county in the name of the defendant, must be attached, by filing with the recorder of the county a copy of the writ, together with a description of the property attached, and a notice that it is attached, and by leaving a similar copy of the writ, description and notice with an occupant of the property, if there is one; if not, then by posting the same in a conspicuous place on the property attached.

2. Real property, or an interest therein, belonging to the defendant, and held by any other person, or standing on the records of the county in the name of any other person, must be attached by filing with the recorder of the county a copy of the writ, together with a description of the property, and a notice that such real property, and any interest of the defendant therein, held by or standing in the name of such other person (naming him), are attached; and by leaving with the occupant, if any, and with such other person, or his agent, if known and within the county, or at the residence of either, if within the county, a copy of the writ with a similar description and notice. If there is no occupant of the property, a copy of the writ, together with such description and notice, must be posted in a conspicuous place upon the property. The recorder must index such attachment when filed, in the names, both of the defendant and of the person by whom the property is held or in whose name it stands on the records.

Personal property

3. Personal property, capable of manual delivery, must be attached by taking it into custody.

Stocks and shares.

4. Stocks or shares, or interest in stocks or shares, of any corporation or company, must be attached by leaving with the president, or other head of the same, or the secretary, cashier, or other managing agent thereof, a copy of the writ, and a notice stating that the stock or interest of the defendant is attached, in pursuance of such writ.

Deposit for expenses

5. In cases where the sheriff, constable, or marshal is instructed to take into possession personal property capable of manual delivery, whether the same is to be placed in a warehouse or in custody of a keeper, the sheriff, constable, or marshal may require, as a prerequisite to the taking of such property, that in addition to written instructions the plaintiff or his attorney of record deposit with said sheriff, constable, or marshal a sum of money sufficient to pay the expense of taking and keeping safely said property for a period not to exceed five days. In the event that a further detention of said property, after the period for which such payment has been made, is ordered, the sheriff, constable, or marshal may, from time to time, make written demand upon the plaintiff or his attorney for further deposits to cover estimated expenses for periods not to exceed five days each. Such demand may be served as provided in section 1011 of this code, or by depositing such notice in the post office in a sealed envelope, as first-class

registered mail, postage prepaid, addressed to the person on whom it is served at his last known office or place of residence. In the event that the money so demanded is not paid within five (5) days after service of said demand as herein provided, the sheriff, constable, or marshal may release the property to the person or persons from whom the same was taken. There shall be no liability upon the part of the sheriff, constable, or marshal to take or hold personal property unless the provisions of this section shall have been fully complied with.

Property not capable of manual delivery

6. Debts and credits and other personal property, not capable of manual delivery, must be attached by leaving with the person owing such debts, or having in his possession, or under his control, such credits and other personal property, or with his agent, or in the case of a corporation, with the president of the corporation, vice president, secretary, assistant secretary, cashier, or managing agent thereof, a copy of the writ, and a notice that the debts owing by him to the defendant, or the credits and other personal property in his possession, or under his control, belonging to the defendant, are attached in pursuance of such writ, except in the case of attachment of growing crops, a copy of the writ, together with a description of the property attached, and a notice that it is attached shall be recorded or registered the same as in the attachment of real property; provided, however, that debts owing to the defendant by a banking corporation or association, building and loan association or title insurance company, maintaining branch offices, or credits or other personal property whether or not the same is capable of manual delivery, belonging to the defendant and in the possession of or under the control of such banking corporation or association, building and loan association or title insurance company, must be attached by leaving a copy of the writ and the notice with the manager or any other officer of such banking corporation or association, building and loan association or title insurance company at the office or branch thereof at which the account evidencing such indebtedness of the defendant is carried, or at which such banking corporation or association, building and loan association or title insurance company has credits or other personal property belonging to the defendant in its possession or under its control; and no attachment shall be effective as to any debt owing by such banking corporation or association, building and loan association or title insurance company if the account evidencing such indebtedness is carried at an office or branch thereof not so served, or as to any credits or other personal property in its possession or under its control at any office or branch thereof not so served.

Torrens title property

7. If real property sought to be attached is registered under said land title law, an additional copy of the writ, together with a description of the Torrens title certificate, a description of the property and a notice that it is attached shall be filed with the registrar of titles of the county.

Stats 1933, p 1868

SEC. 7. Section 581 of the Code of Civil Procedure is hereby amended to read as follows:

Dismissals and nonsuits

581. An action may be dismissed, or a judgment of nonsuit entered, in the following cases:

1. By the plaintiff, by written request to the clerk, filed with the papers in the case, or by oral or written request to the justice where there is no clerk, at any time before the trial, upon payment of the costs of the clerk or justice, provided that a counterclaim has not been set up, or affirmative relief sought by the cross-complaint or answer of the defendant. If a provisional remedy has been allowed, the undertaking shall upon such dismissal be delivered by the clerk or justice of the peace to the defendant, who may have his action thereon.

2. By either party, upon the written consent of the other.

No dismissal mentioned in subdivisions one and two of this section shall be granted unless upon the written consent of the attorney of record of the party or parties applying therefor, or if such consent is not obtained, upon order of the court after notice to such attorney.

3. By the court, when either party fails to appear on the trial and the other party appears and asks for the dismissal, or when, after a demurrer to the complaint has been sustained, the plaintiff fails to amend it within the time allowed by the court, and the defendant moves for such dismissal.

4. By the court, when upon the trial and before the final submission of the case, the plaintiff abandons it.

5. By the court upon motion of the defendant when upon the trial the plaintiff fails to prove a sufficient case.

The dismissals mentioned in subdivisions one and two hereof, when written consent of the attorney of record of the party requesting the dismissal is filed, must be made by entry in the clerk's register or in the justice's docket, as the case may be, and are effective for all purposes when so entered.

The dismissals mentioned in subdivisions one and two hereof, when written consent of the attorney of record of such party is not filed, and the dismissals mentioned in subdivisions three, four, and five of this section, must be made by order of the court entered upon the minutes thereof, or in the justices' docket as the case may be, and are effective for all purposes when so entered; but the clerk, in superior and municipal courts, must note such orders in his register of actions in the case.

Stats 1933, p 1871

SEC. 8 Section 594 of the Code of Civil Procedure is hereby amended to read as follows:

Proceedings for default Superior or municipal court.

594. 1. In superior courts and municipal courts either party may bring an issue to trial or to a hearing, and, in the absence of the adverse party, unless the court, for good cause, otherwise direct, may proceed with his case, and take a dismissal of the action, or a verdict, or judgment, as the case may require; provided, however, if the issue to be tried is an issue of fact, proof must first be made to the satisfaction of the

court that the adverse party has had five days notice of such trial.

Justices' courts.

2. In justices' courts if either party fails to appear at the time fixed for trial, the trial may proceed at the request of the adverse party. When all the parties served with process shall have appeared, or when some of them have appeared, and the default of the others has been entered, the justice must fix the day for trial, whether the issue be one of law or fact, and the day so fixed for such trial shall be entered on the docket. Notice of the day so fixed for trial shall be given, as herein provided, to the parties to the action who have appeared. Such notice shall be in writing, signed by the justice, or by the clerk, if there be a clerk, and substantially in the following form:

Notice of trial.

In the justices' court, _____ township (or, city or town), county of _____, State of California.

----------, plaintiff,

vs.

----------, defendant.

To _____, plaintiff (or attorney for plaintiff) and to _____, defendant (or attorney for defendant),

You and each of you will please take notice that the undersigned justice of the peace before whom the above entitled cause is pending, has set for hearing the demurrer of _____, filed in said cause (or has set the said cause for trial, as the case may be), before me at my office in said township (or, city or town), at _____ o'clock __m., on the _____ day of _____, 19___.

Dated this _____ day of _____, 19___.

(Signed) ----------,

Justice of the Peace.

By----------

Clerk (if signed by clerk)

Service of notice.

When a party has appeared by attorney, the notice may be served upon the attorney either personally or by mail, or in the manner prescribed by subdivision one of section 1011 of this code.

When a party appears in person, he shall leave with the justice, or with the clerk, if there be a clerk, an address, where service of such notice may be made, which shall be entered upon the docket, and such notice may, if such address be within the county in which the cause is pending, be served on such party personally, if he can be found at such address, otherwise, it may be served by mail, in the manner hereinafter specified.

When such notice is personally served, it must be served at least five days before the day so fixed for such trial, and may be served by any person competent to serve a summons in such justices' court. It shall be served, returned and filed in the same manner as a summons.

When such notice is served by mail, it shall be served as follows: For each person who is to be so served with such notice, the justice, or clerk, if there be a clerk, shall place a copy of such notice in an envelope, seal the same, and address it to the person on whom it is to be served, at the place of residence of such person, (or at his office if such person is an attorney) and deposit the same in the post office, at least ten days before the day so fixed for the trial, with the postage prepaid thereon.

When such notice is served by mail, the justice shall enter on his docket the date of mailing such notice, and such entry shall be prima facie evidence of the fact of such service.

Stats 1933, p. 1875

SEC. 9. Section 618 of the Code of Civil Procedure is hereby amended to read as follows:

Verdict of jury.

618. When the jury, or three-fourths of them, have agreed upon a verdict, they must be conducted into court, their names called by the clerk, or by the court if there be no clerk, and the verdict rendered by their foreman. The verdict must be in writing, signed by the foreman, and must be read to the jury by the clerk, or by the court if there be no clerk, and the inquiry made whether it is their verdict. Either party may require the jury to be polled, which is done by the court or clerk, asking each juror if it is his verdict. If upon such inquiry or polling, more than one-fourth of the jurors disagree thereto, the jury must be sent out again, but if no such disagreement be expressed, the verdict is complete and the jury discharged from the case.

Stats 1923, p 750

SEC. 10. Section 629 of the Code of Civil Procedure is hereby amended to read as follows:

Judgment notwithstanding verdict

629. When a motion for a directed verdict, which should have been granted, has been denied and a verdict rendered against the moving party, the court, at any time before the entry of judgment, either of its own motion or on motion of the aggrieved party, shall render judgment in favor of the aggrieved party notwithstanding the verdict.

Alternative motion

A motion for judgment notwithstanding such verdict may also be made in the alternative form, asking therefor and reserving, if that be denied, the right to apply for a new trial. If the motion for a directed verdict or for judgment notwithstanding the verdict be denied, the trial court on motion for new trial or the appellate court on appeal from the judgment may order judgment to be so entered when it appears from the whole evidence that a verdict should have been so directed at the trial; and when the motion is made in the alternative form, the court may also so order on appeal from the order denying such motion for judgment notwithstanding the verdict, whether a new trial was granted or denied.

Stats 1933, p. 1878

SEC. 11. Section 650 of the Code of Civil Procedure is hereby amended to read as follows:

Bill of exceptions

650. Where a trial shall have been had on a question of fact, and a party desires to have exceptions taken at such trial settled in a bill of exceptions, he may, at any time thereafter,

and within twenty (20) days after service upon him of written notice of entry of the judgment, or if proceedings on motion for a new trial be pending within ten (10) days after notice of the order denying said motion, or other determination thereof, or within such further time as the court in which the action is pending, or a judge thereof, may allow, prepare and file with the clerk of the court the draft of a bill. Proof must be made at the time of the filing of such draft, by affidavit or admission of service, that the adverse party has been served with a copy thereof, and of the date of such service.

Service

Such draft must contain all the exceptions and proceedings taken upon which the party relies, and shall contain all matters reviewable on the same appeal, including those occurring at the trial and also on motion for a new trial.

It may also contain a statement of any matters occurring upon the trial in the presence of the court, showing any of the matters mentioned in subdivisions one and two of section 657 of this code.

Within ten (10) days after such service the adverse party may propose amendments thereto, which must be filed with the clerk of the court within such ten (10) days. Proof must also be made at the time of the filing thereof, by affidavit or admission of service, that the adverse party has been served with a copy thereof.

Amendments

The clerk, immediately upon the receipt of such proposed amendments, or upon the expiration of the time for filing such amendments, if none be filed, must deliver the draft, and the proposed amendments, if any, to the judge, if he is in the county; if he is absent from the county, and either party desires the paper to be forwarded to the judge, the clerk must, upon notice in writing from such party, immediately forward them by mail or other safe channel; if such notice be not given the clerk must deliver them to the judge immediately after his return to the county.

When received from the clerk, the judge must designate the time at which he will settle the bill, and the clerk must immediately notify the parties of the time so designated. At the time designated the judge must settle the bill, which must thereupon be engrossed. Within ten (10) days after the settlement the party who filed the bill must present it to the judge to be certified.

Settling bill of exceptions

If the action was tried before a referee, the proposed bill, with the amendments, if any, must be presented to such referee for settlement in the same manner as if presented to the judge. The referee shall designate the time at which he will settle the bill, and settle the same, in the manner provided for settlement by the judge.

It is the duty of the judge or referee, in settling the bill to strike out of it all redundant and useless matter so that the exceptions and proceedings may be presented as briefly as possible. When settled, the bill must be signed by the judge or

referee, with his certificate to the effect that the same is allowed, and must then be filed with the clerk.

No bill of exceptions need be served upon any party whose default has been duly entered, or who has not appeared in the action or proceeding.

New section

SEC. 12. Section 655 is hereby added to Article II of Chapter VII of Title VIII of Part II of the Code of Civil Procedure, to read as follows:

Scope of article

655. The provisions of this article apply only to superior courts and municipal courts.

Stats 1933, p 1881.

SEC. 13. Section 659a of the Code of Civil Procedure is hereby amended to read as follows:

Motion for new trial Affidavits and counter-affidavits

659a. Within ten (10) days after serving the notice, the moving party shall serve upon all other parties and file any affidavits intended to be used upon such motion. Such other parties shall have ten (10) days after such service within which to serve upon the moving party and file counter-affidavits. The time herein specified may, for good cause shown by affidavit or by written stipulation of the parties, be extended by any judge for an additional period of not exceeding twenty (20) days.

Stats 1933 p 1883

SEC. 14. Section 667a of the Code of Civil Procedure is hereby amended to read as follows:

Notice of judgment in justices' courts

667a. In justices' courts notice of the rendition of judgment must be given to the parties to the action in writing signed by the clerk, or by the justice. Where any of the parties are represented by an attorney, such notice shall be given to the attorney. Said notice shall be served by mail or personally, and shall be substantially in the form of the abstract of judgment required in section 674 of this code. When served by mail the justice of the peace, or the clerk where there is a clerk, shall deposit copies thereof, in sealed envelopes, in the post office, not later than five days after the rendition of the judgment, addressed to each of the persons on whom notice is to be served at their place of residence, or place of business if on an attorney, with the postage prepaid thereon. When served personally said notice shall be served within five days after the rendition of the judgment. Entry of the date of mailing shall be made in the docket.

Stats 1933, p. 1887

SEC. 15. Section 689 of the Code of Civil Procedure is hereby amended to read as follows:

Third party claims

689. If the property levied on is claimed by a third person as his property by a written claim verified by his oath or that of his agent, setting out his title and right to the possession thereof and delivered to the officer making the levy, such officer must release the property unless the plaintiff, or the person in whose favor the writ runs, within five days after written demand by such officer, gives such officer an undertaking executed by at least two good and sufficient sureties in a sum equal to double the value of the property levied on.

Undertaking

Such undertaking shall be made in favor of, and shall indemnify such third person against loss, liability, damages, costs

and counsel fees, by reason of such seizing, taking, withholding, or sale of such property by such officer.

Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking on attachment. If they, or others in their place, fail to justify at the time and place appointed, such officer must release the property; provided, however, that if no exception is taken within five days after notice of receipt of the undertaking the third person shall be deemed to have waived any and all objections to the sufficiency of the sureties. If objection be made to such undertaking, by such third person, on the ground that the amount thereof is not sufficient, or if for any other reason it becomes necessary to ascertain the value of the property involved, the property involved may be appraised by one or more disinterested persons, appointed for that purpose by the court in which the action is pending, or from which the writ issued, or by a judge or justice thereof, or the court, judge or justice may direct a hearing to determine the value of such property. Exception to sureties

If, upon such appraisal or hearing, the court, judge or justice finds that the undertaking given is not sufficient, an order shall be made fixing the amount of such undertaking, and within five days thereafter an undertaking in the amount so fixed may be given in the same form and manner and with the same effect as the original.

The officer making the levy may demand and exact the undertaking herein provided for notwithstanding any defect, informality or insufficiency of the verified claim delivered to him. Such officer shall not be liable for damages to any such third person for the taking or keeping of such property if no claim is delivered as herein provided nor, in any event, shall such officer be liable for the holding, release, or other disposition of such property in accordance with the provisions of this section.

If such undertaking be given, such officer shall hold the property; provided, however, that if an undertaking be given under the provisions of section 710b, of this code, such property shall be released.

Whenever a verified third party claim is delivered to the officer as herein provided, upon levy of execution or attachment, (whether any undertaking hereinabove mentioned be given or not), the plaintiff, or the person in whose favor the writ runs, the third party claimant, or any one or more joint third party claimants, shall be entitled to a hearing in the court in which the action is pending or from which the writ issued for the purpose of determining title to the property in question Such hearing must be granted by the said court upon petition therefor, which must be filed within ten days after the delivery of the third party claim to the officer. Such hearing must be had within twenty days from the filing of such petition, unless continued as herein provided. Ten days' notice of such hearing must be given to the officer, to the plaintiff or the person in whose Hearing

favor the writ runs, and to the third party claimant, or their attorneys, which notice must specify that the hearing is for the purpose of determining title to the property in question; provided, that no such notice need be given to the party filing the petition. The court may continue the hearing beyond the said twenty-day period, but good cause must be shown for any such continuance. The court may order the sale of any perishable property held by such officer and direct the disposition of the proceeds of such sale. The court may, by order, stay execution sale, or forbid a transfer or other disposition of the property involved, until the proceeding for the determination of such title can be commenced and prosecuted to termination, and may require, as a condition of such order, such bond as the court may deem necessary. Such order may be modified or vacated by the judge granting the same, or by the court in which the proceeding is pending, at any time prior to the termination of such proceeding, upon such terms as may be just. At the hearing had for the purpose of determining title, the third party claimant shall have the burden of proof. The third party claim delivered to the officer shall be filed by him with the court and shall constitute the pleading of such third party claimant, subject to the power of the court to permit an amendment in the interests of justice, and it shall be deemed controverted by the plaintiff or other person in whose favor the writ runs. Nothing herein contained shall be construed to deprive any party of the right to a jury trial in any case where, by the Constitution, such right is given, but a jury trial shall be waived in any such case in like manner as in the trial of an action. No findings shall be required in any proceedings under this section. At the conclusion of the hearing the court shall give judgment determining the title to the property in question, which shall be conclusive as to the right of the plaintiff, or other person in whose favor the writ runs, to have said property taken, or held, by the officer and to subject said property to payment or other satisfaction of his judgment. In such judgment the court may make all proper orders for the disposition of such property or the proceeds thereof. If the property shall have been released by the officer for want of an undertaking, and final judgment shall go for the plaintiff or other person in whose favor the writ runs, the officer shall retake the property on such writ, if the writ is still in his hands, or if the writ shall have been returned, another writ may be issued on which the officer may take such property. An appeal lies from any judgment determining title under this section, such appeal to be taken in the manner provided for appeals from the court in which such proceeding is had.

Court orders

Burden of proof.

Judgment determining title.

Appeal.

Stats 1929, p 843

SEC. 16. Section 953a of the Code of Civil Procedure is hereby amended to read as follows:

Appeals from any court of record

953a. Any person desiring to appeal from any judgment, order or decree of any court of record, may, in lieu of preparing and settling a bill of exceptions pursuant to the pro-

visions of section 650 of this code, or of section 988a of this code, or for the purpose of presenting a record on appeal from any appealable judgment or order, or for the purpose of having reviewed any matter or order reviewable on appeal from final judgment, file with the clerk of the court from whose judgment, order or decree said appeal is taken, or to be taken, a notice stating that he desires or intends to appeal, or has appealed therefrom, and requesting that a transcript of the testimony offered or taken, evidence offered or received, and all rulings, instructions, acts or statements of the court, also all objections or exceptions of counsel, and all matters to which the same relate, and also all proceedings taken on motion for a new trial and all matters to which the same relate, be made up and prepared. Said notice must be filed within ten (10) days after notice of entry of the judgment, order or decree, or if a proceeding on motion for a new trial be pending, within ten (10) days after notice of decision denying said motion, or of other termination thereof.

Notice in lieu of bill of exceptions

Time of notice.

Upon receiving said notice, it shall be the duty of the court to require a stenographic reporter thereof to transcribe fully and completely the phonographic report of the trial and also all proceedings taken on motion for a new trial and all matters to which the same relate. The stenographic reporter shall within twenty (20) days after the clerk has given notice to the stenographic reporter that said notice has been filed with the clerk, prepare a transcript of the phonographic report of the trial, including therein copies of all writings offered or received in evidence and all other matters and things required by the notice above referred to, to be therein contained, and shall file the same with the clerk of said court; provided, however, that said twenty (20) day period shall not commence to run until appellant has fully complied with the provisions of section 953b of this code. The stenographic reporter shall not postpone the filing of the transcript except upon order of the court, upon affidavits filed with the court by the reporter, stating facts and not conclusions, which affidavits before any continuance is granted shall be served upon the attorneys appearing in said cause, which service shall be made by United States mail, postage prepaid, addressed to said attorneys at their respective offices, not less than three (3) days, unless the court shall otherwise order, prior to the making of said order of continuance.

Phonographic report of trial

Postponement of filing transcript

Upon the transcript being filed, it shall be the duty of the clerk forthwith to set a time (such time to be not more than ten days after the filing of the transcript) for presenting it to the judge for approval, and to give notice of the filing of the transcript, and of the time set for presenting it to the judge, to the attorneys appearing in the cause, not less than five (5) days before the time so set.

Time for presentment of transcript for approval

At the time specified in the notice of the clerk to the attorneys, said transcript shall be presented to the judge for his approval, and the judge shall examine the same and see

Examination by judge

that the same is a full, true and fair transcript of the proceedings had at the trial, the testimony offered or taken, evidence offered or received, instructions, acts or statements of the court, also all objections and exceptions of counsel and matters to which the same relate, also all proceedings taken on motion for a new trial and all matters to which same relate.

Certification

The judge shall thereupon certify to the truth and correctness of said transcript and the same shall, when so settled and allowed, be and become a portion of the judgment roll and may be considered on appeal in lieu of the bill of exceptions now provided for by law.

Printing and filing

Said bill of exceptions so settled and allowed shall be printed and filed with the clerk of the court to which the appeal is taken, within twenty days after said bill is settled and allowed.

Additional matters in transcript

If the judgment, order or decree appealed from, be not included in the judgment roll, the party desiring to appeal shall, on the filing of said notice, specify therein such of the pleadings, papers, records and files in said cause as he desires to have incorporated in said transcript in addition to the matters hereinbefore required and the same shall be included.

Respondents may require additions

The respondents on said appeal may at the time said transcript is presented for settlement and allowance, require the insertion therein of such other papers, files, documents, records and proceedings of said cause, including the proceedings on motion for a new trial, as they then desire to have incorporated therein, and the said papers, files, documents, records and proceedings shall when so incorporated be deemed fully authentic for use on said appeal. The parties may by stipulation omit any matters from said record which they desire to so omit.

Omissions by stipulation

Stats 1909, p. 1065

SEC. 17. Section 978a of the Code of Civil Procedure is hereby amended to read as follows:

Filing undertaking

978a. The undertaking on appeal must be filed within five days after the filing of the notice of appeal and written notice of the filing of the undertaking must be served upon the respondent, who may except to the sufficiency of the sureties within five days after service of such notice. Unless within five days after notice of such exception, the sureties excepted to, or other sureties, justify before the justice upon notice to the adverse party, to the amounts stated in their affidavits, the appeal must be regarded as if no such undertaking had been given.

Code amdts, 1880, p. 17

SEC. 18. Section 980 of the Code of Civil Procedure is hereby amended to read as follows:

Powers of superior court on appeal

980. Upon an appeal heard upon a statement of the case, the superior court may review all orders affecting the judgment appealed from, and may set aside, or confirm, or modify any or all of the proceedings subsequent to and dependent upon such judgment, and may, if necessary or proper, order a new trial. When the action is tried anew, on appeal, the trial must be conducted in all respects as other trials in the superior court. The provisions of this code as to trials in the

superior court, are applicable to trials on appeal in the superior court. For a failure to prosecute an appeal, or unnecessary delay in bringing it to a hearing, the superior court, after notice, may order the appeal to be dismissed, with costs; and if it appear to such court that the appeal was made solely for delay, it may add to the costs such damages as may be just, not exceeding twenty-five per cent of the judgment appealed from Judgments rendered in the superior court on appeal shall have the same force and effect and may be enforced in the same manner as judgments in actions commenced in the superior court.

SEC. 19. Section 983 of the Code of Civil Procedure is hereby amended to read as follows: Stats 1933, p 1893

983. An appeal may be taken from a municipal court on questions of law alone, in the following cases: Appeals from municipal courts

1. From a final judgment entered in an action or special proceeding commenced therein or transferred thereto from another court;

2. From an order granting a new trial or denying a motion for judgment notwithstanding the verdict in an action or proceeding where a trial by jury is a matter of right;

3. From an order discharging or refusing to discharge an attachment;

4. From an order changing or refusing to change the place of trial;

5. From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction;

6. From an order appointing a receiver;

7. From any special order made after final judgment.

SEC. 20. Section 983a of the Code of Civil Procedure is hereby amended to read as follows: Stats 1933, p. 1893

983a. An appeal may be taken from any judgment or order of a municipal court, from which an appeal lies, at any time after the rendition of the judgment or the making of the order, and within thirty days after notice of the entry of such judgment or order, but the time within which such appeal may be taken shall not in any event exceed sixty days after entry of the judgment or order, except that if proceedings on motion for a new trial are pending, the time for appeal from the judgment shall not expire until fifteen days after entry of an order determining such motion for a new trial, or after other determination in the municipal court of the proceedings upon such motion. The time for appeal is also extended in the manner, for the period, and under the circumstances prescribed in section 12a of this code. Time for appeal from municipal courts. Extension of time

SEC. 21. Section 988a of the Code of Civil Procedure is hereby amended to read as follows: Stats 1933, p 1895

988a. A party appealing or intending to appeal from a municipal court may have a bill of exceptions settled or a transcript prepared and certified for use on such appeal in the same manner as is or may be provided by law for bills Bill of exceptions and transcript.

of exceptions or transcripts to be used on appeal from the superior courts.

Notwithstanding any provisions of the sections above referred to, it shall not be necessary in any such bill of exceptions or transcripts to copy any exhibit or any notice, affidavit, order or other paper or document on file with the municipal court, but the same may be merely referred to and indexed in such bill of exceptions or transcript by any designation sufficient to identify it.

Stats 1933, p. 1895.

SEC. 22. Section 988b of the Code of Civil Procedure is hereby amended to read as follows:

Record on appeal from municipal court

988b. The record on appeal from a municipal court shall consist of:

(1) The notice of appeal, and if the record is prepared under section 953a of this code, the notice required by that section;

(2) The judgment roll, if the appeal is from a judgment, or an order vacating or refusing to vacate the judgment;

(3) The order appealed from, if the appeal is from an order;

(4) Any bill of exceptions settled or any transcript certified for use on such appeal and all exhibits, notices, affidavits, orders, papers and documents properly referred to, identified and indexed in such bill of exceptions or transcript

Copies of those parts of the record on appeal which are entered in the register of actions or minutes of the municipal court and the originals of all other parts thereof, with the certificate of the clerk of the court or of the attorneys of the respective parties that they are such copies and originals respectively, shall be transmitted to the superior court.

If it appear that there is any paper or record in the custody of the clerk of the municipal court which was before said court but which is not included in the record on appeal, and that an examination of such paper or record will assist in the determination of the appeal on its merits, the superior court may, on motion of either party, or on its own motion, require the production of such paper or a certified copy of such record, and the same shall thereupon be deemed a part of the record on appeal.

Stats 1933, p 1896

SEC. 23. Section 988c of the Code of Civil Procedure is hereby amended to read as follows:

Transmittal of record by clerk

988c. Upon the filing of the notice of appeal and the payment of all fees required to be paid by the appellant, and upon the certification by the judge of any bill of exceptions, or transcript, or on the expiration of the time within which such bill of exceptions, or transcript, may be proposed without such bill or transcript having been proposed by the appealing party, the clerk of the municipal court must, within five days, transmit to the clerk of the superior court the record on appeal, and he may be compelled by the superior court, by an order entered upon motion, to transmit such record, and may be punished for contempt in case of his neglect or refusal

to transmit the same in accordance with such order. Where the inspection of an original paper which was offered in evidence in the municipal court is shown to be necessary to a correct decision of the appeal, the superior court may order the clerk of such municipal court to transmit such original paper, if in his possession, to the clerk of the superior court; and if such paper be in possession of a party to the action, he may produce the same on the hearing of the appeal, or he may, on motion of any party, to the action, upon notice, be required by the superior court to produce such paper at such hearing; and in default thereof, the court will presume the paper to be, in all respects, as alleged by the party giving such notice.

SEC. 24. Section 988h of the Code of Civil Procedure is hereby amended to read as follows: Stats 1927, p 123

988h. Upon an appeal from a municipal court, the superior court may review the verdict or decision and any intermediate ruling, proceeding, order or decision which involves the merits or necessarily affects the judgment or order appealed from or which substantially affects the rights of a party, including, on an appeal from the judgment, any order on motion for a new trial, and may affirm, reverse or modify any judgment or order appealed from, and may direct the proper judgment or order to be entered, and may, if necessary or proper, direct a new trial or further proceedings to be had. If there be a new trial, it must be in the municipal court. If it appears to the superior court that any appeal was taken solely for delay, it may, on dismissal of such appeal or affirmance of the judgment or order appealed from, add to the costs of appeal such damages as may be just, not exceeding twenty-five per cent of the judgment appealed from, if it be a judgment for money, or twenty-five per cent of the value of the property if it be a judgment for the recovery of specific personal property. Powers of superior court on appeal.

SEC. 25. Section 989 of the Code of Civil Procedure is hereby amended to read as follows: Stats 1933, p. 1896

989. When a judgment is recovered against one or more of several persons, jointly indebted upon an obligation, by proceeding as provided in section 414 of this code, those who were not originally served with the summons, and did not appear in the action, may be summoned to appear before the court in which such judgment is entered to show cause why they should not be bound by the judgment, in the same manner as though they had been originally served with the summons. Subjecting persons not served to judgment

SEC. 26. Section 990 of the Code of Civil Procedure is hereby amended to read as follows: 1872 Code

990. The summons specified in section 989 shall be issued by the clerk, or by the justice if there be no clerk, upon presentation of the affidavit specified in section 991, and must describe the judgment, and require the person summoned to show cause why he should not be bound by it, Summons

and must be served in the same manner, and returnable within the same time, as the original summons. It is not necessary to file a new complaint.

Stats 1935, Ch 658

SEC. 27. Section 1005 of the Code of Civil Procedure is hereby amended to read as follows:

Notice of motion Time for service.

1005. When a written notice of a motion is necessary, it must be given, if the court is held in the county in which at least one of the attorneys of the party notified has his office, five days before the time appointed for the hearing; otherwise, ten days. When the notice is served by mail, the number of days before the hearing must be increased one day for every full one hundred miles of distance between the place of deposit and the place of service; such increase, however, not to exceed in all thirty days; but in all cases the court, or a judge or justice thereof, may prescribe a shorter time.

Stats 1907, p. 601.

SEC. 28. Section 1010 of the Code of Civil Procedure is hereby amended to read as follows:

Notice of motion When to be given

1010. Notices must be in writing, and the notice of a motion, other than for a new trial, must state when, and the grounds upon which it will be made, and the papers, if any, upon which it is to be based. If any such paper has not previously been served upon the party to be notified and was not filed by him, a copy of such paper must accompany the notice.

Service

Notices and other papers may be served upon the party or attorney in the manner prescribed in this chapter, when not otherwise provided by this code. No bill of exceptions, notice of appeal, or other notice or paper, other than amendments to the pleadings, or an amended pleading, need be served upon any party whose default has been duly entered or who has not appeared in the action or proceeding.

CHAPTER 723.

An act to amend section 690 of the Code of Civil Procedure, and to add sections 690.1 to 690.4, inclusive, 690.6 to 690.24, inclusive, and 690.50, thereto, relating to property exempt from execution or attachment.

[Approved by the Governor July 20, 1935. In effect September 17, 1935.]

The people of the State of California do enact as follows:

Stats 1929, p. 109.

SECTION 1. Section 690 of the Code of Civil Procedure is hereby amended to read as follows:

Property exempt from execution or attachment

690. The property mentioned in sections 690.1 to 690.24, inclusive, of this code, is exempt from execution or attachment, except as therein otherwise specially provided:

New section

SEC. 2. Section 690.1 is hereby added to the Code of Civil Procedure, to read as follows:

690.1. Chairs, tables, desks and books, to the value of two hundred dollars belonging to the judgment debtor.

SEC. 3. Section 690.2 is hereby added to the Code of Civil Procedure, to read as follows: New section

690.2. Necessary household, table, and kitchen furniture belonging to the judgment debtor, including one refrigerator, washing machine, sewing machine, stove, stove-pipes and furniture; wearing apparel, beds, bedding and bedsteads, hanging pictures, oil paintings and drawings drawn or painted by any member of the family, and family portraits and their necessary frames, provisions and fuel actually provided for individual or family use, sufficient for three months, and three cows and their suckling calves, four hogs and their suckling pigs, and food for such cows and hogs for one month; also one radio, one piano, one shotgun and one rifle. Household equipment, etc

SEC. 4. Section 690.3 is hereby added to the Code of Civil Procedure, to read as follows: New section

690.3. The farming utensils or implements of husbandry of the judgment debtor, not exceeding in value the sum of one thousand dollars; also two oxen or two horses or two mules, and their harness, one cart or buggy, and two wagons, and food for such oxen, horses or mules, for one month; also all seed grain or vegetables actually provided, reserved or on hand for the purpose of planting or sowing at any time within the ensuing six months, not exceeding in value the sum of two hundred dollars; and seventy-five beehives; one horse and vehicle belonging to any person who is maimed or crippled, and the same is necessary in his business. Farming utensils, etc

SEC. 5. Section 690.4 is hereby added to the Code of Civil Procedure, to read as follows: New section

690.4. The tools or implements of a mechanic or artisan, necessary to carry on his trade; the notarial seal, records and office furniture of a notary public; the tools and instruments of an optometrist or chiropractor; the instruments and chest of a surgeon, physician, surveyor or dentist, necessary to the exercise of their profession, with their professional libraries and necessary office furniture; the professional libraries of attorneys, judges, ministers of the gospel, editors, school teachers and music teachers, and their necessary office furniture; including one safe and one typewriter; also the musical instruments of music teachers actually used by them in giving instructions, and all the indexes, abstracts, books, papers, maps and office furniture of a searcher of records necessary to be used in his profession; also the typewriter of a stenographer, and the typewriters or other mechanical contrivances employed for writing in type, actually used by the owner thereof for making his living; also one bicycle when the same is used by the owner for the purpose of carrying on his regular business, or when the same is used for the purpose of transporting the owner to and from his place of business. Tools, etc

SEC. 6. Section 690.6 is hereby added to the Code of Civil Procedure, to read as follows: New section

690.6. The cabin or dwelling of a miner, not exceeding in value the sum of five hundred dollars; also his sluices, Miners

pipes, hose, windlass, derrick, cars, pumps, tools, implements, and appliances necessary for carrying on any mining operation, not exceeding in value the aggregate sum of five hundred dollars; and two horses, mules or oxen with their harness, and food for such horses, mules or oxen for one month, when necessary to be used on any whim, windlass, derrick, car pump or hoisting gear; and also his mining claim, actually worked by him, not exceeding in value the sum of one thousand dollars.

New section

SEC. 7. Section 690.7 is hereby added to the Code of Civil Procedure, to read as follows:

Horses, vehicles, etc

690.7. Two horses, two oxen or two mules, and their harness, and one cart or wagon, one dray or truck, one coupe, one hack, or carriage, for one or two horses, by the use of which a cartman, drayman, truckman, huckster, peddler, hackman, teamster or other laborer habitually earns his living; and one horse with vehicle and harness or other equipments, used by a physician, surgeon, constable or minister of the gospel, in the legitimate practice of his profession or business; with food for such oxen, horses or mules for one month.

New section

SEC. 8. Section 690.8 is hereby added to the Code of Civil Procedure, to read as follows:

Fishing boat and net

690.8. One fishing boat and net, not exceeding the total value of five hundred dollars, the property of any fisherman, by the lawful use of which he earns his livelihood

New section.

SEC. 9. Section 690.9 is hereby added to the Code of Civil Procedure, to read as follows:

Poultry.

690.9. Poultry not exceeding in value seventy-five dollars.

New section

SEC. 10. Section 690.10 is hereby added to the Code of Civil Procedure, to read as follows:

Seamen.

690.10. The wages and earnings of all seamen, seagoing fishermen and sealers, not exceeding three hundred dollars, regardless of where or when earned, and in addition to all other exemptions otherwise provided by any law; but where debts are incurred by any such person, or his wife or family for the common necessaries of life, or incurred for personal services rendered by any employee, or former employee, or if at the time of the attachment or execution the debtor has no family residing in this State supported in whole or in part by his labor, one-half of such earnings above mentioned is nevertheless subject to execution, garnishment or attachment to satisfy debts so incurred.

New section

SEC. 11. Section 690.11 is hereby added to the Code of Civil Procedure, to read as follows:

Earnings for personal services

690.11. The earnings of the judgment debtor for his personal services rendered at any time within thirty days next preceding the levy of execution or attachment, when it appears by the debtor's affidavit or otherwise, that such earnings are necessary for the use of his family, residing in this State, supported in whole or in part by his labor; but where debts are incurred by any such person, or his wife or family for the common necessaries of life, or incurred for personal services rendered by any employee, or former employee, or if at

the time of the attachment or execution the debtor has no family residing in this State supported in whole or in part by his labor, one-half of such earnings above mentioned is nevertheless subject to execution, garnishment or attachment to satisfy debts so incurred.

SEC. 12. Section 690.12 is hereby added to the Code of Civil Procedure, to read as follows: New section

690.12. The shares held by a member of a homestead association duly incorporated, not exceeding in value one thousand dollars if the person holding the shares is not the owner of a homestead under the laws of this State. Homestead associations

SEC. 13. Section 690.13 is hereby added to the Code of Civil Procedure, to read as follows: New section

690.13. All the nautical instruments and wearing apparel of any master, officer, or seaman of any steamer or other vessel. Seamen

SEC. 14. Section 690.14 is hereby added to the Code of Civil Procedure, to read as follows: New section

690.14. All fire engines, hooks and ladders, with the carts, trucks and carriages, hose buckets, implements, and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State. Fire department

SEC. 15. Section 690.15 is hereby added to the Code of Civil Procedure, to read as follows: New section

690.15. All arms, uniforms, and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor. Arms, etc

SEC. 16. Section 690.16 is hereby added to the Code of Civil Procedure, to read as follows: New section

690.16. All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers, and appurtenances belonging to the jail and public offices belonging and appertaining to any county of this State; and all cemeteries, public squares, parks, and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by such town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State. County property, etc.

SEC. 17. Section 690.17 is hereby added to the Code of Civil Procedure, to read as follows: New section

690.17. All material not exceeding one thousand dollars in value, purchased in good faith for use in the construction, alteration or repair of any building, mining claim or other improvement as long as in good faith the same is about to be applied to the construction, alteration or repair of such building, mining claim or other improvement. Building material

SEC. 18. Section 690.18 is hereby added to the Code of Civil Procedure, to read as follows: New section.

Well drilling machinery

690.18. All machinery, tools and implements, necessary in and for boring, sinking, putting down and constructing surface or artesian wells; also the engines necessary for operating such machinery, implements, tools, etc., also all trucks necessary for the transportation of such machinery, tools, implements, engines, etc.; provided, that the value of all the articles exempted under this subdivision shall not exceed one thousand dollars.

New section

SEC. 19. Section 690.19 is hereby added to the Code of Civil Procedure, to read as follows:

Life insurance.

690.19. All moneys, benefits, privileges, or immunities, accruing or in any manner growing out of any life insurance, if the annual premiums paid do not exceed five hundred dollars, or if they exceed that sum a like exemption shall exist which shall bear the same proportion to the moneys, benefits, privileges, and immunities so accruing or growing out of such insurance that said five hundred dollars bears to the whole annual premiums paid.

New section

SEC. 20. Section 690.20 is hereby added to the Code of Civil Procedure, to read as follows:

Disability or health insurance.

690.20. All moneys, benefits, privileges, or immunities, accruing or in any manner growing out of any disability or health insurance, if the annual premiums do not exceed five hundred dollars, and if they exceed that sum a like exemption shall exist which shall bear the same proportion to the moneys, benefits, privileges, and immunities so accruing or growing out of such insurance that said five hundred dollars bears to the whole; but where debts are incurred by the beneficiary of such policy, or his wife or family for the common necessaries of life, one half of such benefits, privileges or immunities so accruing is nevertheless subject to execution, garnishment or attachment to satisfy debts so incurred

New section

SEC. 21. Section 690.21 is hereby added to the Code of Civil Procedure, to read as follows:

Building and loan stock

690.21. Shares of stock in any building and loan association to the value of one thousand dollars.

New section

SEC. 22. Section 690.22 is hereby added to the Code of Civil Procedure, to read as follows:

Pensions

690.22. All money received by any person, a resident of the State as a pension from the United States Government, or as a pension or retirement salary from the State, or any county, city, or city and county, or any public board or boards whether the same shall be in the actual possession of such pensioner, or deposited, loaned or invested by him.

New section

SEC. 23. Section 690.23 is hereby added to the Code of Civil Procedure, to read as follows:

Retirement or pension funds.

690.23. All money held, controlled or in process of distribution by the State or a city, county, city and county or other political subdivision of the State, derived from contributions from the State or such city, county, city and county, or other political subdivision, or by any officer or employee thereof

for retirement or pension purposes or the payment of death benefits.

SEC. 24. Section 690.24 is hereby added to the Code of Civil Procedure, to read as follows: New section

690.24. One motor vehicle of a value not exceeding one hundred dollars. Motor vehicle.

SEC. 25. Section 690.50 is hereby added to the Code of Civil Procedure, to read as follows: New section.

690.50. No article, however, or species of property, mentioned in sections 690.1 to 690.24, inclusive, of this code is exempt from execution issued upon a judgment recovered for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon. Exception as to purchase price.

CHAPTER 724.

An act to amend sections 578, 587, 860, 1201, 1240, 1501, 1515, 1540 and 1630 of the Probate Code and to add new sections thereto to be numbered 588, and 1516, relating to estates of decedents and estates of persons under guardianship. Stats 1931, p. 587, amended

[Approved by the Governor July 20, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 578 of the Probate Code is hereby amended to read as follows: Stats 1932, p 2493.

578. If a debtor of the decedent is unable to pay all his debts, the executor or administrator, with the approval of the court, may give him a discharge, upon such terms as may appear to the court to be for the best interest of the estate. A compromise may also be authorized by the court when it appears to be just and for the best interest of the estate. The court may also authorize the executor or administrator on such terms and conditions as may be approved by it to extend or renew, or in any manner modify the terms of, any obligation owing to or running in favor of the decedent or his estate. To obtain such approval or authorization, the executor or administrator shall file a verified petition with the clerk showing the advantage of the settlement, compromise, extension, renewal or modification. The clerk shall set the petition for hearing by the court and notice thereof shall be given for the period and in the manner required by section 1200 of this code. Compounding debts. Compromises

SEC. 2. Section 587 of the Probate Code is hereby amended to read as follows: Stats 1933, p. 965

587. When it is for the advantage, benefit and best interests of the estate, and those interested therein, that an easement for any of the purposes for which an easement may be acquired under the right of eminent domain, over any real property of the estate, be dedicated or conveyed, either with or Dedication by executor.

without other consideration, to the State or any county or municipal corporation, or any district or corporation permitted to acquire property under the power of eminent domain, the executor or administrator may so dedicate or convey any such easement upon order of court based upon the petition of the executor or administrator or of any person interested in the estate, and after notice of the hearing given for the period and in the manner required by section 1200 of this code.

Stats 1931, p 646.

SEC. 3. Section 860 of the Probate Code is hereby amended to read as follows:

Mode of authorizing.

860. Whenever it shall appear to be to the advantage of the estate to exchange any property of the decedent for other property, the court may authorize such exchange, upon the petition of the executor or administrator or of any person interested in the estate, and after notice of the hearing given for the period and in the manner required by section 1200 of this code.

Stats 1933, p 2497

SEC. 4. Section 1201 of the Probate Code is hereby amended to read as follows:

Publication in case of sale of mines, etc

1201. In the case of a petition for leave to sell or to give an option to purchase a mining claim or real property worked as a mine, or for leave to borrow money or execute a mortgage or deed of trust or give other security, or for leave to execute a lease, or sublease, in addition to the notice required by section 1200 of this code, the clerk shall cause such notice of the application to be published in a newspaper of general circulation in the county in which the estate is being probated. If the notice is published in a weekly newspaper, it must appear therein on at least two different days of publication and the first publication must be at least ten days before the hearing; if in a newspaper published oftener, there must be at least ten days from the first to the last day of publication, both days included.

Stats 1931, p 669

SEC. 5. Section 1240 of the Probate Code is hereby amended to read as follows:

Appealable orders

1240. An appeal may be taken to the Supreme Court from an order granting or revoking letters testamentary or of administration; admitting a will to probate or revoking the probate thereof; setting aside an estate claimed not to exceed two thousand five hundred dollars in value; setting apart property as a homestead or claimed to be exempt from execution; confirming a report of an appraiser or appraisers in setting apart a homestead; granting or modifying a family allowance; directing or authorizing the sale or conveyance or confirming the sale of property; settling an account of an executor or administrator or trustee, or instructing or appointing a trustee; instructing or directing an executor or administrator; directing or allowing the payment of a debt, claim, legacy or attorney's fee; determining heirship or the persons to whom distribution should be made or trust property should pass; distributing property; refusing to make any order heretofore

mentioned in this section; or fixing an inheritance tax or determining that none is due.

SEC. 6. Section 1501 of the Probate Code is hereby amended to read as follows: Stats. 1931, p. 674.

1501. Every guardian must pay the ward's just debts out of the ward's personal estate and the income of his real estate, if sufficient; if not, then out of his real estate upon selling or mortgaging or giving a deed of trust upon any of his real property as hereinafter provided. He must demand, sue for, and collect all debts due to the ward, or, with the approval of the court, he may give the debtor a discharge upon such terms as may appear to the court to be for the best interest of the estate of the ward. He must appear for and represent his ward in all actions and proceedings, unless another person is appointed for that purpose. Ward's debts and claims, etc

SEC. 7. Section 1515 of the Probate Code is hereby amended to read as follows: Stats 1933, p 965.

1515. When it is for the advantage, benefit and best interests of the estate and those interested therein that an easement for any of the purposes for which an easement may be acquired under the right of eminent domain, over any real property of the estate, be dedicated or conveyed, either with or without other consideration, to the State, or any county or municipal corporation or any district or corporation permitted to acquire property under the power of eminent domain, the guardian may so dedicate or convey any such easement upon order of court based upon the petition of the guardian or of any person interested in the estate, and after notice of the hearing given for the period and in the manner required by section 1200 of this code. Dedication by guardian

SEC. 8. Section 1540 of the Probate Code is hereby amended to read as follows: Stats 1933, p 587.

1540. When property can be exchanged to the advantage and best interests of the ward and such members of his family as he is legally bound to support and maintain, after hearing before the court, conveyances to effectuate such exchange may be executed to the person with whom such exchange is made, by the guardian. The provisions of this code governing exchanges of property by administrators shall apply to and govern exchanges of property by guardians so far as applicable. Exchange of ward's property

SEC 9. Section 1630 of the Probate Code is hereby amended to read as follows: Stats 1931, p 684

1630. An appeal may be taken to the Supreme Court from an order granting or revoking letters of guardianship; settling an account of a guardian; instructing or directing a guardian; or refusing to make any order heretofore mentioned in this section. Appealable orders

SEC. 10 Section 588 is hereby added to the Probate Code to read as follows: New section

588 In all cases where no other or no different procedure is provided by statute, the court on petition of the executor or Petition for instruction as to administration

administrator may from time to time instruct and direct him as to the administration of the estate and the disposition, management, operation, care, protection or preservation of the estate or any property thereof. Notice of the hearing of such petition shall be given for the period and in the manner required by section 1200 of this code.

New section. SEC. 11. Section 1516 is hereby added to the Probate Code to read as follows:

Same: By guardian 1516. In all cases where no other or no different procedure is provided by statute, the court on petition of the guardian may from time to time instruct him as to the administration of the ward's estate and the disposition, management, care, protection or preservation of the estate or any property thereof. Notice of the hearing of such petition shall be given for the period and in the manner required by section 1200 of this code.

CHAPTER 725.

An act to amend sections 4225 and 4225a of the Political Code, both relating to the powers and duties of county health officers.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1909, p. 133. SECTION 1. Section 4225 of the Political Code is hereby amended to read as follows:

Health officers 4225. The board of supervisors shall appoint in each county, a health officer, who shall be deemed an employee and not a county officer, and whose duty it shall be to enforce and observe in the unincorporated territory of his county, all orders and ordinances of the board of supervisors, pertaining to public health and sanitary matters, all orders, quarantine regulations, and rules prescribed by the State Board of Health, and all statutes relating to the public health and to vital statistics and, upon the council or other legislative body of any incorporated city or town or chartered city within such county consenting thereto by resolution or ordinance, it shall be the duty of said health officer to enforce and observe in such incorporated city or town or chartered city all orders, quarantine regulations and rules prescribed by the State Board of Health and all statutes relating to the public health and to vital statistics. Such resolution or ordinance must be passed and adopted and a certified copy thereof served on the clerk of the board of supervisors on or before the first day of March of any year and the services of such county health officer in such city or town shall commence on the first day of July next succeeding the giving of such notice, and shall continue indefinitely until and unless such council or other

legislative body of such city or town or chartered city shall, by resolution or ordinance terminate same, in which event a certified copy of such resolution or ordinance shall be served on the clerk of the board of supervisors on or before the first day of March of any subsequent year, whereupon such services of such county health officer shall terminate on the first day of July immediately succeeding the giving of such notice. In the event of major disaster or other emergency, the council or other legislative body of any city or town or chartered city which has not so consented by resolution shall have the power to contract with the board of supervisors of the county within which such city is located for the performance by the health officer of any and all functions relating to public health.

He shall give to the duties of his office such time and attention as may be necessary to secure general supervision of all matters pertaining to the health and sanitary condition of the county, and when so required by the board of supervisors he shall give all of his time to such duties. He shall be a graduate of a medical college of good standing and repute, shall hold office for a term of one year, and shall receive for his services such sum as may be determined by the board of supervisors.

Qualifications

Immediately after the appointment of such health officer the board of supervisors shall notify the Secretary of the State Board of Health of such appointment and the name and address of such appointee.

Notice to State Board of Health

The board of supervisors shall adopt orders and ordinances necessary for the preservation of the public health in the unincorporated territory of the county, not in conflict with general laws, and provide for the payment of all expenses incurred in enforcing the same.

Duty of supervisors.

For any unincorporated town, when public necessity requires such action, the board of supervisors may appoint a special health officer who shall, in such town, under the supervision of the county health officer, exercise all necessary diligence in executing the ordinances, rules, and regulations of the board of supervisors, or the State Board of Health, relating to health and sanitary matters. His term of office and compensation shall be fixed by the board of supervisors, and he shall receive as his compensation for services, unless in this title otherwise provided, not to exceed one hundred dollars in any one year.

Special health officer

The provisions of this section shall not apply to any county, or portion thereof, or any incorporated city or town, or chartered city included within any local health district organized in pursuance of the provisions of Chapter 571 of the Statutes of 1917.

Exceptions

The provisions of this section shall not apply to cities of the first and one-half class.

SEC. 2. Section 4225a of the Political Code is hereby amended to read as follows:

Stats 1919, p 152

Contract for county health officer to exercise functions in city

4225a. The board of supervisors of any county shall have power to contract with any incorporated city or town or chartered city within such county, and such incorporated city, town or chartered city therein, through its board of trustees, council or other legislative body, shall have power to contract with such county for the performance by health officers or other employees of county health departments of any or all functions relating to the enforcement in such city of all ordinances thereof relating to public health and sanitation, and the making of all inspections and the performance of all functions in connection therewith. Whenever such contract has been duly entered into, the county health officer and his deputies shall thereupon exercise the same powers and duties within such city or town or chartered city as are conferred upon health officers thereof by law. In any such contract the city, town or chartered city shall have power and authority to provide for the payment by such incorporated city or town or chartered city to the county of such consideration as may be agreed upon, the same to be paid to the county treasurer of the county, which compensation shall be payable at such times as shall be specified and shall be in an amount to repay such county for the entire cost to it of the services required in the enforcement of said ordinances under the terms of such contract to be performed for such city, as nearly as the same can be estimated or ascertained.

Contract for city health officer to exercise functions in county

The board of supervisors of any county may contract with any incorporated city or town or chartered city within such county, through its board of trustees, council or other legislative body, to secure the performance by the health officer or other health department employees of such city, town or chartered city, in any unincorporated territory adjacent thereto, of any or all functions relating to public health. Payment for said services in such unincorporated territory shall be made by the county to the city treasurer of such city or town or chartered city.

Said contracts may further provide for the care and support, including medical attendance, of indigent sick, and for compensation therefor.

Exception.

The provisions of this section shall not apply to cities of the first and one-half class.

CHAPTER 726.

An act providing for the acquisition of lands for, and the construction, maintenance and operation of a building at the Pacific Exposition to be held in the county of Los Angeles, State of California, providing for the exhibiting of products, resources of and other matters pertaining to the State of California at said Pacific Exposition, creating the

California Pacific Exposition Commission and defining its powers and duties, and making an appropriation therefor.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

California Pacific Exposition Commission

SECTION 1. The California Pacific Exposition Commission is hereby created to consist of five members, to be appointed by the Governor, one of whom shall be selected from the membership of the Board of Directors of the State Agricultural Society and another one from the membership of the State Board of Agriculture. Each member, within thirty days after his appointment, shall execute an official bond to the State of California in the penal sum of $10,000.00 conditioned upon the faithful performance of his duties, the premium thereof to be paid from the fund hereinafter appropriated. The members of said commission shall serve without compensation, but shall receive their actual traveling expenses incurred in the performance of their duties hereunder. The Governor shall designate the chairman of the commission and shall fill vacancies occurring for any cause in the membership thereof.

Powers of commission

SEC. 2. The commission shall have power, and is hereby authorized, to construct, operate and maintain a building at the Pacific Exposition to be held in the county of Los Angeles, State of California in 1937–1938, and thereafter so long as said exposition shall continue, and to acquire all lands necessary therefor, said building to be known as the "California State Building," to acquire, collect, transport and maintain exhibits of the resources and products of the State of California, and exhibits, matters and things in any wise pertaining to the State of California, including matters of an educational, scientific or historical nature, said exhibits, and other matters and things, to be kept and maintained in said building. Said commission shall have power to employ and fix the compensation of a secretary and such other assistants or persons, as it may deem necessary to carry out and perform the duties hereby imposed upon it.

The commission shall have the exclusive charge and control of the expenditure of all moneys appropriated by the State of California for the purposes hereof, and shall have power to make and execute all contracts and agreements necessary to carry out the purposes of this act. All contracts made by said commission shall be executed in triplicate, signed by the chairman thereof, and one copy thereof shall be immediately filed with the State Controller. The said commission, through the chairman, shall audit all claims or demands for moneys expended by it, or for the expenditures of money which they have authorized in writing, and shall certify such claims and demands to the State Controller, who shall thereupon draw his warrants therefor upon the State Treasurer payable out of moneys appropriated by the State of California for the purposes hereof and the State Treasurer shall pay the same.

May insure employees and property.

SEC. 3. The commission shall have power to insure all persons, employees or assistants under its control and all property, real, mixed and personal under its control against such risks and hazards as are incident to the work conducted by the commission and may pay the cost of such insurance out of the money appropriated for the use of the commission.

Appropriation.

SEC. 4. Out of any money in the State treasury not otherwise appropriated, the sum of one dollar is hereby appropriated to be expended by the commission in carrying out the provisions of this act, including the acquisition of lands for and the construction, operation and maintenance of said "California State Building," and the acquisition, collection, transportation and maintenance of said exhibits therein at the Pacific Exposition to be held in the county of Los Angeles, State of California, as aforesaid. All expenditures hereunder shall be exempt from the provisions of section 669 of the Political Code. The commission shall, within thirty days prior to the regular session of the Legislature, submit to the Governor a full and true report of transactions under this act during the current biennium, including a complete statement of receipts and expenditures during that period.

Report to Governor.

CHAPTER 727.

An act to amend sections 2240 and 2255 of the Political Code, relating to the clothing, transportation, dental work, eye care, operations and hospitalization of pupils enrolled in the California School for the Deaf and the California School for the Blind.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p 2193

SECTION 1. Section 2240 of the Political Code is hereby amended to read as follows:

Transportation, etc., of children, school for deaf

2240. If the parent or guardian of any pupil in this school shall be unable either himself or from the estate of such child to clothe such child, or pay for its transportation to and from school, or for necessary dental work, eye care, operations and hospitalization of such child while at the school, or is unable either himself or from the estate of such child to reimburse the State Department of Education for expenses incurred by it in providing dental work, eye care, operations or hospitalization for such child in an emergency, the parent or guardian may apply for a certificate to that effect to the superior court of the county wherein such parent or guardian of such child is resident, and if the court is satisfied that the parent or guardian either himself or from the estate of such child is unable to provide suitable clothing or transportation, necessary dental work, eye care, operations and hospitalization for the

child, or is unable either himself or from the estate of such child to reimburse the State Department of Education for expenses incurred by it in providing dental work, eye care, operations or hospitalization for such child in an emergency, the court shall issue a certificate to that effect. The application for such certificate may also be made to the court by the principal of the school. If it appears to the satisfaction of the court that the parent or guardian has sufficient pecuniary ability or that there are sufficient funds in the estate of the child to provide suitable clothing, transportation, dental work, eye care, operations and hospitalization for the child or, as the case may be, to reimburse the State Department of Education for expenses incurred by it in providing dental work, eye care, operations or hospitalization for such child in an emergency, the court shall not issue such certificate, but shall, according to the nature of the application before it, either order the principal to provide the child with suitable clothing, transportation, dental work, eye care, operations and hospitalization, or order the parent or guardian either himself or from the estate of such child as the court may determine to reimburse the State Department of Education for expenses incurred by it in providing dental work, eye care, operations or hospitalization for such child in an emergency. If the State Department of Education is not reimbursed by the parent or guardian personally or from the estate of such child for expenditures made by the principal under the order of the court or if the parent or guardian does not comply with an order of the court to reimburse the State Department of Education either personally or from the estate of such child for expenses incurred by it in providing dental work, eye care, operations or hospitalization for such child in an emergency the principal may sue the parent or guardian, in the name of the State, to recover any moneys paid out by order of the court or due the State Department of Education as reimbursement under an order of the court. All moneys expended under the authority of any such certificate for clothing and transportation, as hereinafter provided, and not to exceed the sum of seventy-five dollars per annum for necessary dental work, eye care, operations and hospitalization, and all moneys expended by the State Department of Education for expenses not to exceed seventy-five dollars per annum incurred by it in providing dental work, eye care, operations or hospitalization for such child in an emergency for which the State Department of Education can not be reimbursed by the parent or guardian of such child as shown by such certificate, shall constitute a legal county charge against the county from which said certificate is issued. Such certificate shall be presented to the principal of said school and it shall be the duty of said principal when the certificate shows the parent or guardian of said child is unable either himself or from the estate of the child to clothe such child, or pay for its transportation to and from school, or for necessary dental work, eye care, operations and hospitaliza-

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Reimbursement.

County charges.

tion of such child while in school, to clothe said child and provide such transportation, necessary dental work, eye care, operations and hospitalization, the expense thereof to be advanced by the State Department of Education out of money appropriated for the support of the school. Upon presentation to the board of supervisors of the county in which any certificate provided for in this section is issued, of an itemized claim, duly sworn to by the principal of the school before an officer authorized to administer oaths, for the expense for clothing and transportation and other items provided and furnished under the authority of said certificate, or for the reimbursement of the State Department of Education as hereinbefore provided said board of supervisors shall audit and approve said claim, and the county auditor of said county shall thereupon include the amount thereof in his State settlement report, prescribed in section 3868 of this code and the amount of such settlement and all reimbursements of the State Department of Education under this section shall be credited by the State Controller to the then current appropriation for the support and maintenance of said school. All pupils in the school shall be maintained except as hereinbefore provided at the expense of the State.

State settlement.

Stats 1931, p 2194.

SEC. 2. Section 2255 of the Political Code is hereby amended to read as follows:

Transportation, etc., of children, school for blind

Sec. 2255. If the parent or guardian of any pupil in this school shall be unable either himself or from the estate of such child to clothe such child, or pay for its transportation to and from school, or for necessary dental work, eye care, operations and hospitalization of such child while at the school, or is unable either himself or from the estate of such child to reimburse the State Department of Education for expenses incurred by it in providing dental work, eye care, operations or hospitalization for such child in an emergency, the parent or guardian may apply for a certificate to that effect to the superior court of the county wherein such parent or guardian of such child is resident, and if the court is satisfied that the parent or guardian either himself or from the estate of such child is unable to provide suitable clothing or transportation, dental work, eye care, operations and hospitalization for the child, or is unable either himself or from the estate of such child to reimburse the State Department of Education for expenses incurred by it in providing dental work, eye care, operations or hospitalization for such child in an emergency, the court shall issue a certificate to that effect. The application for such certificate may also be made to the court by the principal of the school. If it appears to the satisfaction of the court that the parent or guardian has sufficient pecuniary ability or that there are sufficient funds in the estate of the child to provide suitable clothing, transportation, dental work, eye care, operations and hospitalization for the child or, as the case may be, to reimburse the State Department of Education for expenses incurred by it in providing

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Reimbursement.

dental work, eye care, operations or hospitalization for such child in an emergency, the court shall not issue such certification, but shall according to the nature of the application before it, either order the principal to provide the child with suitable clothing, transportation, dental work, eye care, operations and hospitalization, or order the parent or guardian either himself or from the estate of such child, as the court may determine to reimburse the State Department of Education for expenses incurred by it in providing dental work, eye care, operations or hospitalization for such child in an emergency. If the State Department of Education is not reimbursed by the parent or guardian personally or from the estate of such child for expenditures made by the principal under the order of the court or if the parent or guardian does not comply with an order of the court to reimburse the State Department of Education either personally or from the estate of such child for expenses incurred by it in providing dental work, eye care, operations or hospitalization for such child in an emergency the principal may sue the parent or guardian, in the name of the State, to recover any moneys paid out by order of the court or due the State Department of Education as reimbursement under an order of the court. All moneys expended under the authority of any such certificate for clothing and transportation, as hereinbefore provided, and not to exceed the sum of seventy-five dollars per annum for necessary dental work, eye care, operations and hospitalization, and all moneys expended by the State Department of Education for expenses not to exceed seventy-five dollars per annum incurred by it in providing dental work, eye care, operations or hospitalization for such child in an emergency for which the State Department of Education can not be reimbursed by the parent or guardian of such child as shown by such certificate, shall constitute a legal charge against the county from which said certificate is issued. Such certificate shall be presented to the principal of said school and it shall be the duty of said principal when the certificate shows the parent or guardian of said child is unable either himself or from the estate of the child to clothe such child, or pay for its transportation to and from school, or for necessary dental work, eye care, operations and hospitalization of such child while in school, to clothe said child and provide such transportation, dental work, eye care, operations and hospitalization the expense thereof to be advanced by the State Department of Education out of money appropriated for the support of the school. Upon presentation to the board of supervisors of the county in which any certificate provided for in this section is issued, of an itemized claim, duly sworn to by the principal of the school before an officer authorized to administer oaths, for the expense for clothing and transportation and other items provided and furnished under the authority of said certificate, or for the reimbursement of the State Department of Education as hereinbefore provided said board of super-

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visors shall audit and approve said claim, and the county auditor of said county shall thereupon include the amount thereof in his State settlement report, prescribed in section 3868 of this code and the amount of such settlement and all reimbursements of the State Department of Education under this section shall be credited by the State Controller to the then current appropriation for the support and maintenance of said school. All pupils in the school shall be maintained, except as hereinbefore provided, at the expense of the State.

State settlement.

CHAPTER 728.

An act to provide for the refunding of bonds issued under the "Improvement Bond Act of 1915" and for the levy of reassessments and the extension of liens of assessments and the collection and enforcement of such assessments and reassessments and the payment of said bonds.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Authority to refund bonds issued under Stats. 1915, p. 1441

SECTION 1. The legislative body of any municipality in this State is hereby authorized to refund bonds issued under the "Improvement Bond Act of 1915," under and subject to the provisions of this act, and to provide for the extension of the liens of assessments and the levy and collection of assessments and reassessments to pay such bonds. At least two of the interest coupons on the refunding bonds must be at a rate of interest less than the interest rate on the bonds to be refunded.

Resolution of intention to refund bonds.

SEC. 2. Whenever any principal or interest of any issue of bonds issued under the "Improvement Bond Act of 1915" is past due and unpaid because of delinquency in the payment of assessments, the legislative body of the city in which the property assessed lies may determine by resolution that the public interest or necessity require the refunding of such issue of bonds, and declare its intention to refund such bonds.

Contract with owners of bonds

The legislative body may enter into a written contract or contracts with the owner or owners of such bonds and provide therein for the cancellation of such outstanding bonds and coupons and the issuance of refunding bonds therefor, subject to the provisions of this act. When any bond is presented by any person, firm or corporation to the legislative body, such person, firm or corporation shall be deemed the owner thereof, and said legislative body may enter into a written contract or contracts to provide for the refunding of said bonds.

Terms of contract

The contract or contracts shall determine the terms and conditions upon which the outstanding bonds shall be exchanged for the refunding bonds, but in no event shall refunding bonds be issued for more than the par value of the

outstanding bonds and the due and unpaid interest coupons to be refunded. In the event that owners of seventy-five per cent or more of the principal amount of the outstanding bonds of any issue join in said contract or contracts, the city is authorized to proceed under this act to refund all of the bonds of said issue. The city may at any time prior to the actual issuance and exchange of the refunding bonds make additional contracts with any owner or owners of bonds for the surrender and exchange of bonds which are not agreed to be surrendered under the prior contracts. The bonds to be refunded may be deposited with the city treasurer or with any duly incorporated bank or trust company doing business in the State of California, which shall act as depository or escrow holder, as may be designated by contract between the municipality and the bondholders. The terms of such escrow shall be provided in the contract or contracts aforesaid.

Statement by auditor

SEC. 3. When the contract between the city and seventy-five per cent or more of the bondholders has been entered into, the legislative body shall direct the city auditor or person who performs the duties of auditor for said city to submit a complete and accurate statement showing the total principal amount of the outstanding bonds of the issue to be refunded, the numbers of such bonds, and the amounts of the due and unpaid interest coupons thereof. Said statement shall also show the several assessments remaining unpaid and the time in which the same become due, together with the interest and penalties on any unpaid installments thereof, and shall set forth the amount of each reassessment and description of the property upon which such reassessment is proposed to be levied.

Computation of reassessment

The amount of the reassessment upon any lot, piece or parcel of land shall be computed in the following manner: Subtract from the total amount of unpaid assessments including interest and penalties thereon, if any, on all lands to be reassessed, the amount of the total proposed reassessment, and prorate the amount of the remainder so ascertained by subtraction, among the respective parcels to be reassessed in accordance with the amounts assessed against each of said parcels in the original assessment The amount so prorated upon any lot, piece or parcel of land shall be subtracted from the total amount of the unpaid assessment, with interest and penalties thereon, if any, on the said parcel and the remainder shall constitute the proposed reassessment on such parcel. Such statement shall be examined by the legislative body and, if found correct, shall be approved. Upon the approval thereof said legislative body shall adopt a resolution reciting that the statement of the auditor has been approved and is on file with the city clerk and that said statement shows the amount of outstanding bonds and the amount of due and unpaid interest coupons thereof, and shows the amount of assessments and interest and penalties thereon, together with descriptions of the property upon which reassessments are proposed to be levied, and the amount to be reassessed against each piece or

Approval of statement by resolution

parcel of property; and shall fix a time and place for hearing on the refunding and reassessment. Said resolution shall state the total amount of the outstanding bonds, the amount of the due and unpaid interest coupons, the total amount of unpaid assessments including therein interest and penalties on unpaid installments, if any, the amount of the proposed public contribution, if any, the total amount of the proposed reassessment, the time the refunding bonds shall run, the rate or rates of interest thereon, and shall refer all parties interested to the report on file with the city clerk for the amount of the reassessment proposed to be levied on each lot, piece or parcel of land and for further details. Said resolution shall be published once a week for four successive weeks in some newspaper of general circulation in such municipality. Any person, firm or corporation interested in any of the property to be reassessed may file a written protest against the amount reassessed against its property, as shown in such statement, at any time prior to the time fixed for said hearing. Failure to file such written protest or objection shall be deemed and considered a waiver of any right which such person, firm or corporation may have or claim.

Publication.

Rights of owners of property liable to pay assessments.

SEC. 4. The owners of property liable to pay assessments shall have the right to pay such assessments, together with interest thereon as provided by the proceedings and statute under which the outstanding bonds were issued; provided, that said owners of property against which assessments remain unpaid elect, by written notice given to the legislative body of said municipality, at any time prior to the hearing provided in section 5 hereof to continue to pay assessments as provided by the proceedings and statute under which the outstanding bonds were issued. Such notice must describe the property upon which the owner elects to continue to pay sufficiently to identify the same. In the event any property owner or owners so elect to continue to pay assessments, the proposed reassessment upon any lot, piece or parcel of land as set forth in the statement on file shall be marked "Not to be levied" and no reassessment shall be levied on such parcel in the refunding proceeding. The assessments upon property upon which such written notice has been given shall be paid and collected with interest and penalties thereon as provided by the proceedings and statute under which the bonds to be refunded were issued, and outstanding bonds payable serially as the assessments are payable, and in principal amount equal to the principal of the assessments included in said written notices shall not be canceled in the refunding proceeding but, with interest, shall be payable as provided in the original proceedings. If in order that the principal amount of bonds payable annually and interest thereon shall equal the principal amount of such assessments payable annually and interest thereon, it is necessary to reduce the amount of any bond or interest coupon, an appropriate notation showing the amount of such reduction shall be written,

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printed or stamped upon the face of each bond or coupon reduced in amount, and the remaining amount of such bond or coupon shall be payable, collectible and enforceable in accordance with the provisions of said Improvement Bond Act of 1915. If any property owner does not so elect to continue to pay said assessments, then the legislative body of such municipality shall make a reassessment against his property in the refunding proceedings.

Consent to refunding and reassessment.

Any owner of land subject to reassessment may file his consent in writing to the refunding and reassessment upon substantially the terms stated in said resolution. Such consent need not be in any particular form and no error or informality thereof shall in any manner vitiate the proceedings. Owners of land within the meaning of this section are those and those only who appear to be such upon the records in the office of the county recorder of the county in which the district is situated on the day that said consents are filed with the clerk of said legislative body. Executors, administrators, special administrators and guardians may consent for any property of the estate represented by them. Any trustee of an express trust of land other than as security for the payment of money may consent for all or any part of the land held in such trust. A trustee in bankruptcy may consent for all or any part of the property of the bankrupt. Such executors, administrators, guardians and trustees are deemed owners of land within the meaning of this act. The written consent of the owners of a majority in area of the land subject to reassessment must be filed with the clerk of the legislative body before said legislative body shall have jurisdiction to confirm any reassessment under this act. At the hearing herein provided said legislative body shall determine whether the written consent of the owners of a majority in area of the lands subject to reassessment has been filed or not and if it determines that such consent has been filed it shall have jurisdiction to confirm the reassessment.

Contest.

The validity, sufficiency or genuineness of said consents, or any thereof, or the finding and determination of the legislative body thereon, shall not be contested in any action, suit or proceeding unless the same shall be commenced within three months after the determination of said legislative body has been made and thereafter no person in any action, suit or proceeding may plead or prove that said consents, or any thereof, or the finding and determination of the legislative body thereon, was in any way defective, invalid or insufficient.

Hearing of complaints or objections

SEC. 5. At the time and place fixed for hearing, the legislative body shall hear any complaints or objections that may be made concerning the amount of unpaid assessments, or the amounts of proposed reassessments as to any of the lots, pieces or parcels of land to be reassessed. Such hearing may be continued from time to time by order entered in the minutes, but must be concluded within thirty days from the date originally fixed. Upon such hearing the legislative body shall have power

to review and correct the amount of any reassessments upon any lot, piece or parcel of land, but shall not assess against any lot, piece or parcel of land a greater amount than the total unpaid assessment, with interest and penalties thereon, if any; and at the conclusion of such hearing the reassessment as originally made or as reviewed and corrected by them shall be confirmed by resolution entered upon the minutes.

The resolution of confirmation shall designate by reassessment number or other appropriate designation or description the lots, pieces or parcels of land in the statement on file with the city clerk upon which the reassessments are confirmed and levied. Any person interested may file objections in writing against the amount of any proposed reassessment, specifically setting forth the nature thereof, and shall have full opportunity to be heard thereon. Said legislative body shall hear and pass upon all of said objections or protests, and its determination thereon shall be final and conclusive. No objections to the regularity of the proceedings with reference to the making of the improvement or the validity or the amount of any assessment levied in the original proceedings shall be considered by the legislative body, and all other objections to any reassessment shall be deemed waived unless presented at the time and in the manner herein specified.

Objections

Confirmation of reassessment. Lien.

SEC. 6. When the reassessment as made or as reviewed and corrected has been confirmed by the legislative body, it shall be recorded in the office of the superintendent of streets and shall thereupon become a lien upon the various lots, pieces or parcels of land assessed and shall be in lieu of the assessments originally levied thereon; and such assessments originally levied, and all penalties and interest accrued thereon, shall be deemed superseded and supplanted by the reassessments. The lien of said reassessment shall be given superiority and priority as of the date the original assessment became a lien upon the property reassessed. The refunding bonds shall represent and be secured by said reassessments and any later reassessments which may be levied or issued upon the same property in lieu of said reassessments. If the refunding bonds are payable in annual series, such unpaid reassessments shall be payable in annual series corresponding in number to the number or series of bonds issued, and an even annual proportion of each reassessment shall be payable in each year preceding the date of maturity of each of the several series of bonds so issued. If the refunding bonds all mature in one year, the unpaid reassessments shall be payable annually and an even annual proportion of each reassessment shall be payable each year preceding the July interest payment.

Security for bonds.

Issuance of bonds.

SEC. 7. Bonds to represent the reassessments and to be secured thereby shall be issued, and such reassessments shall bear interest from such date of recording at the rate or rates stated in the refunding bonds; provided that such rate or rates shall not exceed the rate of interest on the outstanding bonds and at least the first two maturing interest coupons

Interest.

on the refunding bonds shall be at a lower rate than the rate of interest on such outstanding bonds. The date of such refunding bonds shall be the date of the recording of the reassessment. Said bonds shall be in such denominations as the legislative body of the city may determine; they shall be signed by the mayor or other chief executive of the city and by the city treasurer, and attested by the city clerk, the seal of the city affixed thereto and shall be numbered consecutively and shall bear interest and mature as provided in the contract with the bondholders; provided, however, the last maturity of any refunding bonds shall not exceed nineteen years from the second day of July next succeeding ten months after the date of said bonds. The interest shall be payable on January second and July second, respectively, of each year, and all of said bonds shall mature on July second.

Contents of bonds

Said refunding bonds and the interest thereon shall be paid at the office of the city treasurer. Said treasurer shall keep a redemption fund designated by the name of said bonds, into which he shall place all sums received by him from the collection of the reassessments made for such refunding and upon the security of which the said refunding bonds are issued and all interest and penalties thereon. From such fund he shall disburse and pay the said refunding bonds and the interest due thereon upon presentation of the proper bonds and coupons, and under no circumstances shall said bonds or the interest thereon be paid out of any other fund. Said treasurer shall keep a register in his office which shall show the series, number, date, amount, rate of interest and last known holder of each bond and the number and amount of each interest coupon paid by him and shall cancel and file each bond and coupon so paid. In no event shall the first maturity of the refunding bonds be earlier than the second day of July next succeeding ten months after the date of the bonds; and the first interest payment on such bonds shall in every case be January second next preceding the second day of July next succeeding ten months after the date of the bonds. Said refunding bonds may be issued in substantially the following form:

Duty of city treasurer.

Form of bonds

United States of America
State of California
No. ------ City of ---------- $------
Refunding Improvement Bond

Under and by virtue of an act of the Legislature of the State of California, designated as "Refunding Act of 1935 for 1915 Improvement Act Bonds," the ------ (city or town) of ------, a municipal corporation duly organized and existing under the laws of the State of California, will, on the second day of July, 19--, out of the redemption fund for the payment of the bonds issued upon the reassessments made for the work upon and improvements on certain streets (or on ------ street, or in improvement district No. ------, or on certain rights of way owned by, or by other suitable descrip-

tion, or for the laying out, opening, extending, widening, straightening or acquiring of certain streets) more fully described in that certain resolution (or ordinance) of intention passed by the city council (or other board) of said municipality on the _____ day of _____, 19__, pay to bearer the sum of _____ ($_____) with interest thereon from the _____ day of _____, 19__, to the _____ day of _____ 19__ at the rate of ____ per cent per annum, and thereafter at the rate of ____ per cent (____%) per annum, payable semi-annually on the second days of January and July of each year upon presentation of the proper interest coupons therefor, both principal and interest payable at the office of the treasurer of said municipality.

This bond is one of an issue of refunding bonds of like date and effect issued by said municipality under said act for the purpose of refunding the bonds issued under the Improvement Bond Act of 1915 for the purpose of providing means for paying for the work and improvements described in said resolution (or ordinance) of intention and is secured by the moneys in said redemption fund and by the unpaid reassessments made for the payment of said work, and, including principal and interest, is payable exclusively out of said fund.

This bond will continue to bear interest after maturity at the rate above stated, provided it is presented at maturity or within ten days thereafter and payment thereof is refused upon the sole ground that there is not sufficient moneys in said redemption fund to pay the same. If it is not so presented, interest thereon will run until maturity.

This bond may be redeemed and paid in advance of maturity upon the second day of January or July in any year by giving the notice provided in said refunding bond act.

It is hereby certified, recited and declared that all proceedings, acts and things required by law precedent to or in the issuance of this bond have been regularly had, done and performed and this bond is by law made conclusive evidence thereof.

In witness whereof, said _____ has caused this bond to be signed by the mayor (or other chief executive) and the treasurer of said _____ and by its clerk and has caused its clerk to affix thereto its corporate seal, all on the _____ day of _____, 19___.

_____
Mayor.

_____
Treasurer.

Attest:

_____
City Clerk.

(SEAL)

Issuance of bonds.

SEC. 8. The legislative body shall provide for the issuance of said bonds. The coupons affixed to said bonds shall be signed by the city treasurer by his printed, lithographed or engraved

facsimile signature. The bonds shall be payable to bearer and each bond shall be conclusive evidence of the regularity of all proceedings for the issuance of said refunding bonds and of the validity of said bonds and of all proceedings of which the bonds refunded were conclusive evidence.

Conclusive evidence

SEC. 9. The refunding bonds shall be delivered to the holders of the outstanding bonds in accordance with the contract with such bondholders. When such refunding bonds have been exchanged for the outstanding bonds, the outstanding bonds, except as to any sum payable from assessments which property owners have by written notice elected to pay, shall be canceled by the city treasurer and shall be filed in the office of such treasurer. All moneys in the redemption fund upon the date the statement of the city auditor is approved by the legislative body shall be paid to the holders of outstanding bonds and coupons entitled thereto at or prior to the delivery of the refunding bonds. If the city has appropriated money to assist in the refunding, such money shall be paid to the holders of outstanding bonds in accordance with the contract with said bondholders, and the city is authorized and empowered to appropriate moneys from any available fund to assist in such refunding, and wherever the improvement is a street, bridge or highway improvement the county in which the city lies is authorized and empowered to appropriate moneys from any available fund to assist in such refunding. All moneys appropriated by the city or county to assist in such refunding shall be credited upon the reassessment and shall reduce each of the reassessments therein and shall be prorated among the respective parcels reassessed in accordance with the amounts assessed against each of said parcels in the original assessment.

Exchange of bonds.

Payments to holders of outstanding bonds

In the event that the holders of one or more of the outstanding bonds do not enter any contract to refund the same, nevertheless, if the holders of seventy-five per cent or more of the outstanding bonds do contract for the refunding of the bonds owned or held by them the city shall have authority to refund all of the outstanding bonds of said issue under the provisions of this act, but in such event prior to recording the reassessment levied under this act sufficient moneys to adequately provide for the retirement or payment of the bonds of the nonconsenting holders must be provided and set aside in the proper fund for that purpose. The city which is conducting the refunding proceedings may make an advancement or contribution or an additional contribution in order to provide moneys to pay or retire the bonds of such nonconsenting holders. In the event the city makes all or any part of such advancement it may reimburse itself entirely or partially by taking all or any part of such refunding bonds at par. If any person or corporation advances money to provide for the payment or retirement of the bonds of nonconsenting holders the legislative body may deliver at par all or any portion of the refunding bonds which are not to be delivered to consent-

Authority to refund all outstanding bonds if holders of 75 per cent enter into contract

ing bondholders to the person or corporation making such advance or advances or may sell at par all or any part of such refunding bonds not to be delivered to consenting bondholders and from the proceeds thereof reimburse such person or corporation and may contract to make such sale or delivery. Any other methods of raising funds for the payment or retirement of the bonds of nonconsenting holders which will prior to the time the assessment is recorded under this act adequately provide the moneys necessary for such payment or retirement is hereby authorized. Whenever any moneys are placed in any fund for the retirement or payment of the bonds of nonconsenting holders the said money shall be used only for that purpose and after all of the bonds of said nonconsenting holders have been paid or retired any sum remaining in said fund shall be returned to the city, person or corporation which advanced the same.

Readjustment under bankruptcy laws.

In the event that the discharge of the bonds of any nonconsenting holders at less than the par value thereof has been authorized by any final decree or order confirming a plan of readjustment under any bankruptcy laws of the United States of America in any proceedings initiated under the authority of this act or otherwise said legislative body is authorized to do and perform all acts and things necessary for the discharge of such bonds in accordance with said decree or order. The reassessment shall not be recorded until adequate provision has been made in accordance with the terms of this section for the payment or retirement of bonds of nonconsenting holders.

Purchase or call of bonds by city

SEC. 10. Whenever there shall be in the redemption fund two thousand dollars or more available for the payment of principal of bonds, and not collected for the purpose of paying the principal of bonds maturing on the next second day of July, the city shall purchase or call bonds as herein provided. The city treasurer shall, by notice published once not less than thirty days prior to the date designated in some financial journal having a National circulation, invite sealed proposals for the sale of any of said refunding bonds to the city, which notice shall state the amount available for the purchase of such bonds and shall specify the time and place when proposals will be opened. The city treasurer shall also, at least ten days prior to the date so designated, mail a copy of such invitation for sealed proposals to any bondholder who has theretofore in writing requested such notice. Such proposals shall be opened in public at the time and place specified in said notice. The legislative body in its discretion may reject any or all of such proposals. If no proposals are received at a price of less than par and accrued interest, or if an insufficient amount of bonds are tendered at less than par and accrued interest to exhaust, as nearly as possible, the moneys available for purchase of bonds, the treasurer shall set aside a sum sufficient to pay the principal and accrued interest to the next interest payment date of the bonds to be called for redemption

and shall proceed to call for redemption, in numerical order, at par and accrued interest to the next interest payment date, such outstanding bonds as can be retired from said funds. Notice of such redemption shall be given by publication once in a financial journal having a National circulation, unless the holders of the bonds to be called in writing waive such notice, the date of said publication to be not less than thirty days prior to the date so fixed for redemption, and interest on said bonds so called shall cease upon the redemption date. All refunding bonds so purchased or redeemed pursuant to call shall be canceled by the treasurer. All costs of publication shall be payable from the redemption fund.

Trust fund for redemption and payment

SEC. 11. (a) In the event of such refunding bonds being so issued, then the reassessments and any reassessments which may be issued thereon or in lieu thereof, together with interest thereon, shall remain and constitute a trust fund for the redemption and payment of said refunding bonds and for the interest which may be due thereon Such reassessments and each installment thereof and the interest and penalties thereon shall be and shall continue to constitute a lien against the lots and parcels of land on which made, until the same be paid, but for a period not exceeding the time within which an action might be brought on the last series of refunding bonds issued upon the security of such unpaid reassessments; provided, however, that unmatured installments, interest and penalties shall not be deemed to be within the terms of any general warranty of title. Any foreclosure of said reassessment lien or sale of property for said lien shall convey the said property to the purchaser free and clear of all encumbrances except such taxes and special assessment liens as are by law equal or superior to said reassessment lien. Such lien shall be superior to and have priority over all special assessment liens created against the same property subsequent to the date of recordation of the reassessment.

Procedure on nonpayment of reassessment

(b) In the event of nonpayment of any reassessment or installment thereof or of any interest thereon, together with any penalties and other charges accruing under the laws or ordinances of the city and not later than four years after the due date of the last installment of principal, as a cumulative remedy, the same when due and delinquent may by order of the legislative body be collected by suit brought in the superior court to foreclose the lien thereof. The costs shall be fixed and allowed by the court and shall include a reasonable attorneys' fee, interest, penalties and other charges and advances as herein provided, and when so fixed and allowed by the court shall be included in the judgment. The court shall have the power to adjudge and decree a lien against the lot or parcel of land covered by the reassessment for the amount of the judgment and to order said premises to be sold on execution as in other cases of the sale of real estate by the process of said court, with the same rights of redemption. On appeal, the appellate courts shall have the same power to adjudge and

decree a lien and order such premises to be sold on execution as is herein provided for the superior court. The foreclosure suit shall be governed and regulated by the provisions hereof, and also where not in conflict herewith by the codes of this State. The city shall have the right to advance and pay county or other taxes wherever necessary to protect its interest in property against which there is a delinquent reassessment. It may also at its discretion temporarily transfer moneys into the redemption fund from other funds in which such moneys are not immediately needed, the moneys so transferred to be used to pay sums due from such redemption fund and to be retransferred therefrom out of the first available receipts. Upon the ordering of any such foreclosure suits the tax collector shall be credited upon the assessment roll then in his hands with the amount charged against him on account of such reassessments ordered to suit and be relieved of further duty in regard thereto.

City may pay taxes to protect its interest

Contents of complaint

(c) Such action shall be brought in the name of the city and may be brought at any time prior to the expiration of four years subsequent to the date of delinquency of the last installment of reassessment due or to become due thereunder. The complaint may be brief and include substantially only the following allegations with reference to the reassessments sought to be collected: That on a date stated the legislative body passed its resolution or ordinance determining to refund certain bonds which had been issued for certain improvement work (the improvement work need not be described); that a reassessment for the purpose of refunding said bonds was duly given and made; that said reassessment was recorded on a stated date; that certain property (describing it) was therein reassessed a stated amount; that bonds upon the security of such reassessment were duly issued, giving the date of said bonds, the interest rate and the number of years the last installment of same were to run, and that the same were duly issued under this act, but it shall be unnecessary to state the amount, number, denomination or other term thereof; that on a date stated a certain sum came due on said property on said reassessment and had not been paid and that the legislative body had directed the action to foreclose. The amount of penalties, costs and interest due shall be calculated as hereinafter set forth in sections 13 and 15 hereof up to the date of judgment. In such action plaintiff upon recovering judgment shall be entitled to reasonable counsel fees to be allowed by the court and taxed as costs.

Counsel fees

Interest on unpaid assessments.

SEC. 12. Interest on all unpaid reassessments shall begin to run from the date of recordation of the reassessment and shall be computed at the same rate or rates as is specified in the bonds secured by such reassessments. Such interest shall be payable annually or semiannually according as the city taxes on real property with which the reassessments are collected are payable annually or semiannually. For each year the interest shall be computed and collected up to the next

second day of July succeeding, no deduction being made by reason of any installment of such reassessment being due or paid prior thereto in such year.

Whenever it shall appear to the legislative body that according to the dates when taxes are collected in the city there will be an insufficient amount on hand to pay the interest then due, according to the method of collection provided in this act, then said legislative body may direct that such interest or some portion of the same be collected in the year preceding that in which the same would otherwise be collected under this act, and thereupon such interest or portion thereof shall be extended on the rolls for such preceding year and be due and collected therein.

Duty of auditor.

SEC. 13. A copy of the resolution of the legislative body confirming the reassessments upon the security of which the refunding bonds are issued, shall be filed in the office of the auditor of the city. The auditor shall keep a record in his office showing the several installments of principal and interest on said reassesssments which are to be collected in each year during the term of said bonds. The auditor shall annually enter in his assessment roll on which taxes will next become due, opposite each lot or parcel of land affected in a space marked "public improvement assessment," or by other suitable designation, the several installments of such reassessment coming due during the fiscal year covered by such assessment roll, including in each case the interest due on such total unpaid reassessments as herein provided, and also including a percentage of one-fourth of one per cent of the amount of such installments and of such interest so entered. Such percentages when collected shall belong to the city and shall cover the expenses and compensation of the city treasurer incurred in the collection of such reassessments, and of the interest and penalties thereon. No other percentage shall be claimed for any such collections. In the event that such collections are made by the county officials the county auditor shall at the close of the tax collecting season promptly render to the city auditor a detailed report showing the amounts of such installments, interest, penalties and percentages so collected on each proceeding and from what property collected, and also giving a statement of the percentages retained for the expenses of making such collections Taxpayers shall have the like right to pay such reassessment as so entered with interest, and any penalties thereon, under protest as they have to pay general municipal taxes under protest, but in making such payment under protest must accompany the payment with their written protest. In the event of the lot or parcel of land affected by any reassessment not being separately assessed on said roll so that the installment to be collected can be conveniently entered thereon, then said auditor shall enter on said roll a description of the lot or parcel affected, with the name of the owners if known, but otherwise described as "unknown owners," and extend the proper installment opposite same.

Release and payment of unpaid assessment.

SEC. 14. Any interested owner may release and pay any such unpaid reassessment by depositing with the treasurer of the city the total unpaid balance of any such reassessment together with the total interest which would become due on such reassessment were it paid in the regular way; provided, that if and when such funds are used for the purchase or call of a bond the person paying such assessment shall be entitled to credit and reimbursement of his proportion of the interest saved by such purchase or call, less his proportion of any costs incurred for publishing or serving any notice of purchase or call for redemption.

Payment of reassessments.

SEC. 15. If the refunding bonds are payable in annual series such reassessments shall be payable in annual series corresponding in number to the number of series of bonds issued and an even annual proportion of each reassessment shall be payable in each year preceding the date of maturity of each of the several series of bonds so issued. If the refunding bonds all mature in one year, the unpaid reassessment shall be payable annually and an even annual proportion of each reassessment shall be payable each year preceding the July interest payment. Such annual proportion of each reassessment coming due in any year, together with the annual interest on such reassessment, shall in turn be payable in annual or semiannual installments according as the general taxes of such city on real property are payable in annual or semiannual installments, and such installments and said annual interest shall be payable and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property of said city. Upon default in payment, the lands securing such installments and reassessments shall be sold in the same manner in which real property in such city is sold, for the nonpayment of general taxes, and be subject to redemption within one year from date of sale in the same manner as such real property is redeemed from such delinquent sale, and upon failure of such redemption shall in like manner pass to the purchaser. The city must be the purchaser at any delinquent sale in like manner in which it becomes or may become the purchaser of property sold for nonpayment of the general property tax, and shall pay and transfer into said redemption fund the amount of the delinquent reassessment and of the delinquent interest thereon upon which said sale is made. In cases where the municipal property tax is collected by county officials and sales for nonpayment of such taxes are made to the State, the State shall be the purchaser at any such sale hereunder, but shall hold the title acquired at such sale upon behalf of the city and shall account to the city for any moneys received upon redemption or from the sale of such property, the city, for the purposes of this act, being deemed the real purchaser. In the event of there being no available funds in

Delinquent sale.

lector shall delay the entry of the certificate of sale until such funds are available, making demand in the meantime upon the legislative body that a suitable amount be included in the next tax levy for the purpose of providing funds with which to make such payment: provided, however, that the period of redemption from such tax sale shall not be extended thereby nor the rights or privileges of the property owner be thereby in anywise affected. In the event of such purchase being made by the city and of any succeeding installment of such reassessment or of such interest not being paid in any future year, the property shall not be sold unless there has previously been a redemption from such sale or unless under the law it is then being sold for delinquent taxes. The city shall nevertheless, unless a resale has been made by it, from time to time, when due pay and transfer into said redemption fund the amount of any such future delinquent reassessment and interest pending redemption, and no redemption shall be made until any such subsequent payments, with interest and penalties, shall also be paid. The purchaser, whether at tax collector's sale or at resale by the city in the event of the city having become the purchaser, or at foreclosure sale by order of court, shall take the property subject to all unpaid installments, interest and penalties under the same proceeding.

Special tax

SEC. 16. The legislative body may, and in the event of demand by the tax collector therefor as provided in section 15 hereof must, at the time of fixing the annual tax rate and levying the taxes to be collected for general municipal purposes, levy a special tax upon the taxable property in the city for the purpose of paying for the lands purchased or to be purchased at such tax sales, or for the purpose of paying installments of the reassessment or of interest which the city is required to pay under the provisions of section 15 hereof, but not to exceed for each district, the bonds of which are refunded, ten cents on each one hundred dollars of assessable property. Such special tax shall be in addition to all other taxes levied for municipal purposes and shall be computed, entered and collected in the same manner and by the same persons and at the same time and with the same penalties and interest as are other taxes of the city.

As to all lands of which any city is deemed the real purchaser under the provisions of this section, such city and all of the officials thereof shall have all of the rights, powers, duties and obligations granted, authorized or imposed by this act.

Certificate of sale

SEC. 17. In the event of sale by the tax collector of any lot or parcel of land for nonpayment of taxes and of any installment of the reassessment thereon, or of the penalties, interest or costs on same, or for nonpayment of any installment, penalties, interest or costs, then any certificate of such sale or any deed issued is primary evidence of the regularity of all proceedings theretofore had, and shall be conclusive evidence of all things of which bonds issued upon the security thereof

are conclusive evidence, and prima facie evidence of the regularity of all proceedings subsequent to the issuance of the bonds, and such deed conveys to the grantee the absolute title to the lands described therein, free of all encumbrances, except unpaid installments, interest and penalties under the same proceeding and except taxes and public improvement assessments which by law are equal or prior to the reassessment on which sale is made.

Action to test validity of reassessment or bonds.

SEC. 18. At any time within ninety days after the confirmation of the reassessment, any person interested in any of the bonds to be refunded or in any of the lands reassessed may bring an action in the superior court of the county in which the property assessed lies to determine the validity or invalidity of such reassessment and of any refunding bonds issued or to be issued thereon. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for four weeks in some newspaper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Said summons shall contain a description of the lands assessed sufficient to identify the same. Jurisdiction shall be complete within ten days after the full publication of such summons in the manner herein provided. Anyone interested may at any time before the expiration of said ten days appear and by proper proceedings contest the validity of such reassessment or uphold the same. Such action shall be speedily tried and judgment rendered declaring such matter so contested either valid or invalid. Either party shall have the right to appeal to the Supreme Court at any time within thirty days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal. The motion for a new trial of any such proceeding must be heard and determined within ten days from the filing of the notice of intention. The court hearing said proceeding, in inquiring into the regularity, legality or correctness of such reassessment, must disregard any error, irregularity or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure which are not inconsistent with the provisions of this act are applicable to the proceeding herein provided for. The costs of the legal proceedings provided for in this section may be allowed and apportioned between the parties or taxed to the losing party in the discretion of the court. After said reassessment has been confirmed it shall not be contested in any way other than at the time and in the manner specified in this section, and in any such action all findings, conclusions and determinations of the legislative body which conducted the reassessment proceedings shall be conclusive in the absence of actual fraud.

If any reassessment or any refunding bond is held illegal or invalid in any action, suit or proceeding upon any ground which would apply to the entire reassessment or the entire issue of refunding bonds, then the unpaid bonds refunded remain in full force and effect, and if said unpaid bonds have been canceled the treasurer of the city which conducted the invalid refunding or reassessment proceedings shall issue new bonds of the same tenor, force and effect as such canceled unpaid bonds, and all of the provisions of the act under which the original bonds were issued shall apply to the said original bonds and to any bonds issued under this section to replace such original bonds. It is the intention of this act that the original bonds and the original assessments shall remain in full force and effect until superseded and supplanted by reassessments and refunding bonds validly and legally issued, upon which the city is validly subject to the liability imposed under sections 15 and 16 of this act.

Effect of invalidity

No action, suit or proceeding to set aside, cancel, avoid, annul or correct any reassessment levied under this act, or to review any of the proceedings, acts or determinations made in the proceedings for said reassessment and the issuance of refunding bonds, or to question the validity of or enjoin the collection of said reassessment or any of the reassessments therein or to enjoin the issuance of any bonds to represent the same, shall be maintained by any person unless such action or actions shall have been commenced within ninety days after the date of confirmation of said reassessment, and thereafter all persons shall be barred from any such action, suit or proceeding and from any defense of the invalidity of said reassessment or any of the reassessments therein contained or any refunding bonds issued thereon.

Time to commence actions.

In any action, suit or proceeding, brought after said ninety days has expired, to enforce any reassessment or any refunding bond, no person may urge, plead or prove the invalidity of any reassessment or any refunding bond; and in any action to foreclose the lien of a reassessment, any refunding bond shall be conclusive evidence of the regularity and validity of the reassessment proceedings and of the reassessment and of the refunding bond.

The validity of any refunding bonds issued under this act shall not be contested in any action, suit or proceeding unless such action, suit or proceeding shall have been brought within three months after the issuance of such bonds.

SEC. 19. This act shall in nowise affect any other act or acts now existing or which may hereafter be passed covering the same subject matter, or apply to any proceedings thereunder, but is intended to and does provide an alternative system for the refunding of bonds; and when in the discretion of any legislative body proceedings are commenced under this act, the provisions of this act only shall apply thereto.

Scope of act, alternative method

Defects in form, etc not to invalidate proceedings

No defect in the form of any reassessment levied hereunder and no statutory defect in any of the proceedings relating to the reassessment and refunding shall in any way invalidate any reassessment or any refunding bond and any and every action or determination made necessary by reason of constitutional requirements or otherwise, or any action or determination which is convenient in the making of the reassessment, or in the refunding and reassessment proceedings, which is not expressly set forth in this statute is hereby authorized and the same when made shall be valid and sufficient.

The incidental expenses of any refunding and reassessment herein authorized shall be paid by the city in which the district lies.

No bond, coupon, assessment or instalment thereof or of the interest or penalties thereon, and no certificate of sale or deed shall be held invalid for error in the computation of the proper amount due on same, provided the error be found to be comparatively negligible or be found to be in favor of the owner of real property affected thereby.

Definitions

The term "city auditor" as used in this act shall be held to mean and include any person who, under whatever name or title, is charged with the duty of extending taxes upon the assessment rolls and lists. The term "tax collector" as used in this act shall be held to mean and include any person who, under whatever name or title, is charged with the duty of collecting taxes, advertising delinquent lists of unpaid taxes, selling lands thereunder and executing certificates of sale and deeds thereon.

Bankruptcy proceedings

Whenever the owners of a majority in area of the lands to be reassessed in any proceeding hereunder have consented to the refunding and reassessment any city is authorized to file a petition and take all proceedings required under any bankruptcy law or laws of the United States of America now or hereafter enacted, for the purpose of refunding or in the course of refunding any bonds which are authorized to be refunded under this act.

Declaration of policy

It is hereby declared that the refunding of bonds issued under the "Improvement Bond Act of 1915" is required by the emergency presented in this State. Many improvements for which said bonds were issued were made for the purpose of developing property for sale and were in advance of the actual needs of the community. The lack of a market for the real estate has made it impossible for the assessments to be paid when due and has resulted in a large accumulation of unpaid assessments, penalties and interest and of unpaid taxes, penalties and interest. The assessments and taxes are on a parity, and the amounts unpaid have become so great in many instances that the property owners are not able to meet the burden. The extension of maturities and the lessening of the immediate burden will encourage the payment of assessments and taxes and give the property owners an opportunity to meet their obligations and thereby will permit the

building up of the districts in which these improvements lie.

This act and all of its provisions shall be liberally construed, to the end that the purposes hereof may be made effective. If any section, subsection, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The Legislature hereby declares that it would have passed this act irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof be declared unconstitutional. Constitutionality

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CHAPTER 729.

An act to amend the title and sections 1, 2, 3, 6, 9, 11, 12, 13, 15, 30, 31 and 32 and to add section 33 to an act entitled "An act to provide for the refunding of the indebtedness represented by bonds of special improvement districts payable from special assessments levied wholly or partly in accordance with the assessed value of lands, to provide for the issue and sale or exchange of refunding bonds and the retirement of unpaid bonds of such districts, to provide for the levy of assessments and reassessments for the payment of such refunding bonds, to enforce the liens of such assessments, reassessments, to provide for the proceedings to test the validity of such refunding and reassesssment, and to provide for contributions of public funds to assist in such refunding," approved June 5, 1933, relating to the refunding of bonds payable from taxes or from special assessments levied wholly or partly in accordance with the assessed value of lands. Stats. 1933, p. 1915, amended

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The title of the act designated in the title hereof is hereby amended to read as follows: Title amended

An act to provide for the refunding of the indebtedness represented by bonds of special improvement districts payable from taxes or from special assessments levied wholly or partly in accordance with the assessed value of lands, to provide for the issue and sale or exchange of refunding bonds and the retirement of unpaid bonds of such districts, to provide for the levy of assessments or reassessments for the payment of such refunding bonds, to enforce the liens of such assessments or reassessments, to provide for proceedings to test the validity of such refunding and reassessment, to provide for contributions of public funds to assist in such refunding, and to provide for the use of Federal bankruptcy courts therein.

SEC. 2. Section 1 of the act designated in the title hereof is hereby amended to read as follows: Stats. 1933, p. 1915

Refunding bonds authorized

Section 1. All bonded indebtedness consisting of outstanding unpaid bonds and outstanding unpaid interest coupons of bonds issued by or for any special improvement district the bonds of which are payable from taxes or special assessments levied wholly or partly in accordance with the assessed value of lands may be funded or refunded under and pursuant to the provisions of this act. At least two of the interest coupons on the refunding bonds must be at a rate of interest less than the interest rate on the bonds to be refunded, and the rate of interest on the refunding bonds shall not exceed the rate of interest on the bonds to be refunded. The legislative body of the city or county or city and county which conducts the refunding proceedings may negotiate and contract with the holders of bonds for such refunding and to aid in such refunding may appropriate moneys from any available fund, except the general fund, of the city or county or city and county. Also, any county in which the district lies, whether the district be entirely or partly within a city or cities, or entirely or partially within unincorporated territory of the county, is hereby authorized to appropriate moneys from any available fund, except the general fund, to assist in such refunding. In refunding such indebtedness under this act, the total amount of the reassessments to be levied under this act plus contributions, if any, of public money to aid in such refunding shall be less than the total amount of the outstanding unpaid bonds and the outstanding due and unpaid interest coupons which are to be refunded.

Stats 1933, p 1915

SEC. 3. Section 2 of the act designated in the title hereof is hereby amended to read as follows:

Reassessment for refunding

Sec. 2. Whenever the legislative body of any city or county or city and county of this State determines by resolution that the public interest, convenience or necessity require the refunding of the indebtedness of any special improvement district which it is given jurisdiction to refund under the provisions of this act, said legislative body shall by resolution declare its intention to refund such bonds and shall determine the total maximum principal amount for which a reassessment shall be levied in the refunding proceedings, and shall determine the term of any refunding bonds to be issued to represent unpaid reassessments as herein provided and the rate or rates of interest of such bonds. The rate of interest during the entire term of such bonds need not be the same but different rates may be stated for one or more interest payments of such bonds. If such different rates of interest are proposed, each rate and the time during which such rate shall be paid shall be designated in such resolution. The amount of any proposed contribution of public funds to be made to assist in such refunding shall be stated in such resolution, but this shall not prevent said legislative body making additional contributions thereto at any time. In said resolution said legislative body shall state the total amount of the outstanding indebtedness to be refunded (which shall be deemed to be the

Interest

principal amount of outstanding unpaid bonds and the amount of due and unpaid interest coupons), the amount of the principal of bonds included therein, and the amount of due and unpaid interest coupons included therein, all as of the date said resolution is adopted. No error or mistake in the computation of the amount of unpaid principal or unpaid interest shall affect the validity of the refunding proceedings, and no error or mistake in any statement of the amount of such principal or interest in any notice, resolution or order in the course of the proceedings shall invalidate in any way the reassessment or the refunding bonds or the refunding proceedings; provided that the total sum of the reassessment levied in the refunding proceeding, plus any contribution or contributions of public funds made to aid in such refunding, shall not exceed the sum of the principal amount of the bonds to be refunded and the amount of the due and unpaid interest coupons to be refunded. Said resolution shall contain a statement that for any reassessment not paid within thirty days from the date of recordation thereof a bond will issue in the manner and form provided in this act (designating the act by title or other suitable reference).

Said resolution shall also contain a date, hour, and place for the hearing of objections to said refunding, and the date fixed for said hearing shall not be less than twenty (20) days nor more than sixty (60) days subsequent to the date of adoption of said resolution. Said resolution shall also contain a statement that the refunding shall not be authorized unless the written consent of the owners of a majority in area of the land in the district subject to assessment to pay the principal and interest of the outstanding bonds is filed with the clerk of the legislative body, and that any owner of land in said district may file his written consent to such refunding at any time prior to the adoption of the resolution ordering the refunding.

SEC. 4. Section 3 of the act designated in the title hereof is hereby amended to read as follows: Stats 1933, p. 1916

Sec. 3. The resolution shall be published once a week for at least two (2) weeks in a newspaper of general circulation in the city (if the refunding proceedings are conducted by the legislative body of a city) or in the county (if the refunding proceedings are conducted by the legislative body of a county). In the event no newspaper of general circulation is published in the city, then publication may be made in any newspaper of general circulation published in the county. Copies of such resolution headed "Notice of refunding and reassessment" shall also be posted upon all open streets within the district of lands proposed to be reassessed in the refunding proceedings. Such notices shall be not more than three hundred (300) feet in distance apart and not less than three (3) of such notices shall be posted. The heading upon such posted notices must be in letters at least one inch in height and such notices shall be posted on or before the date of the Notice

first publication of said notice. A copy of the resolution as published shall be mailed, postage prepaid, by the clerk of the legislative body to each person to whom land in the assessment district is assessed as shown on the last equalized assessment roll of the county in which said district lies, at his address as shown upon such roll, and to any person, whether owner in fee or having a lien upon or legal or equitable interest in any land within said district, whose name and address and a designation of the land in which he is interested is on file in the office of said clerk. No error, failure or mistake in the mailing or posting of such notices or any of them and no failure of any owner or person interested in any land within the district to receive such mailed notice shall in any way affect the validity of the proceedings hereunder and the clerk's affidavit of mailing shall be conclusive evidence that all notices have been mailed as required by this act. Affidavits of publication, posting and mailing shall be filed in the office of the clerk of the legislative body. The date of the first publication of the resolution of intention, the date of the posting of copies of such resolution, and the date of mailing copies of such resolution (which dates need not be the same) shall be at least twenty (20) days prior to the date of hearing fixed in said resolution.

Consent by landowner

Any owner of land within the district subject to tax or assessment for payment of the principal and interest of the outstanding bonds may file his consent in writing to the refunding and reassessment upon the terms stated in said resolution. Such consent need not be in any particular form and no error or informality thereof shall in any manner vitiate the proceedings. Owners of land within the meaning of this section are those, and those only, who appear to be such upon the records in the office of the county recorder of the county in which the district is situated on the day that said consents are filed with the clerk of said legislative body. Executors, administrators, special administrators, and guardians may consent for any property of the estate represented by them. Any trustee of an express trust in land, other than as security for the payment of money, may consent for all or any part of the land held in such trust. A trustee in bankruptcy may consent for all or any part of the property of the bankrupt. Such executors, administrators, guardians and trustees are deemed owners of land within the meaning of this act. The written consent of the owners of a majority in area of the lands in the district subject to reassessment in the refunding proceedings shall be binding upon the owners of the minority in area of the lands in such district.

Objections.

At any time not later than the hour set for hearing objections to the proposed refunding, any person interested and any owner of property which is subject to reassessment in the refunding proceeding may file his written objection against the proposed refunding with the clerk of the legislative body. Such objection must contain a description of the property in

which each signer thereof is interested, sufficient to identify the same, and shall set forth the nature of each signer's interest therein, and shall be delivered to the clerk of said legislative body at or before the time set for hearing, and no other protests or objections shall be considered. At the time and place fixed for the hearing of objections, or at any time to which the hearing thereof may be adjourned, the legislative body shall hear and consider all objections so filed. The hearing may be continued from time to time, by order of the legislative body to be entered upon its minutes. Any objection or protest to such refunding not made at the time and in the manner hereinbefore provided shall be deemed to be waived voluntarily by any person who might have made such protest or objection, and such person shall be deemed to have consented to the proposed refunding. The legislative body may sustain or deny any or all objections and protests and its determination thereon shall be entered upon the minutes and shall be final and conclusive. Said legislative body shall also at said hearing, as originally fixed or as adjourned, by resolution entered upon the minutes, determine whether the written consent of the owners of a majority in area of the lands in the district subject to reassessment has been filed or not, and if it determines that such consent has been filed it shall thereupon acquire jurisdiction to proceed further under this act. The validity, sufficiency, or genuineness of said consents, or any thereof, or the finding and determination of the legislative body thereon, shall not be contested in any action, suit or proceeding unless the same shall be commenced within three months after the determination of said legislative body has been made, and thereafter no person in any action, suit or proceeding may plead or prove that said consents or any thereof, or the finding or determination of the legislative body thereon, was in any way defective, invalid, or insufficient.

Hearing

After the legislative body has determined that the written consent of the owners of such majority in area has been filed, it may by resolution entered upon the minutes order the refunding and reassessment.

Order

SEC. 4a. Section 6 of the act designated in the title hereof is hereby amended to read as follows:

Stats 1933, p 1918

SEC. 6. The total amount for which said reassessment shall be levied shall not exceed the total principal amount of such reassessment as stated in the resolution of intention; but may be for a smaller amount. Said reassessment shall be made upon all such lots, pieces or parcels of land within the assessment district as are subject to tax or assessment to pay the principal and interest of the outstanding bonds to be refunded. The total amount to be reassessed shall be apportioned upon said lots, pieces and parcels of land in the manner hereinafter set forth, to wit: to the total principal amount of the reassessment proposed to be levied shall be added the total sum of all of the amounts (including such interest and penalties as go into such fund) paid into the interest and sinking fund of

Amount of reassessment

Mode of reassessment

such district on or prior to the date the resolution of intention in the refunding proceedings was adopted, upon taxes or assessments levied upon any lot, piece or parcel of land subject to reassessment in the refunding proceeding to raise funds to pay the principal and/or interest of the bonds of said district which are to be refunded. The total amount of the two sums shall be apportioned as an assessment upon all such lots, pieces or parcels of land within the assessment district as are subject to tax or assessment to pay the principal and interest of the bonds to be refunded. The person making the reassessment shall proceed to estimate upon the lots, pieces or parcels of land within the assessment district and, subject to reassessment under the terms of this act, the benefits arising from the acquisition or improvement, or acquisition and improvement, for which the bonds to be refunded were issued and to be received by each such lot, piece or parcel of land, and shall thereupon reassess upon and against the said lands the total amount of the two sums hereinbefore in this section mentioned and in so doing shall assess the said total amount upon the several lots, pieces or parcels of land in said assessment district subject to reassessment in the manner following, to wit:

Upon each lot, piece or parcel of land, respectively, in proportion to the estimated benefits received by each such lot, piece or parcel of land from the acquisition or improvement, or the acquisition and improvement, for which the bonds to be refunded were issued.

Deductions for prior payments

When said total amount has been assessed upon each of the lots, pieces or parcels of land to be reassessed there shall be deducted from the amount so assessed upon any lot, piece or parcel of land any sum (including interest and penalties, if any) paid into the interest and sinking fund of the district on or prior to the date of adoption of the resolution of intention in the refunding proceeding upon a tax or assessment levied upon any such lot, piece or parcel of land to pay the principal and interest on bonds of said district. In case any such lot, piece or parcel of land was a portion of a larger parcel of land for which a payment was made, the portion of such payment to be deducted from the amount assessed against such smaller lot, piece or parcel of land shall be that proportion of such payment which the amount assessed against said smaller lot, piece or parcel of land bears to the total amount assessed against all of the parcels which comprised said larger parcel of land. After all of the amounts of taxes and assessments, including any penalties and interest paid into the interest and sinking fund, have been deducted from the amount assessed to each such lot, piece or parcel of land, the amounts remaining assessed against each such lot, piece or parcel of land shall be deemed reassessments and shall comprise the total reassessment to be levied and shall in total amount be the sum stated in said resolution of intention or a smaller sum. If in any case the amount paid as ad valorem taxes or assessments upon any parcel of land should exceed the amount assessed as benefits

against said parcel, no refund shall be made to any property owner.

SEC. 5. Section 9 of the act designated in the title hereof is hereby amended to read as follows: Stats 1933, p 1920

Sec. 9. When said reassessment has been filed with the clerk, the legislative body shall direct said clerk to give notice of the filing of said reassessment and of the time and place when and where all persons interested in any such reassessment will be heard by said legislative body. Said notice shall be in substantially the following form: Notice of hearing.

(Fill in blanks) Form

Notice of hearing on proposed reassessment for refunding of bonds of ------ District No. ------ of (city or county) of ------.

Notice is hereby given that a reassessment for the refunding of the bonds of the above entitled district has been filed with the clerk of the ---- (name of legislative body) of ------ (city or county) of ------ and may be examined by any person interested. The acquisition or improvement, or acquisition and improvement (use whichever of the foregoing words applies), to pay the costs and expenses of which said bonds were issued, was made pursuant to ------ (ordinance or resolution) of intention No.--- (if numbered) adopted ------, 19---, and reference is hereby made to such ------ (ordinance or resolution) of intention for a description of the ------ (acquisition or improvement or acquisition and improvement).

The district of lands benefited by said acquisition or improvement, or acquisition and improvement (using the appropriate words), is described in general terms as follows: (Here insert a description in general terms of the district as shown upon the plat or diagram attached to the reassessment, excepting therefrom any lands not to be reassessed.)

Reference is hereby made to the diagram contained in said reassessment for the boundaries and extent of the said assessment district, and said diagram shall govern for all details as to the extent thereof. Said diagram shows each lot, piece or parcel of land reassessed and said reassessment shows the amount proposed to be reassessed upon each lot, piece or parcel of land.

Notice is further given that it is proposed to levy said reassessment for the refunding of the bonds of said district. The total amount of the proposed reassessment is the sum of $------.

Notice is further given that on the ------ day of ------, 19---, at the hour of ------ o'clock, ---m., at the chambers of the ------ (designating the legislative body) of the ------ (city or county) in the city of ------ is the time and place the said ------ (designating legislative body) will hold the hearing on said reassessment. Protest or objections to said reassessment or to any proceedings taken in the refunding of said bonds and the levying of a reassessment therefor or to any part of such proceedings or to any specific reassessment upon

any ground whatsoever must be filed in writing with the clerk of _____ (designating legislative body) at or before the time of said hearing. Upon the recording of said reassessment, the respective amounts reassessed shall be immediately due and payable. The reassessment proceedings are under and serial bonds shall be issued in the manner and form provided in (here set out the title of this act and its date of approval or refer to the act by other appropriate reference) to represent each reassessment remaining unpaid after the expiration of thirty days from the date of recording said reassessment. Said bonds shall bear interest at the rate (or rates) of _____ per cent from the date of recording of such reassessment and shall be payable in _____ installments extending over a period of _____years from the second day of January next succeeding the fifteenth day of the next November following their date.

_____
Clerk of the (designate legislative body)

_____
of (designate name of city or county)

Stats 1933, p 1922

SEC. 6. Section 11 of the act designated in the title hereof is hereby amended to read as follows:

Protests or objections

Sec. 11. Protest or objections to the said reassessment or to any of the reassessments upon the respective lots, pieces or parcels of land reassessed or to any action or determination in the making of said reassessment or in the proceedings for said reassessment and refunding, including objections to the amounts of the reassessments, or to the validity or legality of any of the proceedings for said reassessment and refunding must be made in writing and filed with the clerk of said legislative body at or before the time fixed for the hearing on said reassessment. Such protests or objections may be made by any person interested in the reassessment and refunding proceedings. It is the intent of this section that protests or objections upon any ground whatsoever not theretofore waived may be made as provided by this section. Such protests or objections need not be in any particular form, but if protest against or objection to the regularity or legality of the proceedings for the reassessment or refunding is made, such protest must clearly set forth the particular alleged irregularities or invalidities. Any objection or protest upon any ground whatsoever not made at the time and in the manner herein provided shall be deemed to be waived voluntarily by any person who might have made such a protest or objection, and the proceedings for the said reassessment and refunding may not thereafter be attacked upon any ground not stated in an objection or protest so filed, and any landowner or any person otherwise interested in any lands within the said district or in the reassessment and refunding proceedings shall be estopped to attack the said reassessment and refunding proceedings upon any ground not stated in a protest filed by him in accordance

with the provisions of this section. At the time fixed for the hearing any person interested may appear and be heard upon any of the matters set forth in his protest or objection. Protests and objections may be taken up in such order as the legislative body deems advisable and any evidence offered thereon by any property owner or person otherwise interested in the proceedings for said reassessment and refunding shall be heard by said legislative body. Said legislative body may also hear any evidence offered in support of the said reassessment and refunding proceedings. If, at the hearing, it appears that the owners of more than one-half of the area of the lands assessed in the refunding proceeding have filed protest or objection to the refunding as proposed, in its entirety, the legislative body shall, by resolution to be entered upon its minutes, so find, and shall abandon such refunding, and no resolution of intention for the refunding of the indebtedness of said district under this act may be adopted within a period of six months from the date of such abandonment. In order that such protests or objections operate as a bar they must specifically state that the objection is to the refunding in its entirety. The determination of said legislative body upon any of the matters presented in any of said protests or objections and upon all matters involved in said reassessment and refunding proceedings and upon the reassessment shall be final and conclusive. Said hearing may be adjourned from time to time by an order entered upon the minutes of the legislative body, provided that the hearing must be finally completed within sixty days from the date thereof stated in the published notice of hearing At the said hearing said legislative body shall have power to revise, correct or modify the said reassessment in such manner as may be just and in accordance with the facts and so that the assessment may be apportioned according to benefits. Said reassessment may be confirmed as filed or as revised, corrected or modified Confirmation of said reassessment shall be made by resolution of the legislative body entered upon its minutes and such resolution shall declare the findings of said legislative body. If no changes are made in any of the matters contained in said reassessment, it shall be sufficient in said resolution to declare that said reassessment is confirmed, but if any changes are made such changes shall be mentioned in said resolution of confirmation and said resolution shall declare that the said reassessment as revised, corrected or modified by the said changes is confirmed. Said legislative body shall also have power at said hearing to correct any of its previous actions, determinations, resolutions or orders and any of the proceedings for the reassessment and refunding. The findings and determinations of said legislative body upon all matters herein mentioned and upon all matters in connection with said reassessment and refunding proceedings shall be final and conclusive upon all persons and in all actions or proceedings as to all matters expressly found and determined and as to the regularity and sufficiency of the reassessment and

Hearing.

Majority protests

Reassessment confirmed, modified, etc

refunding proceedings, and said resolution confirming the said reassessment shall be conclusive evidence that said reassessment and all proceedings prior thereto are valid and sufficient. No defect in the form of such reassessment and no omission, failure or neglect of, or action or determination of any officer, body or person in the reassessment and refunding proceedings and no error in the amounts to be reassessed upon any of the lots, pieces or parcels of land shall invalidate the said reassessment or any of the reassessments therein contained, and each of the reassessments in said reassessment shall become a lien upon the property upon which the same is levied, notwithstanding any error, defect or omission therein or in any of the proceedings therefor and notwithstanding that the proceedings for the making of said reassessment are not in full conformity with the requirements of this statute, and any action or determination necessary or convenient in the making of said reassessment or in the refunding and reassessment proceedings not expressly set forth in this statute is hereby authorized and the same when made shall be valid and sufficient.

Stats 1933, p 1924

SEC. 7. Section 12 of the act designated in the title hereof is hereby amended to read as follows:

Recording of reassessment.

Sec. 12. If the refunding proceedings are conducted by the legislative body of a city, said reassessment as confirmed shall be recorded with the superintendent of streets of said city. If the refunding proceedings are conducted by the legislative body of a county, said reassessment as confirmed shall be recorded with the county surveyor of said county. The reassessment shall not be recorded until the holders of all outstanding bonds and coupons have contracted to exchange such bonds and coupons in the refunding proceedings, or, if all holders of outstanding bonds and coupons do not so contract, the reassessment shall not be recorded until adequate provision has been made as required in this act for the retirement or payment of the bonds and coupons of nonconsenting holders. When so recorded, the several amounts reassessed upon the lots, pieces or parcels of land in said reassessment shall be a lien thereon as of the date of such recordation. Such lien shall continue until said reassessment and all interest and penalties thereon are paid or until it is discharged of record. The lien of said reassessment shall be superior to and have priority over all special assessment liens created against the same property subsequent to the date of such recordation. Any foreclosure of said reassessment lien or sale of property for said lien shall convey the said property to the purchaser free and clear of all encumbrances except taxes, and such special assessment liens, as at the date of the creation of said lien, are by law equal or superior to said reassessment lien. From and after the date of the said recording of said reassessment all persons shall be deemed to have notice of the contents thereof. The amounts assessed in said reassessment shall be payable to the said superintendent of streets or county surveyor with whom said reassessment is recorded,

Lien

Foreclosure

and said superintendent of streets or county surveyor is authorized to receive the amount due upon any reassessment and give a good and sufficient discharge therefor, provided a bond has not been issued to represent such reassessment. The officer with whom said reassessment is recorded shall give notice by publication for ten days in a daily newspaper of general circulation printed and published in the county in which the lands reassessed lie or by three successive insertions in a weekly newspaper of general circulation printed in such county that said reassessment has been recorded in his office and that all sums assessed therein became due and payable upon the recordation of said reassessment, stating the date of such recordation and that the payment of the said sums is to be made to him within thirty days after the date of such recordation. Said notice shall also contain a statement that for any reassessment not paid before the expiration of said thirty days, a bond will issue in the manner and form provided in this act and shall state the period over which said bond shall extend and the rate of interest which shall be payable thereon. Notice shall also be given by mailing a post card to the owner of each lot, piece or parcel of land reassessed according to the name and address appearing on the last equalized assessment roll for county taxes prior thereto or as known to the superintendent or surveyor; provided that a failure of the superintendent or surveyor to give such notice by mailing or of the person addressed to receive the same shall not affect the validity of the proceedings or the validity of the lien of any reassessment or of any bond issued thereon. Upon payment of any reassessment, the superintendent of streets or the county surveyor with which the said reassessment is recorded shall mark upon the said reassessment note of the said payment and shall cancel the said reassessment, and upon request, said superintendent of streets or county surveyor shall also give a receipt to the person paying the said reassessment. Any reassessment upon public property shall be paid by the officer or board having charge of the disbursement of the funds of the owner of such property, and said reassessment shall be an enforceable obligation against the owner of or the governing body controlling the said property. If for any reason there are no moneys available for the payment of said reassessment, then the board or officer whose duty it is to levy taxes for the said owner of said public property shall include in the next tax levy an amount, in addition to moneys for all other purposes, sufficient to pay said reassessment and the interest thereon from the date the reassessment is recorded at the rate to be stated in the refunding bonds, and when the moneys received from said tax levy are available, said reassessment and such interest thereon shall be paid by the officer or board having charge of the disbursement of the funds of the owner of such land. Any reassessment upon public property not in use in the performance of a public function may be foreclosed in the manner

Notice of recordation.

Payment and cancellation of assessments.

Manner of foreclosure

Stats 1933, p 2379

provided in section 27 of the "Improvement Act of 1911" as amended; provided, however, that the notice to be given upon the tax bill need not be given or made and that such action may be brought at any time after thirty days after the recording of such reassessment, and in any such foreclosure action the said reassessment and diagram with proof of nonpayment shall be prima facie evidence of the right of plaintiff to recover in the action. Said action shall be brought in the name of the city or county the legislative body of which levied said reassessment upon the request of any person entitled to any portion of the moneys to be derived from said reassessment. The person requesting that said foreclosure action be brought must advance the plaintiff's costs and expenses thereof and said action may be brought by any competent attorney appointed by the legislative body which levied said reassessment. In any case in which the reassessment is levied by the legislative body of a county, the same shall be foreclosed as hereinbefore provided, except that the various officers designated in said section 27 shall be the corresponding county officers as designated in the County Improvement Act of 1921 as amended. No refunding bond shall issue against public property, and the list of unpaid reassessments to be filed with the treasurer shall not include any unpaid reassessment upon public property.

Stats 1921, p 1796

Stats 1933, p 1925

SEC. 8. Section 13 of the act designated in the title hereof is hereby amended to read as follows:

Time to commence actions

Sec. 13. No action, suit or proceeding to set aside, cancel, avoid, annul or correct any reassessment hereunder or to review any of the proceedings, acts or determinations made in the proceedings for said reassessment and refunding or to question the validity of or enjoin the collection of said reassessment or any reassessment therein or to enjoin the issuance of any bond or bonds to represent the same shall be maintained by any person unless such action or actions shall have been commenced within ninety days after the date of confirmation of said reassessment, and thereafter all persons shall be barred from any such action, suit or proceeding or any defense of the invalidity of said reassessment or any of the reassessments therein contained or any bonds issued thereon.

In any action, suit, or proceeding brought after said ninety days has expired, to enforce any reassessment or bond issued to represent said reassessment no person may urge, plead or prove the invalidity of any reassessment or bond issued to represent said reassessment and in any action to foreclose a bond issued hereunder, said bond shall be conclusive evidence of the regularity and validity of the reassessment proceedings and reassessment, and the bond.

Stats 1933, p 1927.

SEC. 9. Section 15 of the act designated in the title hereof is hereby amended to read as follows:

Settlement with holders of all outstanding bonds

Sec. 15. If the holders of all of the outstanding bonds agree to refund their bonds as proposed in the refunding proceeding, then all refunding bonds, all moneys collected on the reassess-

ments levied in the refunding proceeding, and all public contributions (if any) shall be paid and delivered to the holders of the outstanding bonds, in such amounts and proportions as may be fixed by contract with such bondholders. Any contract with the holder of any bond may provide such terms and conditions of exchange as may be agreed upon by the holder and the legislative body, and may contain such terms and conditions relating to time of performance, conditions precedent thereto, and the method and mode of performance, as may be agreed upon by said parties. Whenever the refunding bonds and moneys, if any, are delivered to said bondholders, said bondholders must concurrently deliver to the legislative body or its representative the outstanding unpaid bonds which are refunded and all outstanding unpaid interest coupons, constituting the entire indebtedness of said district, and the same shall forthwith be canceled.

Procedure where holders of 75 per cent of outstanding bonds contract for refunding

In the event that the holders of one or more of the outstanding bonds do not enter any contract with the legislative body to refund the same, nevertheless if the holders of seventy-five per cent or more of the outstanding bonds do contract with the legislative body which conducts the refunding proceedings for the refunding of the bonds owned or held by them, said legislative body shall have authority to refund all of the bonds of said district under the provisions of this act, but in such event, prior to recording the reassessment levied under this act, sufficient moneys to adequately provide for the retirement or payment of the bonds of the nonconsenting holders must be provided and set aside in the proper fund for that purpose. Any city or county or city and county which is authorized under this act to appropriate moneys to aid in refunding the bonds of the district, may make an advancement or contribution or an additional contribution in order to provide moneys to pay or retire bonds of such nonconsenting holders. Whenever any city or county or city and county or any person or corporation advances moneys to provide for the payment or retirement of the bonds of nonconsenting holders, the legislative body may deliver at par all or any portion of the refunding bonds which are not to be delivered to consenting bondholders to the person, corporation, city, county or city and county making such advance or advances, or sell at par all or any part of such refunding bonds not to be delivered to consenting bondholders, and from the proceeds thereof reimburse such person, corporation, city, county or city and county entirely or partially, and may contract to make such sale or delivery. If the legislative body makes all or any part of such advancement it may reimburse the city, county or city and county of which it is the legislative body, entirely or partially by taking all or any part of such refunding bonds at par. Any cash collected on reassessments and not required to pay consenting bondholders may also be used to reimburse in whole or in part any person, corporation, city, county or city and county making such advance or advances, and the legisla-

Appropriation by city

Other methods of raising funds

tive body may contract to so apply such cash. Any other method of raising funds or the payment or retirement of the bonds of nonconsenting bondholders which will prior to the time the reassessment is recorded under this act adequately provide the moneys necessary for such payment or retirement is hereby authorized. Wherever any moneys are placed in any fund for the retirement or payment of the bonds of nonconsenting holders the said moneys shall be used only for that purpose and after all of the bonds of said nonconsenting holders have been paid or retired any sum remaining in said fund shall be returned to the city or county or city and county which advanced the same.

Sale of refunding bonds.

If the contract with the bondholders so provides, said legislative body may sell all of the refunding bonds for cash and pay said bondholders in cash at a price to be fixed in said contract.

Bankruptcy proceedings.

In the event that the discharge of the bonds of any nonconsenting holders at less than the par value thereof has been authorized by any final decree or order confirming a plan of readjustment under any bankruptcy law of the United States of America in any proceedings initiated under the authority of this act, said legislative body is authorized to do and perform all acts and things necessary for the discharge of such bonds in accordance with said decree or order.

Definitions.

Wherever the word "bond" or "bonds" is used hereinbefore in this section in referring to the outstanding bonds the word shall be deemed to include and shall be construed to mean also any outstanding unpaid interest coupon or coupons of any bond or bonds of the district, and the word "bondholder" or "bondholders" as used hereinbefore in this section shall be deemed to include and shall be construed as meaning also any holder or holders of outstanding unpaid interest coupons of bonds of the district.

After the date of the adoption of the resolution of intention in the refunding proceeding all sums paid for any parcel of land into the interest and sinking fund for the payment of principal and interest of the bonds to be refunded shall be credited upon the reassessment levied in the refunding proceeding upon such parcel and shall be applied as moneys paid upon such reassessment.

Cancellation of unpaid taxes, etc

Upon the recordation of the reassessment in the refunding proceeding all unpaid taxes or special assessment taxes levied to pay principal and interest of the bonds refunded and all penalties and interest thereon shall be deemed canceled and annulled, and the clerk of the legislative body which conducted such refunding proceedings shall notify the proper city officials or the proper county officials, or both as the case may be, that the bonds of said district have been refunded and that said taxes or said special assessment taxes, penalties and interest are canceled and annulled and such officials shall thereupon proceed to make the necessary entries showing the cancellation thereof.

SEC. 10. Section 30 of the act designated in the title hereof is hereby amended to read as follows: Stats 1933, p 1938.

Sec. 30. At any time within ninety days after the confirmation of the reassessment, any person interested in any of the bonds to be refunded or in any of the lands reassessed may bring an action in the superior court of the county the legislative body of which conducted the refunding proceedings, or the county in which the city the legislative body of which conducted the refunding proceedings lies, to determine the validity or invalidity of such reassessment. Such action shall be in the nature of a proceeding in rem and jurisdiction of all parties interested may be had by publication of summons for at least once a week for four weeks in some newspaper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Said summons shall contain a general description of the boundaries of the district of the lands upon which said reassessment is or is to be levied. Jurisdiction shall be complete within ten days after the full publication of such summons in the manner herein provided. Anyone interested may at any time before the expiration of said ten days appear and by proper proceedings contest the validity of such reassessment or uphold the same Such action shall be speedily tried and judgment rendered declaring such matter so contested either valid or invalid. Either party shall have the right to appeal to the Supreme Court at any time within thirty days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal. The motion for a new trial of any such proceeding must be heard and determined within ten days from the filing of the notice of intention. Action to test proceedings.

The court hearing the said proceeding, in inquiring into the regularity, legality or correctness of such reassessment, must disregard any error, irregularity or omission which does not affect the substantial rights of the parties to said action or proceeding The rules of pleading and practice provided by the Code of Civil Procedure which are not inconsistent with the provisions of this act are applicable to the proceeding herein provided for The costs of the legal proceedings provided for in this section may be allowed and apportioned between the parties or taxed to the losing party in the discretion of the court. After said reassessment has been confirmed, it shall not be contested in any way other than at the time and in the manner specified in this section, and in any such action all findings, conclusions and determinations of the legislative body which conducted the reassessment proceedings shall be conclusive in the absence of actual fraud.

If any reassessment or any refunding bond is held illegal or invalid in any action, suit or proceeding upon any ground which would apply to the entire reassessment or the entire issue of refunding bonds, then the unpaid bonds refunded, remain in full force and effect, and if said unpaid bonds have Effect of illegality

been canceled the treasurer of the city or county which conducted the invalid refunding or reassessment proceeding shall issue new bonds of the same tenor, force and effect as such canceled unpaid bonds, and all of the provisions of the act under which the original bonds were issued (notwithstanding that said act may have been repealed in whole or in part subsequent to the issuance of such bonds) relative to the payment of the bonds issued thereunder and the levy, collection and enforcement of taxes or special assessment taxes therefor shall apply to such unpaid bonds and to any bonds issued to replace such unpaid bonds. Until all unpaid bonds which might be refunded hereunder have been fully paid or funds set aside for their payment in full or have been legally refunded, it shall be and remain the duty of the legislative body empowered and directed to levy taxes or the special assessment taxes for the payment of such bonds to proceed under the provisions of the act under which said bonds were issued to levy the said taxes or special assessment taxes provided in said act in accordance with the provisions of said act. The validity of any refunding bonds issued under this act shall not be contested in any action, suit or proceeding unless such action, suit or proceeding shall have been brought within three months after the issuance of such bonds.

Stats. 1933, p. 1939.

SEC. 11. Section 31 of the act designated in the title hereof is hereby amended to read as follows:

Reassessment may cover more than one district

Sec. 31. Wherever all or any part of the lands in any district, the bonds of which are proposed to be refunded, lie in another district which has outstanding bonds payable by taxes or assessments levied wholly or partly in accordance with the assessed value of the lands therein, one reassessment may be levied and one issue of refunding bonds issued under the provisions of this act to refund the indebtedness of all of said districts. It is the intent of this section to permit but not to require the refunding in one proceeding of the indebtedness of all districts which wholly or partially overlap. Such refunding shall be had and the reassessment shall be levied under the provisions of this act as in this section modified. Said districts need not be formed under the same act, but if formed under any act under which taxes or assessments are levied wholly or partly in accordance with the assessed value of the lands, may refund their indebtedness in one reassessment proceeding hereunder. The total amount of the reassessment shall be fixed by the legislative body. If the owners of a majority in area of the lands included within the exterior boundaries of the area which comprises the said several districts the bonds of which are to be refunded shall in writing agree to such refunding as provided in this act, then the legislative body shall be authorized to proceed with such refunding and to make a reassessment therefor as in this act provided. The reassessment shall be spread over all lands subject to tax or assessment for the bonds refunded in the area comprising all of the districts. To the total sum of the

reassessment shall be added the total sum of all taxes upon land and all assessments including interest and penalties paid into the interest and sinking fund of any of the districts for the payment of principal and/or interest of any bonds of the same issue as the bonds to be refunded. The total amount thus ascertained shall be assessed against all of the lands in the area comprised by the districts in accordance with the benefits derived from the acquisitions or improvements or acquisitions and improvements to pay for which the said bonds to be refunded were issued. From the assessment thus made upon each lot, piece or parcel of land shall be deducted the amounts of such taxes upon land and all assessments including interest and penalties, if any, levied upon such lot, piece or parcel of land to pay principal and/or interest of any bonds of the same issue as the bonds refunded as have been paid into the interest and sinking fund of any of said districts. The amounts remaining after such deductions have been made shall be and constitute the reassessments and the total amount of such reassessments shall be the total sum of the reassessment stated in the landowner's assent, or a smaller sum.

SEC. 12. Section 32 of the act designated in the title hereof is hereby amended to read as follows: Stats 1933, p 1940

Sec. 32. Special improvement district bonded indebtedness which is payable from taxes levied upon all property or upon all taxable property in the improvement district may be refunded under this act. The proceeding for refunding such indebtedness shall be the same as for refunding other indebtedness under this act and in making the reassessment hereunder, to the total sum of the proposed reassessment shall be added the total sum of all of the amounts (including such penalties and interest as go into such fund) paid into the interest and sinking fund of the district on or prior to the date the resolution of intention in the refunding proceeding is adopted upon taxes levied upon any lot, piece or parcel of land subject to reassessment in the refunding proceeding to raise funds to pay principal or interest of the bonds to be refunded, and the total of the two sums shall be apportioned upon the lands subject to reassessment according to benefits as hereinbefore provided in this act and from the amounts so apportioned to any lot, piece or parcel of land shall be deducted any sum paid into the interest and sinking fund of the district on or prior to the date said resolution of intention is adopted upon any tax levied upon such lot, piece or parcel of land to pay principal or interest of the bonds to be refunded. Refunding bonded indebtedness payable from taxes upon all property in district

SEC. 13. A new section is hereby added to said act to be numbered section 33 and to read as follows: New section

Sec. 33. The word "improvement" where used in the phrase "special improvement district" in this act shall mean any public improvement of any nature whatsoever, including any acquisition of lands, rights of way or easements for public use, any acquisition or construction of buildings, structures or "Improvement" defined

public works of any kind or nature, or a combination of any or all of the foregoing, and the word shall be given its broadest and most liberal construction as including all acquisitions of land and all acquisition and construction of public works authorized under any law of the State of California, including particularly the Acquisition and Improvement Act of 1925, the Road District Improvement Act of 1907 and the municipal improvement district acts of 1915 and 1927.

Short title

This act shall be known as and whenever mentioned, cited, referred to or amended may be designated as the "Assessment Bond Refunding Act of 1933" and by such designation shall be sufficiently identified in any proceeding hereunder or in any court action or proceeding, and whenever under the procedure set forth in this act the title of the act is to be stated in any resolution, notice or order, it shall be sufficient to designate the act as provided in this paragraph.

Incidental expenses

The legislative body which conducts the refunding proceedings is authorized to pay any incidental expenses of such proceedings from any available funds of the city or county, or city and county, but no such incidental expenses of such proceedings shall be assessed upon lands in the district.

Effect of act

This act shall in no wise affect any other act or acts now existing or which may hereafter be passed covering the same subject matter, or apply to any proceedings thereunder, but is intended to and does provide an alternative system for the refunding of bonds, and, when in the discretion of any legislative body proceedings are commenced under this act the provisions of this act only shall apply thereto.

Bankruptcy proceedings.

Whenever the requisite number of property owners in any district or districts have filed their written consent to the refunding of the indebtedness of such district any city or county, or city and county, is authorized to file a petition and take all proceedings required under any bankruptcy law or laws of the United States of America now or hereafter enacted, for any district, the bonds of which are authorized to be refunded under this act, or to bring any action, suit or proceeding authorized under the equity powers of any court for the purpose of refunding the bonds of such district.

Errors in computation.

No bond, coupon, reassessment or installment thereof or of the interest or penalties thereon, and no certificate of sale or deed shall be held invalid for error in the computation of the proper amount due on same, provided the error be found to be comparatively negligible or be found to be in favor of the owner of real property affected thereby.

Declaration of policy

The bonded indebtedness of special assessment districts payable from ad valorem assessments is so great in many instances that the refinancing of such indebtedness is one of the most important problems of this State. In many of such districts both general taxes and special assessments are delinquent and have been delinquent for several years. The property can not be sold for a sufficient sum to pay the delinquent taxes in view

of the large amounts of delinquent special assessments thereon, which are on a parity with the general taxes.

The accumulation of delinquent assessments, penalties and interest, and delinquent taxes, penalties and interest, has discouraged the owners of property in such districts and such property has become almost entirely unproductive of revenue for school, city and county purposes. The immediate refinancing of the obligations of these districts and the restoration of the property to the tax rolls so that it may bear its just burden of city, county and school taxes and so that property owners may be given relief is declared to be the policy of this State.

Constitutionality

This act and all of its provisions shall be liberally construed to the end that the purposes hereof may be made effective. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The Legislature hereby declares that it would have passed this act irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof be declared unconstitutional.

CHAPTER 730.

Stats 1897, p. 75, amended

An act to amend an act entitled "An act authorizing the common council, board of trustees, or other governing body of any incorporated city or town other than cities of the first class to refund indebtedness thereof, or of any department, board or agency thereof, and to issue bonds therefor and to provide for the payment of the same," approved March 9, 1897, by amending sections 1, 2, and 3 thereof relating to refunding bonds and to the use of Federal courts in municipal bankruptcy or refunding proceedings.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 1527.

SECTION 1. Section 1 of the act designated in the title hereof is hereby amended to read as follows:

Refunding bonded indebtedness of municipal corporations

Section 1. The common council, board of trustees, or other governing body of any incorporated city or town other than cities of the first class in this State,

(a) having an outstanding indebtedness evidenced by bonds, warrants, notes or other evidences of indebtedness, or by judgment or judgments, or

(b) of which any department, board or special fund shall have an outstanding indebtedness evidenced by bonds, warrants, notes or other evidences of indebtedness, which indebtedness of such department, board or special fund shall have been created for a purpose or purposes for which bonds of said city or town could have been authorized and issued pur-

suant to law, is empowered, by a two-thirds vote of its number, to fund or refund the said indebtedness at, after or before maturity and to issue bonds of such city or town therefor in denominations of not less than one hundred dollars nor more than one thousand dollars each, and having not more than forty years to run, and bearing a rate of interest not exceeding six per centum (6%) per annum, payable semiannually; provided, that the rate of interest during the entire term of said bonds need not be the same but different rates may be fixed for one or more interest payments thereon. Such bonds shall be of the character known as "serial," not less than one-fortieth of the principal being payable each year, together with the interest due on all sums unpaid; provided, however, that the governing body may in its discretion fix a date for the earliest maturity of the principal of such bonds not more than three years from the date of the issue thereof. Such bonds shall be payable in such money and at such place or places as permitted by section 13½ of Article XI of the Constitution of the State of California. Said bonds may be sold in the manner provided by such city council or other governing body, to the highest bidder therefor, at such price that the interest rate paid by the city, computed on the sale price, will not exceed six per centum (6%) per annum, or may be exchanged for the outstanding evidences of indebtedness as hereinafter provided. The proceeds of any such sale for cash shall be placed in the treasury of such city or town to the credit of the "funding fund," and shall be applied only to refunding the indebtedness for which said bonds are issued; provided, however, that any proceeds of such refunding bonds remaining after such indebtedness has been paid shall be deposited in the fund established for the payment of principal and interest on said refunding bonds and shall be used only for the purpose of paying such principal or interest as the same shall mature.

Interest.

"Serial" bonds

Sale of bonds.

Funding fund.

Tax to pay principal and interest.

For the payment of the refunding bonds issued hereunder the legislative body of the municipality shall at the time of fixing the general tax levy and in the manner for such general tax levy provided, levy and collect annually, each year until said bonds are paid, or until there shall be a sum in the treasury of said municipality set apart for that purpose to meet all sums coming due for principal and interest on such bonds, a tax sufficient to pay the annual interest on such bonds and also such part of the principal thereof as shall become due before the time the proceeds of the next general tax levy will be available for payment thereof; provided, however, that if the maturity of the indebtedness created by the issue of refunding bonds be made to begin more than one year after the date of the issuance of such bonds, such tax shall be levied and collected at the time and in the manner aforesaid annually each year sufficient to pay the interest on such indebtedness as it falls due and also to constitute a sinking fund for the payment of the principal thereof on or before maturity. The taxes herein required to be levied and col-

lected shall be in addition to all other taxes for municipal purposes and shall be collected at the time and in the same manner as other municipal taxes are collected and be used for no other purpose than the payment of said bonds and accrued interest thereof.

Election

Where such indebtedness is evidenced by warrants or by judgment or judgments obtained for indebtedness or liability incurred by any such incorporated city or town exceeding the income and revenue provided for the year in which such indebtedness or liability was incurred, within the meaning of section 18 of Article XI of the Constitution, or where such indebtedness is the indebtedness of any such department, board or special fund, and has been incurred without the submission to the qualified electors of said city or town of the proposition of incurring such indebtedness, and without the assent of two-thirds of the qualified electors voting at an election held for that purpose, bonds to fund or refund the same shall not be issued unless authorized by the assent of such number of the qualified electors of such incorporated city or town voting at an election to be called and held for that purpose, as may be required by the Constitution of this State. The election shall be called and held in the manner provided for in an act entitled "An act authorizing the incurring of indebtedness by cities, towns and municipal corporations for municipal improvements, and regulating the acquisition, construction, or completion thereof," in effect February 25, 1901, and amendments thereto, and the ordinance calling the election shall recite the object and purposes for which such bonded indebtedness is proposed to be incurred. Whenever it is proposed to refund any outstanding bonded indebtedness of any city or town upon such terms as would permit any number of the refunding bonds to mature more than forty years from the time the original indebtedness was incurred, the proposition of refunding such indebtedness must be submitted to the qualified electors of such city or town at an election held for that purpose and the assent of two-thirds of the qualified electors voting at such election shall be necessary to authorize the issuance of the refunding bonds. Such election shall be called and held in the manner hereinbefore provided for other elections under this act. The proceeds arising from the sale of such bonds shall be applied by the treasurer to the satisfaction of such judgment or judgments, or to the refunding of the indebtedness for which said bonds were issued, or such bonds may be exchanged at the par value thereof, for evidences of indebtedness at the par value thereof, to be refunded thereby, or if such bonds are issued in whole or in part to refund before maturity an indebtedness evidenced by bonds, notes or other evidences of indebtedness, which according to their terms are subject to call or payment before maturity at a price in excess of par, then such bonds may be exchanged at not less than the par value thereof for such bonds, notes or other evidences so subject to call or pay-

Stats 1901 p. 27

Application of proceeds of sale of bonds

ment before maturity, at the price specified therein for such payment before maturity, and in any event subject to adjustment of accrued interest to the date of exchange.

Bankruptcy proceedings

Any city or town authorized to refund its indebtedness under the provisions of this act is authorized to file a petition under any bankruptcy law of the United States now or hereafter enacted, and, if in such bankruptcy proceeding the refunding of the city or town indebtedness is authorized, to proceed under the provisions of this act to refund the indebtedness of such city or town.

Stats. 1897, p. 76.

SEC. 2. Section 2 of said act is hereby amended to read as follows:

Duty of treasurer

Sec. 2. Whenever sufficient money is in the funding fund, in the hands of the treasurer, to redeem one or more of any outstanding past due bonds, warrants, judgments, notes or other evidences of indebtedness or to redeem one or more of the outstanding bonds, warrants, notes or other evidences of indebtedness which are subject to call or payment before maturity, proposed to be funded or refunded, he shall publish once a week for two weeks in some newspaper of general circulation published in such city or town, if there be any, a notice to the effect that he is prepared to pay such bond or bonds, warrant or warrants, judgment or judgments, note or notes or other evidence or evidences of indebtedness (giving the number or numbers, if any, thereof), and if the same are not presented for redemption within thirty days after the first publication of such notice, the interest on such bonds, warrants, judgments, notes or other evidences of indebtedness will cease. He shall, at the same time, deposit in the post office a copy of such notice, inclosed in a sealed envelope, with the postage prepaid thereon, addressed to the registered owner or owners of any such bond, warrant, judgment, note or other evidence of indebtedness, as may have been registered pursuant to provisions therein contained, or to any provision of law, whose address appears upon any record thereof kept in the treasurer's office. If such bond or bonds, warrant or warrants, judgment or judgments, note or notes or other evidence or evidences of indebtedness are not presented within the time specified in such notice, the interest thereon shall then cease and the amount due be set aside for the payment of the same whenever presented. Provided, however, that if any bonds are authorized for the purpose of funding or refunding before maturity any obligations which by their terms are subject to call and payment before maturity, and which specify the manner in which the same shall be so called and paid, then, in lieu of following the provisions of this section, such call and payment of such obligations shall be in accordance with such provisions thereof.

Whenever any outstanding bonds, warrants, judgments, notes or other evidences of indebtedness are surrendered and paid, the treasurer shall proceed to cancel the same by indorsing on the face thereof the amount for which they are received,

the word "canceled" and the date of cancellation. He shall also keep a record of such bonds, warrants, judgments, notes or other evidences of indebtedness, so redeemed, and shall make a report of the same to the council or other governing body of such city or town, or if any of such obligations were issued by, or on account of, or against, any department, board or special fund, then he shall make such report to the department, board, commission or officer by which or by whom the same may have been issued, or against which or whom the same may have been rendered, at least once a month, accompanying the same with the bonds, warrants, judgments or other evidences of indebtedness, which have been taken up and canceled.

SEC. 3 Section 3 of said act is hereby amended to read as follows: Stats 1901, p. 275.

Sec. 3. All moneys which remain in said funding fund after all outstanding bonds, warrants, judgments, notes or other evidences of indebtedness, which were proposed to be refunded have been taken up and canceled, shall be deposited in the fund established for the payment of principal and interest on said refunding bonds and shall be used only for the purpose of paying such principal or interest as the same shall mature. Disposition of balance in fund.

CHAPTER 731.

An act to provide for the refunding of bonds issued under an act entitled "An act to provide for the formation of districts within municipalities for the acquisition or construction of public improvements, works and public utilities; for the issuance, sale and payment of bonds of such districts to meet the cost of such improvements, and for the acquisition or construction of such improvements," approved April 20, 1915, and bonds issued under the Municipal Improvement District Act of 1927, and providing procedure therefor.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The legislative body of any municipality in this State may refund any bonds issued under an act entitled "An act to provide for the formation of districts within municipalities for the acquisition or construction of public improvements, works and public utilities; for the issuance, sale and payment of bonds of such districts to meet the cost of such improvements, and for the acquisition or construction of such improvements," approved April 20, 1915, or issued under the Municipal Improvement District Act of 1927, under the procedure herein set forth Authority to refund bonds issued under Stats. 1915, p 99, and under Stats 1927, p. 1851

Election

SEC. 2. Whenever the legislative body determines to refund any indebtedness of any district formed under the provisions of either one of the acts mentioned in section 1 hereof it shall by ordinance call an election to be held within the district and shall provide for the submission to the qualified voters of said district of the proposition of issuing bonds of said district to refund all or any portion of the outstanding bonds of such district. Such ordinance shall recite the amount of the principal of the bonds to be refunded, the amount of the principal of the proposed refunding bonds; the proposed maturities of such bonds, (which shall not exceed forty years from the date of issuance of such bonds) and the rate or rates of interest to be paid thereon. Said election shall be called and held in accordance with the provisions of an act entitled "An act authorizing the incurring of indebtedness by cities, towns and municipal corporations for municipal improvements, and regulating the acquisition, construction, or completion thereof" which became a law February 25, 1901, except as otherwise expressly provided in this act. If two-thirds of the qualified electors in such district voting at such election vote in favor of the refunding bonds, the legislative body shall be authorized and empowered to issue refunding bonds of such district payable out of the funds of such district to be provided as in this act prescribed, and to fix, by resolution or ordinance, the form, denominations, signatures, date of issuance, and dates of maturities of said bonds, and to pass all resolutions or ordinances and do all acts necessary or convenient to carry out any refunding under this act.

Provisions of ordinance.

Stats 1901, p 27.

Issue of bonds.

SEC. 3. The legislative body may issue the refunding bonds of such district and exchange the same for the outstanding bonds thereof upon such terms and conditions as may be agreed upon between the legislative body and the holder or holders of said outstanding bonds; provided, however, that the principal amount of refunding bonds must not exceed the principal amount of the outstanding bonds exchanged therefor.

Tax levy

SEC. 4. In the event the bonds to be refunded are issued under said act approved in 1915, the legislative body of such city shall, at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect a tax each year upon the taxable property in such district sufficient to pay the interest on such refunding bonds for that year, and such portion of the principal thereof as is to become due before the time for making the next general tax levy; provided, however, that if the maturity of the indebtedness created by the issue of such refunding bonds be made to begin more than one year after the date of such issue, such tax shall be levied and collected, at the time and in the manner aforesaid, each year sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof on or before maturity. Such tax shall be in addition to all other taxes levied for municipal purposes and when collected shall be

paid into the treasury of such city and be used for the payment of the principal and interest on such refunding bonds, and for no other purpose. The principal and interest on such refunding bonds shall be paid by the treasurer of such city in the manner provided by law for the payment of principal and interest on bonds of such city. In the event that the bonds refunded were issued under the Municipal Improvement District Act of 1927 the tax shall be levied and collected as hereinbefore provided but shall be levied only upon the taxable land in such district.

Effect of act

SEC. 5. This act shall in no wise affect any other acts or acts now existing or which may hereafter be passed covering the same subject matter or applied to any proceedings thereunder, but is intended to and does provide an alternative system for the refunding of bonds, and, when at the discretion of any legislative body proceedings are commenced under this act the provisions of this act only shall apply thereto.

It is the intent of this act to provide relief for taxing and assessment districts by permitting the refunding of bonds thereof and, through an extension of the maturities of such bonds, to decrease the annual tax or assessment burden.

Constitutionality.

This act and all of its provisions shall be liberally construed to the end that the purposes hereof may be made effective. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The Legislature hereby declares that it would have passed this act irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof be declared unconstitutional.

CHAPTER 732.

"Refunding Assessment Bond Act of 1935."

An act to provide for the refunding of the bonded indebtedness of special improvement districts, the bonds of which are payable from taxes or from special assessments levied wholly or partly in accordance with the assessed value of lands and for the issue and sale or exchange of refunding bonds and the retirement of unpaid bonds of such districts and the cancellation of unpaid taxes and assessments of such districts, and for the levy of assessments and reassessments to pay such refunding bonds and to enforce the liens of such assessments and reassessments, and to provide for contributions of public funds to assist in such refunding or the payment of refunding bonds, and for proceedings to test the validity of such refunding and assessment or reassessment proceedings and the use of the

bankrupt laws of the United States of America in any refunding.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Refunding of bonded indebtedness authorized

SECTION 1. Any bonded indebtedness consisting of outstanding unpaid bonds and outstanding unpaid interest coupons of bonds issued by or for any special improvement district the bonds of which are payable from special taxes or special assessments levied wholly or partly in accordance with the assessed value of lands may be funded or refunded under and pursuant to the provisions of this act. At least two of the interest coupons on the refunding bonds must be at a rate of interest less than the interest rate on the bonds to be refunded, and the rate of interest on the refunding bonds shall not exceed the rate of interest on the bonds to be refunded. The legislative body of the city or county or city and county which conducts the refunding proceedings may negotiate and contract with the holders of bonds for such refunding and to aid in such refunding may appropriate moneys from the general fund or from any available fund of the city or county or city and county. Also, any county in which the district lies, whether the district be entirely or partly within a city or cities, or entirely or partially within unincorporated territory of the county, is hereby authorized to appropriate moneys from its general fund, road fund or any available fund to assist in such refunding.

Contracts.

Contributions

In refunding such indebtedness under this act, the total amount of the assessments to be levied under this act plus contributions, if any, of public money to aid in such refunding shall be less than the total amount of unpaid bonds and due and unpaid interest coupons to be refunded.

Resolution of intention to refund bonds.

SEC. 2. Whenever the legislative body of any city or county or city and county of this State determines by resolution that the public interest, convenience or necessity require the refunding of the bonds of any special improvement district which it is given jurisdiction to refund under the provisions of this act, said legislative body shall by resolution declare its intention to refund such bonds and shall determine the total maximum principal amount for which an assessment shall be levied in the refunding proceedings and shall determine the term of any refunding bonds to be issued to represent unpaid assessments as herein provided and the rate of interest of such bonds. The rate of interest during the entire term of such bonds need not be the same but different rates may be stated for one or more interest payments of such bonds. If such different rates of interest are proposed, each rate and the time during which such rate shall be paid shall be designated in such resolution. The amount of any proposed contribution of public funds to be made to assist in such

refunding shall be stated in such resolution, but this shall not prevent said legislative body making additional contributions thereto at any time. In said resolution said legislative body shall state the total amount of the outstanding indebtedness to be refunded, and shall state the amount of the principal of bonds included therein, and the amount of due and unpaid interest coupons included therein, all as of the date said resolution is adopted. No error or mistake in the computation of the amount of unpaid principal or unpaid interest shall affect the validity of the refunding proceedings, and no error or mistake in any statement of the amount of such principal or interest in any notice, resolution or order in the course of the proceedings shall invalidate in any way the assessment or the refunding bonds or the refunding proceedings; provided, that the total sum of the assessment levied in the refunding proceedings, plus any contribution or contributions of public funds made to aid in such refunding, shall not exceed the sum of the principal amount of the bonds to be refunded and the amount of the due and unpaid interest coupons to be refunded.

Time for hearing

Said resolution shall also contain a date, hour, and place for the hearing of objections to said refunding, and the date fixed for said hearing shall not be less than twenty (20) days nor more than sixty (60) days subsequent to the date of adoption of said resolution. Said resolution shall also contain a statement that the refunding shall not be authorized unless the written consent of the owners of a majority in area of the land in the district subject to assessment to pay the principal and interest of the outstanding bonds is filed with the clerk of the legislative body, and that any owner of land in said district may file his written consent to such refunding at any time prior to the adoption of the resolution ordering the refunding.

Notice

SEC. 3. The resolution shall be published once a week for at least two (2) weeks in a newspaper of general circulation in the city (if the refunding proceedings are conducted by the legislative body of a city) or in the county (if the refunding proceedings are conducted by the legislative body of a county). In the event no newspaper of general circulation is published in the city, then publication may be made in any newspaper of general circulation published in the county. Copies of such resolution headed "Notice of refunding and reassessment" shall also be posted upon all open streets within the district of lands proposed to be assessed in the refunding proceedings. Such notices shall be not more than three hundred (300) feet in distance apart and not less than three (3) of such notices shall be posted. The heading upon such posted notices must be in letters at least one inch in height and such notices shall be posted on or before the date of the first publication of said notice. A copy of the resolution as published shall be mailed, postage prepaid, by the clerk of the legislative body to each person to whom land in the assessment district is assessed as shown on the last equalized assessment roll

of the county in which said district lies, at his address as shown upon such roll, and to any person, whether owner in fee or having a lien upon or legal or equitable interest in any land within said district, whose name and address and a designation of the land in which he is interested is on file in the office of said clerk. No error, failure or mistake in the mailing or posting of such notices or any of them and no failure of any owner or person interested in any land within the district to receive such mailed notice shall in any way affect the validity of the proceedings hereunder and the clerk's affidavit of mailing shall be conclusive evidence that all notices have been mailed as required by this act. Affidavits of publication, posting and mailing shall be filed in the office of the clerk of the legislative body.

The date of the first publication of the resolution of intention, the date of the posting of copies of such resolution, and the date of mailing copies of such resolution (which dates need not be the same) shall be at least twenty (20) days prior to the date of hearing fixed in said resolution. Any owner of land within the district and subject to assessment for payment of the principal and interest of the outstanding bonds may file his consent in writing to the refunding and reassessment upon substantially the terms stated in said resolution. Such consent need not be in any particular form and no error or informality thereof shall in any manner vitiate the proceedings. Owners of land within the meaning of this section are those, and those only, who appear to be such upon the records in the office of the county recorder of the county in which the district is situated on the day that said consents are filed with the clerk of said legislative body. Executors, administrators, special administrators, and guardians may consent for any property of the estate represented by them. Any trustee of an express trust in land, other than as security for the payment of money, may consent for all or any part of the land held in such trust. A trustee in bankruptcy may consent for all or any part of the property of the bankrupt. Such executors, administrators, guardians and trustees are deemed owners of land within the meaning of this act. The written consent of the owners of a majority in area of the lands in the district subject to assessment in the refunding proceedings shall be binding upon the owners of the minority in area of the lands in such district.

Consent by owners.

Majority consent

Objections.

SEC. 4. At any time not later than the hour set for hearing objections to the proposed refunding, any person interested and any owner of property which is subject to assessment in the refunding proceeding may file his written objection against the proposed refunding with the clerk of the legislative body. Such objection must contain a description of the property in which each signer thereof is interested, sufficient to identify the same, and shall set forth the nature of each signer's interest therein, and shall be delivered to the clerk of said legislative body at or before the time set for

hearing, and no other protests or objections shall be considered. At the time and place fixed for the hearing of objections, or at any time to which the hearing thereof may be adjourned, the legislative body shall hear and consider all objections so filed. The hearing may be continued from time to time, by order of the legislative body to be entered upon its minutes. Any objection or protest to such refunding not made at the time and in the manner hereinbefore provided shall be deemed to be waived voluntarily by any person who might have made such protest or objection, and such person shall be deemed to have consented to the proposed refunding. The legislative body may sustain or deny any or all objections and protests and its determination thereon shall be entered upon the minutes and shall be final and conclusive. Said legislative body shall also at said hearing, as originally fixed or as adjourned, by order or resolution entered upon the minutes, determine whether the written consent of the owners of a majority in area of the lands in the district subject to assessment has been filed or not, and if it determines that such consent has been filed it shall thereupon acquire jurisdiction to proceed further under this act.

Hearing.

Determination

The validity, sufficiency, or genuineness of said consents, or any thereof, or the finding and determination of the legislative body thereon, shall not be contested in any action, suit or proceeding unless the same shall be commenced within three months after the determination of said legislative body has been made, and thereafter no person in any action, suit or proceeding may plead or prove that said consents or any thereof, or the finding or determination of the legislative body thereon, was in any way defective, invalid, or insufficient.

After the legislative body has determined that the written consent of the owners of such majority in area has been filed, it may by resolution entered upon the minutes order the refunding and reassessment.

Order.

SEC. 5. The legislative body which shall conduct the refunding and assessment proceeding shall be the legislative body which ordered the bonds of the particular district which are to be refunded issued; provided, however, that if the district for which the bonds are to be refunded lies entirely within a municipality, then the refunding and assessment proceedings shall be conducted by the legislative body of such municipality, and if the district for which the bonds are to be refunded lies entirely within unincorporated territory of a county the legislative body of such county shall conduct such refunding and assessment proceedings. It is the intent of this section that in all cases of incorporation of municipalities or annexation of territory to municipalities or consolidation of municipalities or exclusion of territory from municipalities or the dissolution of municipalities, the authority, powers, duties and obligations which would, under this act, have been vested in or imposed upon the legislative body which conducted the proceedings for the issuance of the bonds to be refunded,

Which legislative body to conduct proceedings

shall be and are vested in and shall be exercised by the legislative body which, by reason of such incorporation, annexation, consolidation, exclusion or dissolution, has jurisdiction at the time such refunding is begun over the territory within the assessment district. In any case in which the assessment district lies within two or more municipalities or partly within unincorporated territory of a county and partly within one or more municipalities, the legislative body which conducts the refunding proceedings shall obtain the permission of the legislative body or bodies of the other municipality or municipalities or county in which part of the district lies to the refunding of such bonds under this act. Such permission shall be expressed by resolution, a certified copy of which shall be filed with the legislative body which conducts the refunding proceedings prior to the date upon which the preparation of a diagram is ordered.

Diagram of property.

SEC. 6. If the refunding proceedings are conducted by the legislative body of a city, said legislative body shall direct the city engineer or some other competent person who shall be designated "Engineer of Work," to prepare a diagram of the property included within the district upon which the assessment shall be levied. If the refunding proceedings are conducted by the legislative body of a county, said legislative body shall direct the county surveyor to prepare such diagram. If in the original proceedings for the formation of said district and the issuance of bonds thereof, any lots, pieces or parcels of land therein were excepted from the levy of the special assessment tax to pay the principal and interest of said bonds, said lots, pieces or parcels of land shall be shown upon said diagram but no assessment shall be levied thereon. Said diagram shall show each lot, piece or parcel of land in said district and the dimensions of each said lot, piece or parcel of land. When said diagram is completed the county surveyor, if the legislative body of the county conducts the refunding proceedings, or the superintendent of streets or engineer of work, if the legislative body of the city conducts the refunding proceedings, shall proceed to make the assessment as herein provided.

Computation of assessment

SEC. 7. The total amount for which said assessment shall be levied shall not exceed the total principal amount of such assessment as stated in the resolution ordering same but may be for a smaller amount. Said assessment shall be made upon all such lots, pieces or parcels of land within the assessment district as are subject to be assessed or taxed to pay the principal and interest of the outstanding bonds. The total amount to be assessed shall be apportioned upon the said lots, pieces and parcels of land in the manner hereinafter set forth, to wit: To the total principal sum of the assessment proposed to be levied shall be added the total sum of all of the amounts (including such interest and penalties as go into such fund) paid into the interest and sinking fund of such district on or prior to the date the resolution of intention in the refunding

proceeding was adopted, upon taxes or assessments levied upon any lot, piece or parcel of land subject to assessment in the refunding proceeding to raise funds to pay the principal and/or interest of the bonds of said district which are to be refunded. The total amount of the two sums shall be apportioned as an assessment upon all such lots, pieces or parcels of land within the assessment district as are subject to be assessed or taxed to pay the principal and interest of the bonds to be refunded. The person making the assessment shall proceed to estimate upon the lots, pieces or parcels of land within the assessment district, and, subject to the assessment under the terms of this act, the benefits arising from the acquisition or improvement or acquisition and improvement for which the bonds to be refunded were issued and to be received by each lot, piece or parcel of land, and shall thereupon assess upon and against the said lands the total amount of the two sums hereinbefore in this section mentioned and in so doing shall assess the said total amount upon the said several lots, pieces or parcels of land in said district subject to said assessment in the manner following, to wit: Upon each lot, piece or parcel of land, respectively, in proportion to the estimated benefits received by each such lot, piece or parcel of land from the acquisition or improvement or the acquisition and improvement for which the bonds to be refunded were issued.

Deductions

When said total amount has been assessed upon each of the lots, pieces or parcels of land to be assessed there shall be deducted from the amount so assessed upon any lot, piece or parcel of land any sum (including interest and penalties, if any) paid into the interest and sinking fund of the district on or prior to the date of adoption of the resolution of intention in the refunding proceeding, upon an assessment or special tax levied upon any such lot, piece or parcel of land to pay the principal and interest on bonds of said district. In case any such lot, piece or parcel of land was a portion of a larger parcel of land for which a payment of an assessment or special tax was made, the portion of such payment to be deducted from the amount assessed against such smaller lot, piece or parcel of land shall be that proportion of such payment which the amount assessed against said smaller lot, piece or parcel of land bears to the total amount assessed against all of the parcels which comprised the said larger parcel of land.

Final amount of assessment

After all of the amounts of assessments and special taxes (including any penalties and interest) paid into the interest and sinking fund have been deducted from the amounts assessed to each such lot, piece or parcel of land the amounts remaining assessed against each such lot, piece or parcel of land shall be deemed assessments and shall comprise the total assessment to be levied and shall in total amount be the sum stated in said resolution of intention, or a smaller sum. Should the amount paid as ad valorem assessments upon any parcel exceed the amount assessed as benefits against said parcel no refund shall be made to any property owner.

Contents of assessment

SEC. 8. Said assessment need not be in any particular form but shall briefly refer to the district for which said assessment is to be made by its number or other suitable designation and shall contain a brief reference to the original proceedings in which the bonds to be refunded were issued, and shall show the total amount of such assessment. Such assessment shall also show the amount of each assessment against each lot, piece or parcel of land assessed and the description thereof, and shall have attached thereto a map, plat or diagram showing the location of each lot, piece or parcel of land in the district, and each such lot, piece or parcel of land shall be numbered to correspond with the numbers of the assessments. Said assessment shall be filed with the clerk of the legislative body which conducts the refunding proceedings.

Notice of filing assessment

SEC. 9. When said assessment has been filed with the clerk, the legislative body shall direct said clerk to give notice of the filing of said assessment and of the time and place when and where all persons interested in any such assessment will be heard by said legislative body. Said notice shall be in substantially the following form:

(Fill in blanks)

Form.

Notice of hearing on proposed assessment for refunding of bonds of ------ District No. --- of ------ (city or county) of ------.

Notice is hereby given that an assessment for the refunding of the bonds of the above entitled district has been filed with the clerk of the ------ (name of legislative body) of ------ (city or county) of ------ and may be examined by any person interested. The acquisition or improvement, or acquisition and improvement (use whichever of the foregoing words applies), to pay the costs and expenses of which said bonds were issued, was made pursuant to ------ (ordinance or resolution) of intention No. ------ (if numbered) adopted ------, 19---, and reference is hereby made to such ------ (ordinance or resolution) of intention for a description of the ------ (acquisition or improvement or acquisition and improvement).

The district of lands benefited by said acquisition or improvement, or acquisition and improvement (using the appropriate words), is described in general terms as follows: (Here insert a description in general terms of the district as shown upon the plat or diagram attached to the assessment, excepting therefrom any lands not to be assessed.)

Reference is hereby made to the diagram contained in said assessment for the boundaries and extent of the said assessment district, and said diagram shall govern for all details as to the extent thereof. Said diagram shows each lot, piece or parcel of land assessed and said assessment shows the amount proposed to be assessed upon each lot, piece or parcel of land.

Notice is further given that it is proposed to levy said assessment for the refunding of the bonds of said district. The total amount of the proposed assessment is the sum of $_____.

Notice is further given that on the _____ day of _____, 19__, at the hour of _____ o'clock, __.m., at the chambers of the _____ (designating legislative body) of the _____ (city or county) in the city of _____ is the time and place the said _____ (designating legislative body) will hold the hearing on said assessment. Protests or objections to said assessment or to any proceedings taken in the refunding of said bonds and the levying of an assessment therefor or to any part of such proceedings or to any specific assessment upon any ground whatsoever must be filed in writing with the clerk of _____ (designating legislative body) at or before the time of said hearing. Upon the recording of said assessment, the respective amounts assessed shall be immediately due and payable. The assessment proceedings are under and bonds shall be issued in the manner and form provided in (here set out the title of this act and its date of approval) to represent all assessments remaining unpaid after the expiration of thirty days from the date of recording said assessment. Said bonds shall bear interest at the following rate (or rates.) _____.

_____
Clerk of the _____
(designate legislative body) of

_____
(designate name of city or county)

Publication of notice.

SEC. 10. If the legislative body of a city is conducting the proceedings for such refunding, said notice shall be published by at least two insertions in a newspaper of general circulation printed and published in such city, and if there is no newspaper of general circulation published in such city, then in a newspaper published in the county in which said city lies. If the legislative body of a county is conducting such proceedings for refunding, said notice shall be published by at least two insertions in a newspaper of general circulation published in said county. Copies of such notice shall also be posted upon all open streets within the district of lands proposed to be assessed. Such notices shall be not more than three hundred feet in distance apart and not less than three of such notices shall be posted. The heading upon such posted notices shall be in letters at least one-half inch in height. The posting and publication of such notices must be completed at least fifteen days prior to the date of hearing stated in such notice. The affidavits of publication and posting shall be filed in the office of the clerk of said legislative body.

Posting

Protests or objections

SEC. 11. Protests or objections to the said assessment or to any of the assessments upon the respective lots, pieces or parcels of land assessed or to any action or determination in the making of said assessment or in the proceedings for said

assessment and refunding, including objections to the amounts of the assessments, or to the validity or legality of any of the proceedings for said assessment and refunding must be made in writing and filed with the clerk of said legislative body at or before the time fixed for the hearing on said assessment. Such protests or objections may be made by any person interested in the assessment and refunding proceedings. It is the intent of this section that protests or objections upon any ground whatsoever not theretofore waived may be made as provided by this section. Such protests or objections need not be in any particular form but if protest against or objection to the regularity or legality of the proceedings for the assessment or refunding is made, such protest must clearly set forth the particular alleged irregularities or invalidities. Any objection or protest upon any ground whatsoever not made at the time and in the manner herein provided shall be deemed to be waived voluntarily by any person who might have made such a protest or objection, and the proceedings for the said assessment and refunding may not thereafter be attacked upon any ground not stated in an objection or protest so filed, and any landowner or any person otherwise interested in any lands within the said district or in the assessment and refunding proceedings shall be estopped to attack the said assessment and refunding proceedings upon any ground not stated in a protest filed by him in accordance with the provisions of this section. At the time fixed for the hearing any person interested may appear and be heard upon any of the matters set forth in his protest or objection. Protests and objections may be taken up in such order as the legislative body deems advisable and any evidence offered thereon by any property owner or person otherwise interested in the proceedings for said assessment and refunding shall be heard by said legislative body. Said legislative body may also hear any evidence offered in support of the said assessment and refunding proceedings. If, at the hearing, it appears that the owners of more than one-half of the area of the lands assessed in the refunding proceeding have filed protest or objection to the refunding as proposed, in its entirety, the legislative body shall, by resolution to be entered upon its minutes, so find, and shall abandon such refunding, and no resolution of intention for the refunding of the indebtedness of said district under this act may be adopted within a period of six months from the date of such abandonment. In order that such protests or objections operate as a bar they must specifically state that the objection is to the refunding in its entirety. The determination of said legislative body upon any of the matters presented in any of said protests or objections and upon all matters involved in the assessment proceedings and upon the assessment shall be final and conclusive. Said hearing may be adjourned from time to time by an order entered upon the minutes of the legislative body, provided that the hearing must be finally completed within sixty days from

Waiver of protest.

Hearing

Majority protest.

the date thereof stated in the published notice of hearing. At the said hearing said legislative body shall have power to revise, correct or modify the said assessment in such manner as may be just and in accordance with the facts and so that the assessment may be apportioned according to benefits. Said assessment may be confirmed as filed or as revised, corrected or modified. Confirmation of said assessment shall be made by resolution of the legislative body entered upon its minutes and such resolution shall declare the findings of said legislative body. If no changes are made in any of the matters contained in said assessment, it shall be sufficient in said resolution to declare that said assessment is confirmed, but if any changes are made such changes shall be mentioned in said resolution of confirmation and said resolution shall declare that the said assessment as revised, corrected or modified by the said changes is confirmed. Said legislative body shall also have power at said hearing to correct any of its previous actions, determinations, resolutions or orders and any of the proceedings for the assessment and refunding. The findings and determinations of said legislative body upon all matters herein mentioned and upon all matters in connection with said assessment and refunding proceedings shall be final and conclusive upon all persons and in all actions or proceedings as to all matters expressly found and determined and as to the regularity and sufficiency of the assessment and refunding proceedings, and said resolution confirming the said assessment shall be conclusive evidence that said assessment and all proceedings prior thereto are valid and sufficient. No defect in the form of such assessment and no omission, failure or neglect of, or action or determination of any officer, body or person in the assessment and refunding proceedings and no error in the amounts to be assessed upon any of the lots, pieces or parcels of land shall invalidate the said assessment or any of the assessments therein contained, and each of the assessments in said assessment shall become a lien upon the property upon which the same is levied, notwithstanding any error, defect or omission therein or in any of the proceedings therefor and notwithstanding that the proceedings for the making of said assessment are not in full conformity with the requirements of this statute, and any action or determination necessary or convenient in the making of said assessment or in the refunding and assessment proceedings not expressly set forth in this statute is hereby authorized and the same when made shall be valid and sufficient.

Confirmation of assessment

SEC. 12. If the refunding proceedings are conducted by the legislative body of a city, said assessment as confirmed shall be recorded with the superintendent of streets of said city. The assessment shall not be recorded until the holders of all outstanding bonds and coupons have contracted to exchange such bonds and coupons in the refunding proceeding, or if all holders of outstanding bonds and coupons do not so contract, the assessment shall not be recorded until adequate provision has been made as required in this act for the retire-

Recordation of assessment.

ment or payment of the bonds and coupons of nonconsenting holders. If the refunding proceedings are conducted by the legislative body of a county, said assessment as confirmed shall be recorded with the county surveyor of said county.

Lien.

When so recorded, the several amounts assessed upon the lots, pieces or parcels of land in said assessment shall be a lien thereon as of the date of such recordation. Such lien shall continue until said assessment and all interest and penalties thereon are paid or until it is discharged of record. The lien of said assessment shall be superior to and have priority over all special assessment liens created against the same property subsequent to the date of such recordation. Any foreclosure of said assessment lien or sale of property for said lien shall convey the said property to the purchaser free and clear of all encumbrances, except taxes and such special assessment liens as, at the date of the creation of said lien, are by law equal or superior to said assessment lien. From and after the date of the said recording of said assessment all persons shall be deemed to have notice of the contents thereof. The amounts assessed in said assessments shall be payable to the said superintendent of streets or county surveyor with whom said assessment is recorded, and said superintendent of streets or county surveyor is authorized to receive the amount due upon any assessment and give a good and sufficient discharge therefor, provided bonds have not been issued to represent such assessment.

Notice.

The officer with whom said assessment is recorded shall give notice by publication twice in a daily newspaper of general circulation printed and published in the county in which the lands assessed lie or by two successive insertions in a weekly newspaper of general circulation printed in such county that said assessment has been recorded in his office and that all sums assessed therein became due and payable upon the recordation of said assessment, stating the date of such recordation and that the payment of the said sums is to be made to him within thirty days after the date of such recordation. Said notice shall also contain a statement that bonds to represent assessments remaining unpaid after said thirty days will issue in the manner and form provided in this act and shall state the period over which said bonds shall extend and the rate or rates of interest which shall be payable thereon. Notice shall also be given by mailing a postcard to the owner of each lot, piece or parcel of land assessed according to the name and address appearing on the last equalized assessment roll for county taxes prior thereto or as known to the officer giving such notice; provided that a failure of the officer with whom the assessment is recorded to give such notice by mailing or of the person addressed to receive the same shall not affect the validity of the proceedings or the validity of the lien of any assessment or of any bond issued thereon.

Payment and cancellation.

Upon payment of any assessment, the superintendent of streets or the county surveyor with whom the said assessment is recorded shall mark upon the said assess-

ment note of the said payment and shall cancel the said assessment, and upon request said superintendent of streets or county surveyor shall also give a receipt to the person paying the said assessment. Any assessment upon public property shall be paid by the officer or board having charge of the disbursement of the funds of the owner of such property, and said assessment shall be an enforceable obligation against the owner of or the governing body controlling the said property. If for any reason there are no moneys available for the payment of said assessment, then the board or officer whose duty it is to levy taxes for the said owner of said public property shall include in the next tax levy an amount in addition to moneys for all other purposes, sufficient to pay said assessment and the interest thereon from the date the assessment is recorded at the rate to be stated in the refunding bonds, and when the moneys received from said tax levy are available, said assessment and such interest thereon shall be paid by the officer or board having charge of the disbursement of the funds of the owner of such land. Any assessment upon public property not in use in the performance of a public function may be foreclosed in the manner provided in section 27 of the "Improvement Act of 1911" as amended; provided, however, that the notice to be given upon the tax bill need not be given or made and that such action may be brought at any time after thirty days after the recording of such assessment, and in any such foreclosure action the said assessment and diagram with proof of nonpayment shall be prima facie evidence of the right of plaintiff to recover in the action. Said action shall be brought in the name of the city or county the legislative body of which levied said assessment upon the request of any person entitled to any portion of the moneys to be derived from said assessment. The person requesting that said foreclosure action be brought must advance the plaintiff's costs and expenses thereof and said action may be brought by any competent attorney appointed by the legislative body which levied said assessment. In any case in which the assessment is levied by the legislative body of a county, the same shall be foreclosed as hereinbefore provided, except that the various officers designated in said section 27 shall be the corresponding county officers as designated in the County Improvement Act of 1921 as amended. No refunding bonds shall issue against public property, and the list of unpaid assessments to be filed with the clerk shall not include any unpaid assessment upon public property.

Assessment upon public property.

Stats. 1933, p. 2379.

Stats 1921, p. 1658.

SEC. 13. No action, suit or proceeding to set aside, cancel, avoid, annul or correct any assessment hereunder or to review any of the proceedings, acts or determinations made in the proceedings for said assessment and refunding or to question the validity of or enjoin the collection of said assessment or any assessment therein or to enjoin the issuance of any bond or bonds to represent the same shall be maintained by any person unless such action or actions shall have been commenced within ninety days after the date of confirmation of

Time for commencing actions

said assessment and thereafter all persons shall be barred from any such action, suit or proceeding or any defense of the invalidity of said assessment or any of the assessments therein contained or any bonds issued thereon.

In any action, suit or proceeding brought after said ninety days has expired, to enforce any assessment or bonds issued to represent assessments no person may urge, plead or prove the invalidity of any assessment or refunding bond issued to represent assessments and in any action to foreclose assessments hereunder, a refunding bond shall be conclusive evidence of the regularity and validity of the assessment proceedings and assessment, and the bond.

List of unpaid assessments

SEC. 14. After the full expiration of thirty days from the date of recording said assessment, the superintendent of streets (if the assessment is recorded with him) or the county surveyor (if the assessment is recorded with him) shall make and file with the clerk of the legislative body which conducted the refunding proceedings a complete list of all assessments unpaid, except unpaid assessments upon public property. The legislative body shall issue refunding bonds in the total principal sum of the assessments unpaid as shown on said list and shall pass a resolution determining the amount of such unpaid assessments. The legislative body shall prescribe the denominations of such bonds, which shall be in convenient amounts, not necessarily equal, and shall provide for the issuance of the same.

Bond issue

Bonds

SEC. 15. All bonds issued hereunder shall mature on July second. Said bonds may be issued to mature at one time or to mature in series. If said bonds mature in series an even annual proportion of the aggregate principal sum thereof shall be payable on the second day of July of every year until the whole is paid, the first series or installment being payable on the second day of July next succeeding the first ten months after their date. The final series or installment of said bonds shall mature and be payable on a date which shall not exceed twenty-four years from the second day of July next succeeding ten months from their date. If said bonds mature at one time, the maturity date shall not exceed twenty-four years from the second day of July next succeeding ten months from their date. The bonds shall bear interest at such rate or rates as may be determined by the legislative body, but, not to exceed seven per cent per annum, from the date of recordation of the assessment until the whole of said principal sum and interest are paid. The bonds shall be dated as of the date of the recordation of the assessment. The interest shall be payable semiannually by coupon on the second days of January and July, respectively, of each year. Said bonds and interest shall be paid at the office of the treasurer of the city or county the legislative body of which conducted the refunding proceedings. Said treasurer shall keep a redemption fund designated by the name of said bonds, into which he shall place all sums received by him from the collection of the assessments

Interest.

Redemption fund.

made for such refunding and upon the security of which the said refunding bonds are issued and all interest and penalties thereon. From such fund he shall disburse and pay the said refunding bonds and the interest due thereon upon presentation of the proper bonds and coupons, and under no circumstances shall said bonds or the interest thereon be paid out of any other fund. Said treasurer shall keep a register in his office which shall show the series, number, date, amount, rate of interest, last known holder of each bond and the number and amount of each interest coupon paid by him and shall cancel and file each bond and coupon so paid. Register.

SEC. 16. Said bonds shall be issued in substantially the following form: Form of bonds.

----------District No.--------
of----------(city or county) of

Refunding Bond.
$----------

Series-------- No.--------

Under and by virtue of an act of the Legislature of the State of California entitled "(title of this act)," the------- (city or county) of------will, on the second day of July, 19--, out of the redemption fund for the payment of bonds issued upon the assessments made for the refunding of the bonds of ----------District No.----------of the----------(city or county) of-------, pay to bearer the sum of-------dollars ($------), with interest thereon from the------day of------, 19--- to the------day of------, 19--- at the rate of--- per cent per annum, and thereafter at the rate of------per cent per annum at the office of the treasurer of the------of------, State of California.

This bond is one of an issue of bonds of like date, tenor and effect issued by said------(city or county) under said act for the purpose of refunding the bonds of------District No.---- of the------(city or county) of------and is secured by the moneys in said redemption fund and by the unpaid assessments made for the purpose of refunding such bonds and including principal and interest is payable exclusively out of said fund.

The interest is payable semiannually, to wit: on the second days of January and July in each year hereafter upon presentation of the proper coupons therefor; provided, that the first of said coupons is for the interest to the second day of January, 19---, and thereafter the interest coupons are for the semiannual interest This bond will continue to bear interest after maturity at the rate above stated provided it is presented at maturity, or within ten days thereafter, and payment thereof is refused on the ground that there is not sufficient money in said redemption fund with which to pay same. If it is not so presented interest thereon will run until maturity.

This bond may be redeemed and paid in advance of maturity upon the second day of January or July in any year by giving the notice provided in said act and by paying principal and accrued interest to such date of redemption.

It is hereby certified, recited and declared that all proceedings, acts and things required by law precedent to or in the issuance of this bond have been regularly had, done and performed and this bond is by law made conclusive evidence thereof.

IN WITNESS WHEREOF, said_____(city or county) of _____has caused this bond to be signed by the_____ (mayor or other chief executive if a city, or chairman of the board of supervisors if a county) and by the treasurer of said_____ (city or county) and attested by its clerk and has caused its clerk to affix thereto the seal of (the city, if a city, or the board of supervisors of said county, if a county) all on the _____day of_____, 19___.

(Mayor of the City of_____

or

Chairman of the Board of Supervisors of____County.)

Treasurer.

ATTEST:

Clerk.

(SEAL)

Bonds and interest coupons

SEC. 17. Said bonds shall be signed by the mayor or other chief executive of the city or by the chairman of the board of supervisors of the county, as the case may be, and by the treasurer of the city or county, as the case may be, and attested by the clerk of the legislative body which conducted the refunding proceedings, and the seal of the city or of the board of supervisors of the county shall be affixed thereto. The interest coupons affixed to said bonds shall be signed by the treasurer of the city or county, as the case may be, and such coupons may be signed by the printed, lithographed or engraved facsimile signature of such treasurer. The bonds shall have interest coupons attached thereto, payable semiannually on January 2 and July 2. The first coupon shall be payable on the second day of January next succeeding the first four months after the date of the bonds and shall be for the interest accrued to that time. The bonds so issued shall be payable to bearer and shall bear interest at the rate or rates specified in the resolution ordering refunding. The bonds maturing in any year shall constitute the annual series of that year and the aggregate principal of the bonds in such series shall equal the even annual proportion of the aggregate principal sum of the entire bond issue hereinbefore referred to. Said bonds by their issuance shall be conclusive evidence of the regularity of all proceedings had prior thereto and of the valid-

ity of such bonds. Said bonds shall be negotiable. Any of said bonds may be surrendered by the holder to the treasurer for registration in accordance with the provisions of any law applicable to the registration of bonds issued by the city or county, as the case may be, and thereafter the principal and interest thereon shall be paid to the proper registered owner thereof.

Settlement with holders of outstanding bonds.

If the holders of all of the outstanding bonds agree to refund their bonds as proposed in the refunding proceeding, then all refunding bonds, all moneys collected on the assessments levied in the refunding proceeding, and all public contributions (if any) shall be paid and delivered to the holders of the outstanding bonds, in such amounts and proportions as may be fixed by contract with such bondholders. Any contract with the holder of any bond may provide such terms and conditions of exchange as may be agreed upon by the holder and the legislative body, and may contain such terms and conditions relating to time of performance, conditions precedent thereto, and the method and mode of performance, as may be agreed upon by said parties. Whenever the refunding bonds and moneys, if any, are delivered to said bondholders, said bondholders must concurrently deliver to the legislative body or its representative the outstanding unpaid bonds which are refunded and all outstanding unpaid interest coupons, constituting the entire indebtedness of said district, and the same shall forthwith be canceled.

Settlement with nonconsenting bondholders

In the event that the holders of one or more of the outstanding bonds do not enter any contract with the legislative body to refund the same, nevertheless if the holders of seventy-five per cent or more of the outstanding bonds do contract with the legislative body which conducts the refunding proceedings for the refunding of the bonds owned or held by them, said legislative body shall have authority to refund all of the bonds of said district under the provisions of this act, but in such event, prior to recording the assessment levied under this act, sufficient moneys to adequately provide for the retirement or payment of the bonds of the nonconsenting holders must be provided and set aside in the proper fund for that purpose. Any city or county or city and county which is authorized under this act to appropriate moneys to aid in refunding the bonds of the district, may make an advancement or contribution or an additional contribution in order to provide moneys to pay or retire bonds of such nonconsenting holders. Whenever any city or county or city and county or any person or corporation advances moneys to provide for the payment or retirement of the bonds of nonconsenting holders, the legislative body may deliver at par all or any portion of the refunding bonds which are not to be delivered to consenting bondholders to the person, corporation, city, county or city and county making such advance or advances, or sell at par all or any part of such refunding bonds not to be delivered to consenting bondholders, and from the proceeds thereof reimburse such

person, corporation, city, county or city and county entirely or partially, and may contract to make such sale or delivery. If the legislative body makes all or any part of such advancement it may reimburse the city, county or city and county of which it is the legislative body, entirely or partially by taking all or any part of such refunding bonds at par. Any cash collected on assessments and not required to pay consenting bondholders may also be used to reimburse in whole or in part any person, corporation, city, county or city and county making such advance or advances, and the legislative body may contract to so apply such cash. Any other method of raising funds for the payment or retirement of the bonds of nonconsenting bondholders which will prior to the time the assessment is recorded under this act adequately provide the moneys necessary for such payment or retirement is hereby authorized. Whenever any moneys are placed in any fund for the retirement or payment of the bonds of nonconsenting holders the said moneys shall be used only for that purpose and after all of the bonds of said nonconsenting holders have been paid or retired any sum remaining in said fund shall be returned to the city or county or city and county which advanced the same.

If the contract with the bondholders so provides, said legislative body may sell all of the refunding bonds for cash and pay said bondholders in cash at a price to be fixed in said contract.

Bankruptcy readjustment.

In the event that the discharge of the bonds of any nonconsenting holders at less than the par value thereof has been authorized by any final decree or order confirming a plan of readjustment under any bankruptcy law of the United States of America in any proceedings initiated under the authority of this act, said legislative body is authorized to do and perform all acts and things necessary for the discharge of such bonds in accordance with said decree or order.

Definitions.

Wherever the words "bond" or "bonds" are used hereinbefore in this section in referring to the outstanding bonds the words shall be deemed to include and shall be construed to mean also any outstanding unpaid interest coupon or coupons of any bond or bonds of the district and the words "bondholder" or "bondholders" as used hereinbefore in this section shall be deemed to include and shall be construed as meaning also any holder or holders of outstanding unpaid interest coupons of bonds of the district.

After the date of the adoption of the resolution of intention in the refunding proceeding all sums paid for any parcel of land into the interest and sinking fund for the payment of principal and interest of the bonds to be refunded shall be credited upon the assessment levied in the refunding proceeding upon such parcel and shall be applied as moneys paid upon such assessment.

Upon the recordation of the assessment in the refunding proceeding all unpaid taxes or special assessment taxes levied

to pay principal and interest of the bonds refunded and all penalties and interest thereon shall be deemed canceled and annulled, and the clerk of the legislative body which conducted such refunding proceedings shall notify the proper city officials or the proper county officials, or both, as the case may be, that the bonds of said district have been refunded and that said taxes or said special assessment taxes, penalties and interest are canceled and annulled and such officials shall thereupon proceed to make the necessary entries showing the cancellation thereof.

Payment of refunding bonds.

SEC. 19. Whenever there shall be in the redemption fund two thousand dollars or more available for the payment of principal of the refunding bonds and not necessary for the payment of principal maturing on the next July 2d, the treasurer who issued the bonds may invite sealed proposals for the sale of any of such refunding bonds to the city or county of which he is treasurer. Notice inviting such sealed proposals shall be published once in some financial journal of National circulation at least thirty days days prior to the date proposals are to be opened, and at least fifteen days prior to the date fixed for the opening of proposals the treasurer shall mail a copy of such notice to any bondholder who has in writing requested to be notified of proposals to purchase such bonds. Such notice shall state the amount available for the purchase of said bonds and shall specify the time and place when proposals will be opened. At such time and place the proposals shall be opened in public. The legislative body may reject any or all proposals. If no proposals are received or if the proposals received are not sufficient to exhaust the moneys on hand available for the purchase, the legislative body may purchase any of said refunding bonds at private sale, but no bonds shall be purchased by the legislative body unless the purchase price is less than the par value thereof. All refunding bonds so purchased shall be canceled immediately. If no bonds are offered for sale at a price less than the par value thereof, or if the bonds offered at a price of less than the par value are insufficient to exhaust the sum available for the purchase of bonds the treasurer may call the outstanding bonds in numerical order upon giving notice by one publication in a financial journal of national circulation, stating the numbers of the bonds so called. Said publication shall be at least thirty days prior to the date of the next succeeding interest payment on the bonds, and said publication need not be made if the holders of the bonds to be called in writing waive publication of such notice. Said bonds shall be callable at par and accrued interest to the next interest payment date following the notice. The treasurer shall set aside a sum sufficient to pay the principal and interest to the next interest payment date on any bond so called, and if such bond is not surrendered, on or before said interest payment date, interest thereon shall cease on such date. All costs of publication shall be payable from the redemption fund. All bonds

purchased or called by the treasurer shall be canceled by the treasurer.

Security for payment of bonds

SEC. 20. (a) In the event of such refunding bonds being so issued, then the assessments which shall be unpaid, as shown on the list filed by the superintendent of streets or the county surveyor, as the case may be, with the clerk of the legislative body and any reassessments which may be issued thereon or in lieu thereof, together with interest thereon, shall remain and constitute a trust fund for the redemption and payment of said bonds and for the interest which may be due thereon. Such assessments and reassessments and each installment thereof and the interest and penalties thereon shall be and shall continue to constitute a lien against the lots and parcels of land on which made, until the same be paid, but for a period not exceeding the time within which an action might be brought on the last series of refunding bonds issued upon the security of such unpaid assessments; provided, however, that unmatured installments, interest and penalties shall not be deemed to be within the terms of any general warranty of title. Any foreclosure of said assessment lien or sale of property for said lien shall convey the said property to the purchaser free and clear of all encumbrances except such taxes and special assessment liens as, at the date of the creation of said lien, are by law equal or superior to said assessment lien. Such lien shall be superior to and have priority over all special assessment liens created against the same property subsequent to the date of recordation of the assessment as provided in section 12 hereof.

Foreclosure of lien.

(b) In the event of nonpayment of any assessment or installment thereof or of any interest thereon, together with any penalties and other charges accruing under the laws or ordinances of the city or county, as the case may be, and not later than four years after the due date of the last installment of principal, as a cumulative remedy, the same when due and delinquent may by order of the legislative body be collected by suit brought in the superior court to foreclose the lien thereof. The costs shall be fixed and allowed by the court and shall include a reasonable attorneys' fee, interest, penalties and other charges and advances as herein provided, and when so fixed and allowed by the court shall be included in the judgment. The court shall have the power to adjudge and decree a lien against the lot or parcel of land covered by the assessment or reassessment for the amount of the judgment and to order said premises to be sold on execution as in other cases of the sale of real estate by the process of said court, with the same rights of redemption. On appeal the appellate courts shall have the same power to adjudge and decree a lien and order such premises to be sold on execution as is herein provided for the superior court. The foreclosure suit shall be governed and regulated by the provisions hereof, and also where not in conflict herewith by the codes of this State. The city or county (the legislative body of which conducted the

refunding proceedings) shall have the right to advance and pay county or other taxes wherever necessary to protect its interest in property against which there is a delinquent assessment. It may also at its discretion temporarily transfer moneys into the redemption fund from other funds in which such moneys are not immediately needed, the moneys so transferred to be used to pay sums due from such redemption fund and to be retransferred therefrom out of the first available receipts. Upon the ordering of any such foreclosure suits the tax collector shall be credited upon the assessment roll then in his hands with the amount charged against him on account of such assessments or reassessments ordered to suit and be relieved of further duty in regard thereto.

Complaint in foreclosure action.

(c) Such action shall be brought in the name of the city or county (the legislative body of which conducted the refunding proceedings) and may be brought at any time prior to the expiration of four years subsequent to the date of delinquency of the last installment of assessment due or to become due thereunder. The complaint may be brief and include substantially only the following allegations with reference to the assessments sought to be collected: That on a date stated the legislative body passed its resolution or ordinance determining to refund certain bonds which had been issued for certain improvement work (the improvement work need not be described); that an assessment for the purpose of refunding said bonds was duly given and made; that said assessment was recorded on a stated date; that certain property (describing it) was therein assessed a stated amount; that bonds upon the security of such assessment were duly issued, giving the date of said bonds, the interest rate and the number of years the last installment of same were to run, and that the same were duly issued under this act, but it shall be unnecessary to state the amount, number, denomination or other term thereof; that on a date stated a certain sum came due on said property on said assessment and had not been paid and that the legislative body had directed the action to foreclose. The amount of penalties, costs and interest due shall be calculated as hereinafter set forth in section 24 hereof up to the date of judgment. In such action plaintiff upon recovering judgment shall be entitled to reasonable counsel fees to be allowed by the court and taxed as costs.

Interest on unpaid assessments

SEC. 21. Interest on all unpaid assessments shall begin to run from the date of recordation of the assessment and shall be computed at the same rate or rates as is specified in the bonds secured by such assessments. Such interest shall be payable annually or semiannually according as the city or county taxes on real property with which the assessments are collected are payable annually or semiannually. For each year the interest shall be computed and collected up to the next second day of July succeeding, no deduction being made by reason of any installment of such assessment being due or paid prior thereto in such year

Whenever it shall appear to the legislative body that according to the dates when taxes are collected in the city or county, as the case may be, there will be an insufficient amount on hand to pay the interest then due, according to the method of collection provided in this act, then said legislative body may direct that such interest or some portion of the same be collected in the year preceding that in which the same would otherwise be collected under this act, and thereupon such interest or portion thereof shall be extended on the rolls for such preceding year and be due and collected therein.

Duty of auditor.

SEC. 22. A copy of the resolution of the legislative body determining the assessments remaining unpaid and upon the security of which the refunding bonds are issued, shall be filed in the office of the auditor of the city or county, as the case may be. The auditor shall keep a record in his office showing the several installments of principal and interest on said assessments which are to be collected in each year during the term of said bonds. The auditor shall annually enter in his assessment roll on which taxes will next become due, opposite each lot or parcel of land affected in a space marked "public improvement assessment," or by other suitable designation, the several installments of such assessment coming due during the fiscal year covered by such assessment roll, including in each case the interest due on such total unpaid assessments as herein provided. In the event that such collections are made by the county officials the county auditor shall at the close of the tax collecting season promptly render to the city auditor a detailed report showing the amounts of such installments, interest and penalties so collected on each proceeding and from what property collected. Taxpayers shall have the like right to pay such assessment as so entered with interest, and any penalties thereon, under protest as they have to pay general municipal taxes under protest, but in making such payment under protest must accompany the payment with their written protest. In the event of the lot or parcel of land affected by any assessment not being separately assessed on said roll so that the installment to be collected can be conveniently entered thereon, then said auditor shall enter on said roll a description of the lot or parcel affected, with the name of the owners if known, but otherwise described as "unknown owners," and extend the proper installment opposite same.

Payment of unpaid assessment

SEC. 23. Any interested owner may release and pay any such unpaid assessment by depositing with the treasurer of the city or county, as the case may be, the total unpaid balance of any such assessment together with the total interest which would become due on such assessment were it paid in the regular way; provided, that if and when such funds are used for the purchase or call of a bond the person paying such assessment shall be entitled to credit and reimbursement of his proportion of the interest saved by such purchase or call,

less his proportion of any costs incurred for publishing or serving any notice of purchase or call for redemption.

Assessments payable in installments

SEC. 24. If the refunding bonds are payable in annual series such unpaid assessments shall be payable in annual series corresponding in number to the number of series of bonds issued and an even annual proportion of each assessment shall be payable in each year preceding the date of maturity of each of the several series of bonds so issued. If the refunding bonds all mature in one year, the unpaid assessment shall be payable annually and an even annual proportion of each assessment shall be payable each year preceding the July interest payment. Such annual proportion of each assessment coming due in any year, together with the annual interest on such assessment, shall in turn be payable in annual or semiannual installments according as the general taxes of such city or county, as the case may be, on real property are payable in annual or semiannual installments, and such installments and said annual interest shall be payable and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property of said city or county, as the case may be. Upon default in payment, the lands securing such installments and assessments shall be sold in the same manner in which real property in such city or county is sold, for the nonpayment of general taxes, and be subject to redemption within one year from date of sale in the same manner as such real property is redeemed from such delinquent sale, and upon failure of such redemption shall in like manner pass to the purchaser. The city or county must be the purchaser at any delinquent sale in like manner in which it becomes or may become the purchaser of property sold for nonpayment of the general property tax, and shall pay and transfer into said redemption fund in lawful money the amount of the delinquent assessment and of the delinquent interest thereon upon which said sale is made. Where the legislative body of a county conducted the refunding proceedings and in cases where the municipal property tax is collected by county or city and county officials and sales for nonpayment of such taxes are made to the State, the State shall be the purchaser at any such sale hereunder, but shall hold the title acquired at such sale upon behalf of the city or county, as the case may be, and shall account to the city or county, as the case may be, for any moneys received upon redemption or from the sale of such property, the city or county, as the case may be, for the purposes of this act being deemed the real purchaser. In the event of there being no available funds in the treasury with which to make such payment, the tax collector shall delay the entry of the certificate of sale until such funds are available, making demand in the meantime upon the legislative body that a suitable amount be included in the next tax levy for the purpose of providing funds with which to make

Delinquent sales

Redemption.

such payment; provided, however, that the period of redemption from such tax sale shall not be extended thereby nor the rights or privileges of the property owner be thereby in anywise affected. In the event of such purchase being made by the city or county and of any succeeding installment of such assessment or of such interest not being paid in any future year, the property shall not be sold unless there has previously been a redemption from such sale or unless under the law it is then being sold for delinquent taxes. The city or county shall nevertheless, unless a resale has been made by it, from time to time when due pay and transfer into said redemption fund the amount of any such future delinquent assessment and interest pending redemption, and no redemption shall be made until any such subsequent payments, with interest and penalties, shall also be paid. The purchaser, whether at tax collector's sale or at resale by the city or county, in the event of the city or county having become the purchaser, or at a foreclosure sale by order of court, shall take the property subject to all unpaid installments, interest and penalties under the same proceeding.

Special tax levy

SEC. 25. The legislative body may, and in the event of demand by the tax collector therefor as provided in section 24 hereof must, at the time of fixing the annual tax rate and levying the taxes to be collected for general municipal or county purposes, as the case may be, levy a special tax upon the taxable property in the city or county, as the case may be, for the purpose of paying for the lands purchased or to be purchased at such tax sales, or for the purpose of paying installments of the assessment or of interest which the city or county is required to pay under the provisions of section 24 hereof, but not to exceed for each district, the bonds of which are refunded, ten cents on each one hundred dollars of assessable property. Such special tax shall be in addition to all other taxes levied for municipal or county purposes and shall be computed, entered and collected in the same manner and by the same persons and at the same time and with the same penalties and interest as are other taxes of the city or county, as the case may be. In the event that the district lies partly in unincorporated territory of the county and partly within one or more municipalities or lies within two or more municipalities, a certified copy of the resolution determining the amounts of the assessments remaining unpaid upon the security of which the refunding bonds are issued shall be filed in the office of the auditor of the county in which the assessment district lies, and no copy thereof shall be filed in the office of the city auditor, and for any such proceeding in which the lands assessed lie in more than one jurisdiction the auditor of the county in which the assessment district lies shall perform the duties imposed upon an auditor under this act and the tax collector of such county shall perform the duties imposed upon a tax collector under this act. In case the lands assessed lie in more than one jurisdiction,

in the event of the delinquency in the payment of any assessment levied hereunder and a sale to the State therefor, the county shall be deemed the real purchaser of all parcels sold which lie within unincorporated territory of the county and the city shall be deemed the real purchaser of all parcels sold which lie within the boundaries of the city, and each such city or county must make payment for the lands of which it is deemed the real purchaser, and if there are no available funds in the treasury with which to make such payment the legislative body of such city or county must, at the time of fixing the annual tax rate and levying the taxes to be collected for general municipal or county purposes, as the case may be, levy a special tax upon the taxable property in such city or county, as the case may be, for the purpose of paying for the lands purchased or to be purchased at such tax sales, but not to exceed for each district the bonds of which are refunded ten cents on each one hundred dollars of assessable value in such city or county, as the case may be. Such special tax shall be in addition to all other taxes levied for municipal or county purposes and shall be computed, entered and collected in the same manner and by the same persons and at the same time and with the same penalties and interest as are other taxes of the city or county, as the case may be.

As to all lands of which any city or county is deemed the real purchaser under the provisions of this section, such city or county and all of the officials thereof shall have all of the rights, powers, duties and obligations granted, authorized or imposed by this act.

Certificate of sale.

SEC. 26. In the event of sale by the tax collector of any lot or parcel of land for nonpayment of taxes and of any installment of the assessment thereon, or of the penalties, interest or costs on same, or for nonpayment of any installment, penalties, interest or costs, then any certificate of such sale or any deed issued is primary evidence of the regularity of all proceedings theretofore had, and shall be conclusive evidence of all things of which bonds issued upon the security thereof are conclusive evidence, and prima facie evidence of the regularity of all proceedings subsequent to the issuance of the bonds, and such deed conveys to the grantee the absolute title to the lands described therein, free of all encumbrances, except unpaid installments, interest and penalties under the same proceeding and except taxes and public improvement assessments which by law are equal or prior to the assessment on which sale is made.

Amended assessment where property subdivided or ownership of portion transferred

SEC. 27. Whenever any lot or parcel of land affected is subdivided, or the ownership of a portion of such parcel of land is transferred to another person, the legislative body which conducted the proceeding may in its discretion order the street superintendent, or county surveyor, as the case may be, or other officer charged with the duty of making such assessments, to file with the clerk of said legislative body an amended assessment of the original parcel of land affected by such subdivision or transfer of ownership, segregating and apportioning

the unpaid installments of said original assessment in accordance with the benefits to said portions of said original parcel. The person so appointed shall file with the clerk of the legislative body a report and an amended assessment of such parcels of land as have been ordered by said legislative body, together with a map or plat showing how such parcels have been divided. The total amount of the assessments of the several portions of any one original parcel shall be equal to the unpaid assessments upon said original parcel of land. Upon the filing of said report and amended assessment the clerk of said legislative body shall fix a time and place for a hearing upon said amended assessment and shall give notice of said hearing by publication by two insertions in a newspaper. Said notice shall contain a statement of the time fixed for the hearing upon said amended assessment and any objections thereto, which time shall not be less than fifteen days from the first publication of said notice. Said notice shall contain a reference to the original assessment and to the proceedings, and shall refer to the report and map or plat of the amended assessment for particulars and no other description shall be necessary. All persons interested in said original assessment, or in the lands affected thereby or in the bonds secured by issuance thereof, may, at the time of said hearing or at the time to which said hearing may be adjourned, appear and protest against the same. At such hearing said legislative body shall have full power to hear and determine all objections as to the division of such assessments and shall confirm or modify the same. All determinations and decisions of said legislative body upon notice and hearing, as aforesaid, shall be conclusive upon all persons entitled to object under the provisions of this section. Final action of said legislative body upon said report and amended assessment shall be taken on or before the fifteenth day of July of any year. Upon confirmation or modification in accordance with the order of the legislative body the clerk shall file such amended assessment with the auditor, who shall annually thereafter enter upon the assessment roll the installments becoming due on each component part of the original parcel opposite a description of the respective parcels so assessed; when collections upon said assessments are made by county officials the clerk shall transmit a copy of said amended assessment to the county auditor.

Notice

Protests.

Hearing

Action to test validity of assessment

SEC. 28. At any time within ninety days after the confirmation of the assessment, any person interested in any of the bonds to be refunded or in any of the lands assessed may bring an action in the superior court of the county the legislative body of which conducted the refunding proceedings, or the county in which the city the legislative body of which conducted the refunding proceedings lies, to determine the validity or invalidity of such assessment. Such action shall be in the nature of a proceeding in rem and jurisdiction of all parties interested may be had by publication of summons for at least once a week for four weeks in some news-

paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Said summons shall contain a general description of the boundaries of the district of the lands upon which said assessment is or is to be levied. Jurisdiction shall be complete within ten days after the full publication of such summons in the manner herein provided. Anyone interested may at any time before the expiration of said ten days appear and by proper proceedings contest the validity of such assessment or uphold the same. Such action shall be speedily tried and judgment rendered declaring such matter so contested either valid or invalid. Either party shall have the right to appeal to the Supreme Court at any time within thirty days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal. The motion for a new trial of any such proceeding must be heard and determined within ten days from the filing of the notice of intention.

Same.

The court hearing the said proceeding, in inquiring into the regularity, legality or correctness of such assessment, must disregard any error, irregularity or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure which are not inconsistent with the provisions of this act are applicable to the proceeding herein provided for. The costs of the legal proceedings provided for in this section may be allowed and apportioned between the parties or taxed to the losing party in the discretion of the court. After said assessment has been confirmed, it shall not be contested in any way other than at the time and in the manner specified in this section, and in any such action all findings, conclusions and determinations of the legislative body which conducted the assessment proceedings shall be conclusive in the absence of actual fraud.

If any assessment or any refunding bond is held illegal or invalid in any action, suit or proceeding upon any ground which would apply to the entire assessment or the entire issue of refunding bonds, then the unpaid bonds refunded, remain in full force and effect, and if said unpaid bonds have been canceled, the treasurer of the city or county which conducted the invalid refunding or assessment proceeding shall issue new bonds of the same tenor, force and effect as such canceled unpaid bonds, and all of the provisions of the act under which the original bonds were issued (notwithstanding that said act may have been repealed in whole or in part subsequent to the issuance of such bonds) relative to the payment of the bonds issued thereunder and the levy, collection and enforcement of special assessment taxes therefor shall apply to such unpaid bonds and to any bonds issued to replace such unpaid bonds. Until all unpaid bonds which might be refunded hereunder have been fully paid or funds set aside for their payment in full or have been legally refunded, it shall be and remain the

duty of the legislative body empowered and directed to levy the special assessment taxes for the payment of such bonds to proceed under the provisions of the act under which said bonds were issued to levy the said special assessment taxes provided in said act in accordance with the provisions of said act.

Lands in more than one district

SEC. 29. Wherever all or any part of the lands in any district, the bonds of which are proposed to be refunded, lie in another district which has outstanding bonds payable by taxes or assessments levied wholly or partly in accordance with the assessed value of the lands therein, one assessment may be levied and one issue of refunding bonds issued under the provisions of this act to refund the indebtedness of all of said districts. It is the intent of this section to permit but not to require the refunding in one proceeding of the indebtedness of all districts which wholly or partially overlap. Such refunding shall be had and the assessment shall be levied under the provisions of this act as in this section modified. Said districts need not be formed under the same act, but if formed under any act under which taxes or assessments are levied wholly or partly in accordance with the assessed value of the lands, may refund their indebtedness in one assessment proceeding hereunder. The total amount of the assessment shall be fixed by the legislative body. If the owners of a majority in area of the lands included within the exterior boundaries of the area which comprises the said several districts the bonds of which are to be refunded shall in writing agree to such refunding as provided in this act, then the legislative body shall be authorized to proceed with such refunding and to make an assessment therefor as in this act provided. The assessment shall be spread over all lands subject to tax or assessment for the bonds refunded in the area comprising all of the districts. To the total sum of the assessment shall be added the total sum of all taxes upon land and all assessments, including interest and penalties paid into the interest and sinking fund of any of the districts for the payment of principal and/or interest of any bonds of the same issue as the bonds to be refunded. The total amount thus ascertained shall be assessed against all of the lands in the area comprised by the districts in accordance with the benefits derived from the acquisitions or improvements or acquisitions and improvements to pay for which the said bonds to be refunded were issued. From the assessment thus made upon each lot, piece or parcel of land shall be deducted the amounts of such taxes upon land and all assessments, including interest and penalties, if any, levied upon such lot, piece or parcel of land to pay principal and/or interest of any bonds of the same issue as the bonds refunded as have been paid into the interest and sinking fund of any of said districts. The amounts remaining after such deductions have been made shall be and constitute the assessments and the total amount of such assessments shall be the total sum of the assessment stated in the landowner's assent, or a smaller sum.

Refunding bonded indebtedness payable from taxes upon all property in district.

Special improvement district bonded indebtedness which is payable from taxes levied upon all property or upon all taxable property in the improvement district may be refunded under this act. The proceeding for refunding such indebtedness shall be the same as for refunding other indebtedness under this act and in making the assessment hereunder, to the total sum of the proposed assessment shall be added the total sum of all of the amounts (including such penalties and interest as go into such fund) paid into the interest and sinking fund of the district on or prior to the date the resolution of intention in the refunding proceeding is adopted upon taxes levied upon any lot, piece or parcel of land subject to assessment in the refunding proceeding to raise funds to pay principal or interest of the bonds to be refunded, and the total of the two sums shall be apportioned upon the lands subject to assessment according to benefits as hereinbefore provided in this act and from the amounts so apportioned to any lot, piece or parcel of land shall be deducted any sum paid into the interest and sinking fund of the district on or prior to the date said resolution of intention is adopted upon any tax levied upon such lot, piece or parcel of land to pay principal or interest of the bonds to be refunded.

"City auditor."

"Tax collector"

SEC. 30. The term "city auditor" as used in this act shall be held to mean and include any person who, under whatever name or title, is charged with the duty of extending taxes upon the assessment rolls and lists. The term "tax collector" as used in this act shall be held to mean and include any person who, under whatever name or title, is charged with the duty of collecting taxes, advertising delinquent lists of unpaid taxes, selling lands thereunder and executing certificates of sale and deeds thereon.

"Improvement."

The word "improvement" where used in the phrase "special improvement district" in this act shall mean any public improvement of any nature whatsoever, including any acquisition of lands, rights of way or easements for public use, any acquisition or construction of buildings, structures or public works of any kind or nature, or a combination of any or all of the foregoing, and the word shall be given its broadest and most liberal construction as including all acquisitions of land and all acquisition and construction of public works authorized under any law of the State of California, including particularly the Acquisition and Improvement Act of 1925, the Road District Improvement Act of 1907 and the Municipal Improvement District Acts of 1915 and 1927.

Short title

This act shall be known as and whenever mentioned, cited, referred to or amended may be designated as the "Refunding Assessment Bond Act of 1935" and by such designation shall be sufficiently identified in any proceeding hereunder or in any court action or proceeding, and whenever under the procedure set forth in this act the title of the act is to be stated in any resolution, notice or order, it shall be sufficient to designate the act as provided in this paragraph.

Effect of act.

SEC. 31. This act shall in no wise affect any other act or acts now existing or which may hereafter be passed covering the same subject matter, or apply to any proceedings thereunder, but is intended to and does provide an alternative system for the refunding of bonds, and, when at the discretion of any legislative body proceedings are commenced under this act the provisions of this act only shall apply thereto.

Bankruptcy proceedings

Whenever the requisite number of property owners in any district or districts have filed their written consent to the refunding of the indebtedness of such district any city or county, or city and county, is authorized to file a petition and take all proceedings required under any bankruptcy law or laws of the United States of America now or hereafter enacted, for any district, the bonds of which are authorized to be refunded under this act, or to bring any action, suit or proceeding authorized under the equity powers of any court for the purpose of refunding the bonds of such district.

Incidental expenses

The legislative body which conducts the refunding proceeding is authorized to pay any incidental expenses of such proceeding from any available funds of the city or county, or city and county, but no such incidental expenses of such proceeding shall be assessed upon lands in the district.

Validity of bonds, etc.

No bond, coupon, assessment or installment thereof or of the interest or penalties thereon, and no certificate of sale or deed shall be held invalid for error in the computation of the proper amount due on same, provided the error be found to be comparatively negligible or be found to be in favor of the owner of real property affected thereby.

Declaration of policy.

The bonded indebtedness of special assessment districts payable from ad valorem assessments is so great in many instances that the refinancing of such indebtedness is one of the most important problems of this State. In many of such districts both general taxes and special assessments are delinquent and have been delinquent for several years. The property can not be sold for a sufficient sum to pay the delinquent taxes in view of the large amounts of delinquent special assessments thereon, which are on a parity with the general taxes.

The accumulation of delinquent assessments, penalties and interest, and delinquent taxes, penalties and interest, has discouraged the owners of property in such districts and such property has become almost entirely unproductive of revenue for school, city and county purposes. The immediate refinancing of the obligations of these districts and the restoration of the property to the tax rolls so that it may bear its just burden of city, county and school taxes, and so that property owners may be given relief is declared to be the policy of this State.

Constitutionality.

This act and all of its provisions shall be liberally construed to the end that the purposes hereof may be made effective. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision

shall not affect the validity of the remaining portion of this act. The Legislature hereby declares that it would have passed this act irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof be declared unconstitutional.

CHAPTER 733.

An act to amend section 1 of an act entitled "An act authorizing the use of convict labor on State highways or State roads; providing for the compensation of such convict labor; regulating the handling of such convict labor; providing for payment of compensation to the dependents of such convicts; providing for a forfeiture of such compensation; providing for creation of prisoners recreation and educational fund; providing for manner of payment of compensation to said convicts upon release on parole or release or discharge from prison; authorizing allowance of extra good time credits for such labor; providing penalties for interference with such convict labor and repealing all acts or parts of acts in conflict herewith," approved June 9, 1923, as amended, relating to convict labor.

Stats. 1923, p. 667, amended

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1933, p. 2301.

Section 1. The Department of Public Works of the State of California may employ or cause to be employed, convicts confined in the State prisons in the construction, improvement and maintenance of any State highway.

Department of Public Works may employ convicts.

Upon the requisition of said department, the State Board of Prison Directors shall send to the place and at the time designated the number of convicts requisitioned or such number thereof as are in its judgment available. Said department shall fix the rate to be expended for such labor at not to exceed two dollars fifty cents per day for each day which each convict actually performs labor upon the construction, improvement or maintenance of a State highway, and shall monthly set aside funds to pay for such labor. Said department shall set up an account for each convict which shall be credited monthly with an amount computed by multiplying the daily rate by the number of days such convict actually performed labor during the month. Such account shall be debited monthly with such convict's expenses for transportation; his drawings from the commissary, such as clothing and toilet articles; and his proportionate share of all expenses for the proper maintenance of the road camp, includ-

Requisition.

Compensation.

Expenses.

ing the expenses for food, medicine, medical attendance, clerical help, and the pro rata cost of reward for capturing escapes from the road camp, which award is hereby fixed at the sum of two hundred dollars for the capture of each escaped prisoner, payable to any individual or peace officer.

Maximum credit.

No convict's account shall be credited with more than seventy-five cents over and above the debits to his account for any day's labor performed by him.

Awards for escapes

The Department of Public Works, in computing the debits to be made to the convict's accounts, may add not to exceed ten per cent on all items except transportation and awards for escapes. When any prisoner escapes the Department of Public Works, after debiting the accounts of the convicts in the camp from which the escape was made, shall set aside the sum of two hundred dollars, and at any time within four years after said escape shall pay the award to the person entitled thereto. No such award can be claimed or paid more than four years after the escape to which it relates.

Disposition of surplus

Any surplus resulting from the employment of convicts, including all sums heretofore or hereafter set aside for awards for escapes and unclaimed for four years or more, shall be retained by the department and expended for convict labor or the welfare and education of convicts in road camps.

Payment of part of earnings to dependents

The Department of Public Works shall monthly pay two-thirds of the net credit to each convict's account to his dependents who are receiving State aid. If the convict's dependents are not receiving State aid, such convict, by written order signed by him, may direct the department to pay not to exceed two-thirds of his net credit to such dependents as he designates. If a convict is discharged from prison while he is in a road camp, all sums to his credit shall be paid to him on his release. All sums to the credit of any convict who is for any reason returned to the prison or is paroled from the road camp shall be paid to the warden of the prison, and by him shall be paid to the convict at such times and in such amounts as the Board of Prison Directors prescribes.

Not to drive trucks.

No convict while engaged in such construction, maintenance and improvement of a State highway shall drive a motor truck or other vehicle or wagon outside of the camp limits of the prison road camp.

Forfeitures go into "prisoners' fund."

When any convict shall wilfully violate the terms of his employment, or the rules of the road camp or of the terms of his parole the Board of Prison Directors may in its discretion determine what portion of all moneys earned by the convict shall be forfeited by the said convict and such forfeiture shall be deposited in the State treasury in a fund to be known as the "prisoners fund," which said fund is hereby created.

Appropriation.

All the money in said fund is hereby appropriated for educational and recreational purposes at the prison road camps as the same shall be established and shall be expended under the direction of the Department of Public Works upon warrants drawn upon the State treasury by the State Con-

troller after approval of the claim therefor by the State Board of Control.

CHAPTER 734.

An act to amend sections 4 and 10 of an act entitled "An act defining industrial loan companies, providing for their incorporation, powers and supervision," approved May 18, 1917, relating to the operation of the business of industrial loan companies.

Stats. 1917, p. 658, amended

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

Stats. 1933, p. 584.

Sec. 4. Every corporation under the provision of this act shall have power: subject to the supervision and control of the Corporation Commissioner of the State of California:

Powers of industrial loan companies

First—To loan money on personal security, or otherwise, and to deduct interest therefor in advance at the rate of six per cent per annum, or less, and, in addition, to receive and shall at the discretion of the Corporation Commissioner of the State of California, issue and require uniform weekly or monthly installments on its certificates of investment, purchased by the borrower simultaneously with the said loan transaction or otherwise, and pledged with the corporation as security for the said loan, with or without an allowance of interest on such installments.

Second—To sell or negotiate choses in action either in certificates, or in certificates in receipt book form, for the payment of money at any time, either fixed or uncertain, and to receive payments therefor in installments or otherwise, with or without an allowance of interest upon such installments. Nothing herein contained shall be construed to authorize corporations hereunder to receive deposits or to issue certificates of deposit. The issuance of choses in action herein authorized shall be approved as to form by the Commissioner of Corporations and shall bear the indorsement on the face of the instrument, "this is not a certificate of deposit."

Third—In addition to the interest rate charged, to charge, and deduct in advance, for the making of any loan pursuant to this section, the sum of two dollars, or less, on every fifty dollars, or fraction thereof loaned, as full compensation for services in making the loan. No charge shall be collected unless a loan shall have been made.

Fourth—To establish offices, or places of business within the county in which its principal place of business is located, but not elsewhere.

Fifth—To purchase, sell or discount choses in action, secured or unsecured, chattel mortgages or conditional sales contracts, which shall have a maturity within two years from the date of said purchase and such purchase, sale or discount shall not be construed to be either a loan or an investment of funds as such terms are used and defined under the provisions of this act.

In addition to powers herein enumerated, every corporation, under the provisions of this act, shall have the general powers conferred upon corporations by Chapter III, Title I, Part IV, Division First, of the Civil Code, except as herein otherwise provided.

Stats. 1933, p. 585.

SEC. 2. Section 10 of the act cited in the title hereof is hereby amended to read as follows:

Subject to Investment Companies Act. Stats. 1913, p. 715.

Sec. 10. Corporations under the provisions of this act shall be subject to the provisions and regulations of "An act to define investment companies, investment brokers and agents; to provide for the regulation, supervision and licensing thereof; to provide penalties for the violation thereof; to create the office of Commissioner of Corporations and making an appropriation therefor," approved May 28, 1913, and any additions or amendments thereto.

Not subject to Personal Property Brokers Act. Stats 1909, p. 969.

Corporations under the provisions of this act shall not be subject to the provisions or regulations of an act entitled "An act to define personal property brokers and to regulate their charges and business," approved April 16, 1909, as amended.

Rules and regulations.

The commissioner shall have the power to establish such rules and regulations as may be reasonable or necessary to carry out the purposes and provisions of this act.

CHAPTER 735.

An act authorizing counties to contract with cities and towns, to assume and carry on certain municipal functions thereof, providing for transfers of employees and assumption of pensions, and authorizing cities to transfer such functions to counties and to enter into contracts in relation thereto

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

County may contract with municipality to perform functions of municipality.

SECTION 1. The board of supervisors of any county shall have the power to contract with any incorporated city, or town, or chartered city within such county, and such incorporated city, or town, or chartered city therein through its board of trustees, council or other legislative body, shall have power to contract with such county, for the performance by said county, through its appropriate officers and employees, of any and all functions relating to or performed by any department of such city, town, or chartered city, for a term

of not more than five years, but with the right to continue such contract in full force and effect for the periods of five years each, unless decided otherwise by vote of the legislative body of either county, city, town or chartered city, at a meeting held by such legislative body not less than one year before the expiration of any such five year period.

Powers of county officers and employees

SEC. 2. Whenever such contract has been duly entered into, the officers and employees of the county named therein, shall thereupon exercise the same powers and duties within such city, or town, or chartered city, as are conferred upon the respective officers or employees of such city, or town, or chartered city, specified in said contract, by State law and by local ordinance within such city and county. In any such contract the city, town, or chartered city, shall have power and authority to provide for the payment by such incorporated city, or town, or chartered city, to the county of such consideration as may be agreed upon with the county, the same to be paid to the county treasurer of the county.

Seniority rights of employees discharged

SEC. 3. In the event that under such contract there takes place a unification of any of the departments of such county with a similar department of such city, town, or chartered city, and a consequent reduction in the number of employees of either of such departments and in any particular line of promotion, shall be necessary, such reduction shall be made only from among those employees most recently employed within such line of promotion without reference to any code number under which such employee is acting at the time of such reduction, and in such manner that the rule of seniority shall be preserved without discrimination between such employees of either such county or such city, town, or chartered city.

Pension rights of transferred employees

SEC. 4. Any such contract shall provide for the assumption of any and all municipal pension rights of said transferred employees by said counties, or by said incorporated city, or town, or chartered city, or by both.

Funds and property held in trust.

Any and all pension money, funds or property of any kind taken over by the board of supervisors of any county under such contract, from any incorporated city, or town, or chartered city, shall be held in trust, together will all earnings, increases, and additions to such funds, separate and apart from any and all other funds, money, or property, and shall be expended solely for the payment of pensions, and administrative expense incident thereto, of the incorporated city, or town, or chartered city from which such pension money or property was obtained. All persons pensioned at the time of the execution of any such contract shall be deemed to have a vested property right in and to such pension fund for the payment of such pension and shall not be deprived thereof without the process of law.

Scope of act.

SEC. 5. The provisions of this act shall not apply to either cities of the first or first and one-half class; nor shall this act be deemed to repeal or affect any other act authorizing agreements or contracts between counties and cities, nor shall it affect any such agreements or contracts.

CHAPTER 736.

An act to amend section 1197 of the Political Code, relating to election ballots.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1679.

SECTION 1. Section 1197 of the Political Code is hereby amended to read as follows:

One form of ballot

1197. 1. There shall be provided at each polling place, at each election at which public officers are voted for, but one form of ballot for all the candidates for public office, and every ballot shall contain the names of all the candidates whose nominations for any office specified on the ballot have been duly made and not withdrawn, as provided by law together with the title of the office arranged to conform as nearly as practicable to the plan hereinafter set forth.

Order of list of offices.

2. The order in which the list of offices shall appear on the ballot shall, as to State offices and district offices, when the district includes more than one county, be determined by the Secretary of State, and shall as nearly as may be practicable be the same for all counties. The order in which the list of county offices or district offices embracing one county or less, shall appear on the ballot, shall be determined by the county clerk.

Determination of order.

The order in which the list of candidates for any office shall appear upon the ballot shall be determined as follows:

Name of incumbent to be placed first

The name of the incumbent shall appear first upon a list of all candidates for any office and if two or more positions are to be filled at the same time and more than one incumbent is running, the name of each of the incumbents shall appear in alphabetical order for that assembly district which is lowest in numerical order of any assembly districts in which such candidates are to be voted on; and thereafter for each succeeding assembly district in which such candidates are to be voted on the name appearing first for such office in the last preceding district shall be placed last, the order of the other names remaining unchanged.

Names of other candidates.

The names of all other candidates for election for any office shall appear subsequent to the names of all incumbents and shall be determined in the following manner:

(a) If the office is an office the candidates for which are to be voted on throughout the entire State, including United States Senator in Congress, the Secretary of State shall arrange the names of all candidates for such office in alphabetical order for the first assembly district; and thereafter for each succeeding assembly district, the name appearing first for each office in the last preceding district shall be placed last, the order of the other names remaining unchanged; provided, however, that the names of candidates for the office of electors for President and Vice President shall be arranged in groups as presented in the several certificates of nomination, and the Secretary of State shall arrange such groups for the first assembly district in the alphabetical order of the names standing at the head of each of such groups as the first name therein and, thereafter, for each succeeding assembly district, the other group appearing first shall be placed last, the order of the groups remaining unchanged; but the order of the names within each of the several groups shall remain the same as presented in the several certificates of nomination and shall remain the same for all assembly districts. A blank column one-half inch wide shall be left upon the ballot opposite each group of names of candidates for electors for President and Vice President, and to the right of the column of voting squares for the individual names and separated from it by a light dotted line, which blank column shall contain a square in which may be stamped a cross (+) which shall be counted as a vote for each and every name in the group opposite. Lengthwise along this blank column shall be printed in heavy face type "a cross (+) stamped in this square shall be counted for each name of the group to the left." The line separating any group of names from any other group shall be heavier than any line separating the individual names in each group, and shall extend across the blank column provided for in this paragraph. Below the top line of this extension shall be printed in small heavy face type the words "top of group," and above the bottom line of the extension, the words "end of group." At the top of each group of electors shall be placed the following: "_____Electors. The Presidential nominee of the _____party is_____and the Vice Presidential
(insert name)
nominee is_____."
(insert name)

Form of ballot.

If the office is that of Representative in Congress, or is an office the candidates for nomination to which are to be voted on in more than one county or city and county, but not throughout the entire State, except the office of State Senator or Assemblyman, the Secretary of State shall arrange the names of all candidates for such office in alphabetical order for that assembly district which is lowest in numerical order of any assembly district in which such candidates are to be voted on; and thereafter for each succeeding assembly district in which such candidates are to be voted on the name appear-

Offices voted for in more than one county

ing first for such office in the last preceding district shall be placed last, the order of the other names remaining unchanged.

Certifying list to county clerk.

In certifying to each county clerk or registrar of voters the list of names as required in section 23 of the Primary Election Law, the Secretary of State shall certify and transmit the list of candidates for each office according to assembly districts, in the order of arrangement as determined by the above provisions; and in the case of each county or city and county containing more than one assembly district, he shall transmit separate lists for each assembly district. Except for the office of State Senator or Assemblyman, the order in which the names so certified shall appear upon the ballot, shall be for each assembly district the order as determined by the Secretary of State in accordance with the above provisions, and as certified and transmitted by him to each county clerk or registrar of voters.

County officers

(b) If the office is an office to be voted on wholly within one county or city and county, except the office of representative in Congress or State Senator or Assemblyman, the county clerk of such county or the registrar of voters of such city and county, shall arrange the names of all candidates for such office in alphabetical order, which order shall be the order of names upon the ballots; provided, there is no more than one assembly district in such county, or city and county. If there is more than one assembly district in such county or city and county, the county clerk or registrar of voters shall so arrange on the ballot the order of names of all candidates for such office that they shall appear in alphabetical order for that assembly district in such county, or city and county, which is lowest in numerical order, and thereafter for each succeeding assembly district in such county, or city and county, the name appearing first for each office in the last preceding assembly district shall be placed last, the order of the other names remaining unchanged.

State Senator or Assemblyman.

(c) If the office is that of State Senator or Assemblyman, the names of all candidates for such office shall be placed upon the ballot in alphabetical order.

Municipal officers.

(d) If the office is a municipal office in any city or town whose charter does not provide for the order in which names shall appear on the ballot, the names of candidates for such office shall be placed upon the ballot in alphabetical order.

Independent candidates.

If the nomination of a candidate for any office shall be made by petition, filed within the time and manner provided by law, but subsequent to the determination of the order in which names of candidates shall appear on the ballot, the name of such candidates with the word "Independent" printed to the right thereof, shall be placed on the ballot next below the names of the other candidates for the same office; provided, however, that in the case of judicial officers and school officers the word "Independent" shall be omitted.

Order of propositions, etc.

3. The order in which all questions and propositions (including proposed laws and constitutional amendments), which

are to be submitted to the vote of the electors, shall appear upon the ballot shall be determined by the Secretary of State. The Attorney General shall provide and return to the Secretary of State a ballot title or designation by which all such questions, propositions, proposed laws and constitutional amendments shall be designated upon the ballot; provided, however, any person who is interested in any question, proposition, proposed law or constitutional amendment, the petition as to which is being circulated for the purpose of having the same submitted under an initiative petition, as provided in section 1 of Article IV of the Constitution, to a vote of the electors, or any proposed constitutional amendment to be submitted to a vote of the electors, may at any time prior to one hundred thirty days before the election at which such question, proposition, proposed law or constitutional amendment is to be submitted to a vote of the electors, file a copy of said question, proposition, proposed law or proposed constitutional amendment with the Secretary of State, together with a request that a ballot title be prepared for the same; such request shall be accompanied with the address of the person or association of persons proposing such measure. The Secretary of State shall forthwith transmit a copy of said question, proposition, proposed law or constitutional amendment to the Attorney General. Within ten days after the same is filed with him, said Attorney General shall provide and return to the Secretary of State a ballot title for said measure. The ballot title may be distinguished from the legislative or other title of the measure and shall express in not exceeding one hundred words, the purpose of the measure. In making such ballot title, the Attorney General shall give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be an argument or likely to create prejudice either for or against the measure. Immediately upon receipt of the ballot title as prepared by the Attorney General, the Secretary of State shall mail to any and all persons who may have requested the preparation of such ballot title, a notice addressed to such person or persons at the address accompanying such request, stating that the Attorney General has made and returned such ballot title, which notice shall also contain a copy of the ballot title as prepared by the Attorney General. Any person who is dissatisfied with the ballot title prepared by the Attorney General for any such question, proposition, proposed law or constitutional amendment may, after the same has been returned to the Secretary of State, as herein before provided, and within ten days after said notice shall have been mailed by the Secretary of State, as above provided, file in writing with the Secretary of State his objections, who shall forthwith file a copy of such question, proposition, proposed law or constitutional amendment, together with the title thereof as so prepared by the Attorney General and the said objections thereto, with the Board of Title Commissioners, which board shall consist of the three justices of

Ballot title

Statement of purposes

Objections.

Board of title commissioners.

the District Court of Appeal of the State of California, in and for the third appellate district, who shall be ex officio title commissioners for the purposes of this act and which board is hereby created; said board shall fix a time at which any person may be heard either for or against the objection so made and shall notify all persons of the time so set and thereupon said Board of Title Commissioners shall proceed to consider the said title prepared by the Attorney General and the objections filed thereto, and shall prepare a title by which such question, proposition, proposed law or constitutional amendment shall be designated upon the ballot. Said title commissioners shall certify the said designation to the Secretary of State within ten days after said written objections have been received by them. The determination by the said board of title commissioners shall be final and conclusive. Such questions, propositions, proposed law and constitutional amendments shall be designated on the ballot by the said ballot title certified to the Secretary of State by the said Attorney General, or in case a different title has been prepared, certified and filed by the said Board of Title Commissioners, then such title shall be the title and designation by which any such question, proposition, proposed law or constitutional amendment shall be designated upon the ballot.

Size of ballot.

4. All ballots shall be not to exceed twenty-four inches in length, and shall be three inches in width, and as many times such width as may be necessary to contain the names of all candidates nominated, with proper blank spaces to allow the voter to write in names not printed on the ballot, and also a separate column or columns of sufficient width for statements of all questions, propositions or constitutional amendments submitted to vote of the electors. Each group of candidates to be voted on shall be headed by the designation of the office and the words "Vote for One" or "Vote for Two" or more, according to the number to be elected to such office; such designation of the office and of the number of candidates to be voted for shall be printed in heavy-faced gothic type, not smaller than ten point. The word or words designating the office shall be printed flush with the left-hand margin and the words "Vote for One" or "Vote for Two" or more, as the case may be, shall extend to the extreme right of the column and over the voting square. The designation of the office and the directions for voting shall be separated from the names of the candidates by a light line. The names of the candidates for such office shall be printed in eight-point roman type (capitals) in proper order below the designation of the office, and in the same line in which the name of the candidate is printed and at the right of the name, or immediately below the name if there shall not be sufficient space to the right thereof, shall be printed in eight-point roman type (lower case) the designation of the political party or parties, which shall not be abbreviated, by or on behalf of which such candidate has been nominated, the first political party so designated being the party with which such candidate was affili-

Headings.

Party designation

ated on the date his nomination papers were filed as ascertained by the Secretary of State from the affidavit of registration of such candidate in the office of the county clerk in the county in which such candidate resides; provided, that when a candidate has been nominated by petition, the word "Independent," shall be printed to the right of his name; and provided also, that as to candidates for judicial offices, and school offices the designation of the political party or parties, or the word "Independent," if there be an independent candidate, shall be omitted. The name of the candidate and the designation of the political party or parties by which he has been nominated shall be printed in a space three-eighths of an inch in depth, and shall be defined by light horizontal ruled lines, with a blank space on the right thereof three-eighths of an inch square, which blank space (called the voting square) shall be made use of by the voter to designate, by stamping a cross (+) therein and after the name of the candidate, his choice of particular candidates.

Provisions mandatory.

All of the provisions of this section relating to the form and size of ballot, including the size of the type thereon, are mandatory. Any officer whose duty it is to supply such ballots who fails to supply ballots in compliance with such provisions shall be guilty of a misdemeanor.

Names of candidates

5. The names of the candidates for an office shall not be separated from each other on the ballot by names of candidates for any other office, and the list of candidates for each office shall be separated from the lists of candidates for other offices by a double rule, above and below such list. Each series of the lists of candidates for the several offices shall be headed by the word "State," "Congressional," "Legislative," "County," or "Municipal" or other proper general classification, as the case may be, printed in heavy-faced gothic capital type, not smaller than twelve point, each such word being separated from the names of the candidates beneath by a three-point line.

Additional designations

Immediately under the name of each candidate and not separated therefrom by any line may appear, at the option of the candidate, one of the following designations:

a. Words designating the city, county, district or State office which the candidate then holds.

b. If the candidate be a candidate for the same office which he then holds, the word "incumbent."

c. The word designating the profession, vocation or occupation of the candidate. The profession, vocation or occupation so designated shall be the same as appears in the affidavit of registration of such candidate; provided, however, the word "incumbent" shall be used only under subsection b herein.

In all cases words so used shall be printed in eight-point roman bold-face capitals and lower-case type.

Borders

6. The left-hand side of each column of names on the ballot, and also the right-hand side of each column of voting squares, shall be bordered by a broad printed line one-twelfth of an inch wide. The ballot shall be so printed as

Form of ballot.

to give each voter a clear opportunity to designate, by stamping a cross (+) in a blank enclosed space hereinbefore designated as the voting square on the right of and after the name of each candidate whose name is printed on the ballot, his choice of particular candidates, or his choice of each and all of a group of candidates as provided in subdivision 2 of this section. The binding or stitching of each package of ballots shall be on the left side thereof. The ballot shall be printed on the same leaf with a stub not over one and one-half inches in width and separated therefrom by a perforated line from top to bottom, one-half inch to the left of the broad printed line along the left border of the ballot. Upon this stub shall be printed the number of the ballot only. On each ballot a perforated line shall extend across the top of the ballot one inch from the top thereof. The same number as appears on the stub shall be printed above said perforated line within two inches of the perforated line on the left-hand side of the ballot, and above this number shall be printed in parenthesis, in small type, as follows: (This number is to be torn off by inspector); and one-half inch to the right of this ballot number there shall be a short perforated line extended from the perforated line along the top of the ballot to the top edge of the ballot. Immediately above said perforated line shall be printed in black-face lower case type at least twelve point in size, and enclosed in a parenthesis, the following, ("Fold ballot to this perforated line, leaving top margin exposed)." Above this printed direction, and midway between it and the top edge of the ballot, shall be printed in black-face capital type at least twelve point in size, and, with the four middle words underlined or otherwise made prominent, the following: "MARK CROSSES (+) ON BALLOT ONLY WITH RUBBER STAMP; NEVER WITH PEN OR PENCIL." The number on each ballot shall be the same as that on the corresponding stub, and the ballots and stubs shall be numbered consecutively in each county. All ballots printed by county clerks or registrars of voters other than the separate ballots containing the names only of candidates for city and county offices, printed by the county clerks or registrars of voters of consolidated cities and counties, shall have printed immediately below the perforated line along the top of the ballot, and above the instructions to voters, the words in capital type at least twelve point in size the words "GENERAL TICKET," followed by the respective number of the congressional, senatorial, and assembly district in which the ballot is to be voted; and all ballots printed by county clerks or registrars of voters of consolidated cities and counties containing the names of city and county offices, and also all ballots printed by the clerk, registrar of voters, or secretary of a legislative body of any incorporated city or town, shall have printed in the same manner below the perforated line the words "MUNICIPAL TICKET." All municipal ballots shall be printed upon paper of a different tint from that of the general ballot.

7. All of the ballots of the same sort prepared by any county clerk or registrar of voters, or clerk or secretary of a legislative body, or other person having charge of the preparing of such ballots, for the same polling place, shall be precisely the same size, arrangement, quality and tint of paper, and kind of type, and shall be printed with black ink of the same tint, so that without the numbers on the stubs it shall be impossible to distinguish any one of the ballots from the other ballots of the same sort; and the names of all candidates printed upon the ballot shall be in type of the same size and character. Ballots of same size, color, etc.

8. If two or more officers are to be elected for the same office for different terms, the terms for which each candidate for such office is nominated shall be printed on the ballot as a part of the title of the office. If at a general election an office is to be filled for a full term, and also for a vacancy in another term the list of candidates for the full term shall be placed on the ballot under the designation of the office with the words "Full Term" printed immediately thereafter, and the list of candidates to fill the vacancy shall be placed on the ballot under the designation of the office with the words "Short Term" printed immediately thereafter. Term of office, when printed.

9. Whenever any question, proposition or constitutional amendment is to be submitted to the vote of the electors, there shall be printed at the right of the last column of names of candidates, another column, or columns of sufficient width, with voting squares, in which such question, proposition or constitutional amendment shall be designated, which designation shall consist of a statement prepared as herein provided for, and opposite such question, proposition or constitutional amendment to be voted on, in separate lines, the words "Yes" and "No" shall be printed. If an elector shall stamp a cross (+) in the voting square after the printed word "Yes," his vote shall be counted in favor of the adoption of the question, proposition or constitutional amendment; if he shall stamp a cross (+) after the printed word "No," his vote shall be counted against the adoption of the same. Propositions column.

10. On the top of the face of the ballot the following directions shall be printed: Instructions to voters

INSTRUCTIONS TO VOTERS.

To vote for a candidate of your selection, stamp a cross (+) in the voting square next to the right of the name of such candidate. Where two or more candidates for the same office are to be elected, stamp a cross (+) after the names of all the candidates for that office for whom you desire to vote, not to exceed, however, the number of candidates who are to be elected. To vote for a person not on the ballot, write the name of such person under the title of the office in the blank space left for that purpose.

To vote on any question, proposition or constitutional amendment, stamp a cross (+) in the voting square after the word

"Yes" or after the word "No." All marks, except the cross (+) are forbidden. All distinguishing marks or erasures are forbidden and make the ballot void.

In elections when electors of President and Vice President of the United States are to be chosen, there shall be placed upon the ballot in addition to the instructions to voters as above provided, an additional instruction as follows: "To vote for all or a group of persons, stamp a cross (+) in the square opposite such group," this instruction appearing immediately before the words: "To vote for a person not on the ballot."

If you wrongly stamp, tear or deface this ballot, return it to the inspector of election and obtain another.

Form of ballots

10. Except as to the order of the names of candidates, the ballots shall be printed substantially in the following form:

2247

MARK CROSSES (+) ON BALLOT ONLY WITH RUBBER STAMP NEVER WITH PEN OR PENCIL

(Fold Ballot to this Perforated Line, leaving Top Margin exposed)

GENERAL TICKET—7TH CONGRESSIONAL, 38TH SENATORIAL, 72ND ASSEMBLY DISTRICT

INSTRUCTIONS TO VOTERS:

To vote for a candidate of your selection stamp a cross (+) in the voting square next to the right of the name of such candidate. Where two or more candidates for the same office are to be elected, stamp a cross (+) after the name of all the candidates for that office for whom you desire to vote not to exceed, however, the number of candidates who are to be elected. To vote for all of a group of persons stamp a cross (+) in the square opposite such group. To vote for a person not on the ballot write the name of such person under the title of the office in the blank space left for that purpose. To vote on any question, proposition or constitutional amendment stamp a cross (+) in the voting square for or against Yes or after the word No. All marks except the cross (+) are forbidden. All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly stamp or deface the ballot, return it to the Inspector of Election and obtain another.

STATE

FOR ELECTORS OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES — Vote for Thirteen

DEMOCRATIC ELECTORS — The Presidential nominee of the Democratic party is Woodrow Wilson and the Vice Presidential nominee is Thomas Marshall

JOHN SMITH, Democrat
CHARLES BROWN, Democrat, Attorney
JOSEPH CANNON, Democrat
J. P. HENRY, Democrat
GEORGE A. HALL, Democrat, Insurance Agent
JOHN FORT, Democrat
FRANK GOOD, Democrat
ROBERT HANSON, Democrat
FRANK HAMLON, Democrat, Clerk
FRED MARTIN, Democrat
CHARLES S. HAMILTON, Democrat, County Supervisor
WALT R. PERRY, Democrat, Broadhead
JOHN GRAHAM, Democrat

SOCIALIST ELECTORS — The Presidential nominee of the Socialist party is George P. Golden and the Vice Presidential nominee is Thomas Gibson

GEORGE P. GOLDEN, Socialist
THOMAS GIBSON, Socialist
HENRY GARDNER, Socialist
CHARLES H. TRENCH, Socialist
DAVID FOWLER, Socialist
LOUIS FREEMAN, Socialist
JACOB DUNBAR, Socialist, Attorney
HENRY DOYLE, Socialist
HERMAN DAVIS, Socialist, Oakland City Attorney
FRED CLARK, Socialist
ROBERT BURNETT, Socialist
JOHN BUSHNELL, Socialist, Lumberman
CHARLES MARTIN, Socialist

PROHIBITION ELECTORS — The Presidential nominee of the Prohibition party is Andrew Lewis and the Vice Presidential nominee is James Connors

ANDREW LEWIS, Prohibition
JAMES CONNORS, Prohibition
HENRY HOFFMAN, Prohibition
FRANK CHURCH, Prohibition, Accountant
GEORGE WATSON, Prohibition
EDWARD FRASE, Prohibition
ROBERT LLOYD, Prohibition
LORENZO NANCY, Prohibition
PHILIP ROBERTSON, Prohibition, Grocer
GEORGE CARPENTER, Prohibition
HENRY SIMMES, Prohibition, Teacher
DANIEL SNOW, Prohibition
WALTER SCOTT, Prohibition

FOR ELECTORS OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES — Vote for Thirteen

REPUBLICAN ELECTORS — The Presidential nominee of the Republican party is Edward King and the Vice Presidential nominee is Fred Tyler

EDWARD KING, Republican
FRED TYLER, Republican
WILLIAM BROOKS, Republican
JOHN COSHAN, Republican, Physician
FRANK MCCLURE, Republican
HARRY WRIGHT, Republican
CHARLES YOUNG, Republican, Banker
DAVID BALL, Republican
EUGENE CAHILL, Republican
ANDREW GREEN, Republican
EDWARD WHITE, Republican, Fisherman
JAMES GIBSON, Republican
GEORGE MERRILL, Republican, Merchant

CONGRESSIONAL

UNITED STATES SENATOR — Vote for One

CHAS. BANCROFT, Progressive, Insurance
H. L. SCOTT, Democrat, Attorney
FRANK WILLARD EMERSON, Prohibition, Governor of California

REPRESENTATIVE IN CONGRESS, SEVENTH DISTRICT — Vote for One

A. J. WALLACE, Progressive, Physician
F. A. DENICKE, Democrat, Insurance

QUESTIONS AND PROPOSITIONS SUBMITTED TO VOTE OF ELECTORS

Shall Chapter [illegible] and Amendments thereof relating to the public school system and property of public schools	Yes	
	No	
For the State Highway Act	Yes	
	No	

LEGISLATIVE

STATE SENATOR, THIRTY-EIGHTH SENATORIAL DISTRICT — Vote for One

H. T. HARRIS, Republican, Progressive, Real Estate
SAMUEL MURPHY, Democrat, Independent
STEPHEN H. TAFT, Prohibition, Attorney

MEMBER OF THE ASSEMBLY, SEVENTY-SECOND DISTRICT — Vote for One

R. G. PERNALD, Republican, Progressive & Democrat, Oakland City Councilman
FREDERICK HEAD, Prohibition, Journalist

JUDICIAL

JUDGE OF THE SUPERIOR COURT — Vote for One

THAMES S. WHEELER, Independent
FRANK E. PATTOCK, Attorney

COUNTY

SUPERVISOR, FOURTH DISTRICT — Vote for One

ALBERT E. SMITH, Independent

3347

3347

MARK CROSSES (+) ON BALLOT ONLY WITH RUBBER STAMP. NEVER WITH PEN OR PENCIL

(Fold Ballot to the Perforated Line, leaving Big Margin [illegible])

GENERAL TICKET—7TH CONGRESSIONAL, 38TH SENATORIAL, 72ND ASSEMBLY DISTRICT

INSTRUCTIONS TO VOTERS:

To vote for a candidate of [illegible] stamp a cross (+) in the voting square next to the right of the name of such candidate. Where two or more candidates for the same office are to be elected, stamp a cross (+) after the names of all the candidates for that office for whom you desire to vote, not to exceed, how[illegible] the number of candidates [illegible] to be elected. To vote for a person not on the ballot, write the name of such person under the title of the office in the blank [illegible] for that purpose. [illegible] on any question proposition or constitutional amendment, stamp a cross (+) in the voting square after the word "Yes" [illegible] the word "No". All [illegible] the cross (+) are forbidden. All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly [illegible] or deface the ballot, return it to the Inspector of [illegible] and obtain another.

STATE

Governor — Vote for One

JOHN C. KELLY, Republican, Incumbent

THOMAS G. ADAMS, Democrat, State Lieutenant Governor

FRANK K. BROWN, Prohibition

Lieutenant Governor — Vote for One

L. G. STEVENS, Republican, Prohibition, State Senator

H. DEAN, Democrat, Socialist, Legislative Counsel

N. DUFFY, People's Party

Chief Justice of the Supreme Court — Vote for One

JOHN LAW, Incumbent

HENRY McBRIDE, Superior Judge

Associate Justices of the Supreme Court — Vote for Two

ARTHUR COREY, Incumbent

JOHN WHITE, Incumbent

Secretary of State — Vote for One

CLINTON STOLZ, Democrat, Republican, Attorney

ARCH DENNY, Socialist, Incumbent

CLAUDE PIERSON, Labor Party

Controller — Vote for One

HENRY SIMPSON, Democrat

TOMES JONES, Socialist, Republican

JOHN MADISON, People's Party, Incumbent

Treasurer — Vote for One

EDGAR ALLEN, Prohibition, Banker

FREDERICK LUKENS, Republican, Democrat, Incumbent

Attorney General — Vote for One

J. T. VILLIA[illegible], Republican, Prohibition, Superior Judge

JOHN MASTERS, Socialist, Incumbent

Surveyor General — Vote for One

H[illegible]RY SULLIVAN, Democrat, Incumbent

JOHN BENSON, Republican

WILLIAM FULLER, Prohibition

Superintendent of Public Instruction — Vote for One

C. C. THOMPSON, Incumbent

I. W. MASON

A. L. SMITH

Regular State Board of Equalization, Fourth District — Vote for One

FRANK MATTHEWS, Republican

JAMES HANDLEY, Democrat

FRANK MARK, Socialist, Prohibition

CONGRESSIONAL

United States Senator — Vote for One

JOHN McCULLOUGH, Republican, Prohibition, Incumbent

T. H. BERKHART, Democrat, U. S. Representative

A. L. CURTIS, Socialist

Representative in Congress, Seventh Congressional District — Vote for One

ALLAN WHITE, Republican, Incumbent

[illegible] MURRAY, Democrat

EDGAR SHANNON, Prohibition

LEGISLATIVE

State Senator, [illegible] — Vote for One

L. G. CHAPIN, Democrat, Prohibition, Incumbent

C. S. COLBY, Republican

T. K. JONES, Republican, Physician

Member of the Assembly, Seventeenth District — Vote for One

T. J. KERR, Republican, Prohibition, Incumbent

A. K. SPAULDING, Democrat, Laborer

COUNTY

Judges of the Superior Court — Vote for Two

LUCIEN EARLE, Incumbent

SILAS MACKEY, Incumbent

Sheriff — Vote for One

M. C. CONNELLY, Incumbent

L. MIND, Democrat

[illegible] Constitutional Amendment Number [illegible] Relating to the public [illegible] and support of public schools	Yes	
	No	
"For the State Highway Act"	Yes	
	No	

CHAPTER 737.

An act to amend an act entitled "An act to provide for the organization, incorporation and government of municipal corporations," approved March 18, 1883, as amended, by amending section 862 of, and to add sections 862.1 to 862.27 inclusive, to the act, relating to the powers of sixth class cities.

Stats 1883, p. 93, amended

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 862 of the act designated in the title hereof, as amended, is hereby amended to read as follows:

Stats 1933, p 2120

862. The council of said city shall have power:

Council, powers

SEC. 2. Section 862.1 is hereby added to said act, to read as follows:

New section

862.1 To pass ordinances not in conflict with the Constitution and laws of this State or of the United States.

Ordinances

SEC. 3. Section 862.2 is hereby added to said act, to read as follows:

New section

862.2. To purchase, lease, or receive such real estate situated inside or outside of the city limits and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city; provided, it shall not have power to sell or convey any portion of any water front.

Acquire property

SEC. 4. Section 862.3 is hereby added to said act, to read as follows:

New section

862.3. To contract for supplying the city with water for municipal purposes, or to acquire, construct, repair, and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for the use of such city or the inhabitants, or for irrigating purposes therein.

Water supply

SEC. 5. Section 862.4 is hereby added to said act to read as follows:

New section

862.4. To use any portion of the revenues derived from any waterworks system acquired or constructed from funds obtained by the issuance of bonds under the Municipal Improvement District Act of 1915, approved April 20, 1915, or the Municipal Improvement District Act of 1927, or by the issuance of general obligation bonds of such city or town, for the payment of principal and interest of the bonds issued to provide such funds.

Use of funds from waterworks

Stats 1915, p 99.
Stats 1927, p. 1351.

SEC. 6. Section 862.5 is hereby added to said act to read as follows:

New section.

862.5. To establish, build, and repair bridges; to acquire by purchase or otherwise lands for squares, parks, playgrounds and places within the city and to improve, equip and maintain the same; to establish, lay out, alter, keep open, improve, and repair streets, sidewalks, alleys, tunnels, and other public highways, and to drain, sprinkle, oil, and light the same; to

Streets, parks, bridges, etc

remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks therein, or on any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally to manage and control all such highways, tunnels, and places; and in the exercise of the powers herein granted to expend, in its discretion, the ordinary annual income and revenue of the municipality in payments of the costs and expenses of the whole or any part of such work or improvement.

New section. SEC. 7. Section 862.6 is hereby added to said act to read as follows:

Streets. 862.6. To acquire property required for the opening and laying out of any street, alley, lane or tunnel from the point where the continuity of such street, alley, lane or tunnel ceases, to the point where such street, alley, lane or tunnel again commences; to lay out and improve said street, alley, lane or tunnel; and to pay the cost and expense incurred in the acquisition of the required property out of the general fund of the city.

New section SEC. 8. Section 862.7 is hereby added to said act, to read as follows:

Sewers. 862.7. To construct, establish, and maintain drains and sewers.

New section SEC. 9. Section 862.8 is hereby added to said act to read as follows:

Fire protection. 862.8. To provide fire engines and all other necessary and proper apparatus for the prevention and extinguishment of fires.

New section. SEC. 10. Section 862.9 is hereby added to said act to read as follows:

Poll tax. 862.9. To impose on and collect from every male inhabitant between the ages of twenty-one and sixty years, an annual street poll tax, not exceeding two dollars; and no other road poll tax shall be collected within the limits of the city.

New section SEC. 11. Section 862.10 is hereby added to said act to read as follows:

Dog tax 862.10. To impose and collect an annual license not exceeding two dollars on every male dog, and four dollars on every female dog owned or harbored within the limits of the city.

New section. SEC. 12. Section 862.11 is hereby added to said act to read as follows:

Property tax. 862.11. To levy and collect annually a property tax, which shall not, without the assent of two-thirds of the qualified electors of such city voting at an election to be held for that purpose exceed one dollar on each one hundred dollars; provided, however, that in cities which have constructed or may hereafter construct embankments, sea walls, or other works to protect such cities from overflow, said city council may levy and collect annually a property tax which shall not

exceed twenty cents on each one hundred dollars, which, when collected, shall be kept in a separate fund and used for the construction and maintenance of embankments, sea walls, or other works to protect such city from overflow and for no other purpose.

SEC. 13. Section 862.12 is hereby added to said act to read as follows: New section

862.12. To license, for the purpose of revenue and regulation, all and every kind of business authorized by law and transacted and carried on in such city, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise. Licenses

SEC. 14. Section 862.13 is hereby added to said act to read as follows: New section

862.13. To improve the rivers and streams flowing through such city or adjoining the same; to widen, straighten, and deepen the channels thereof, and to remove obstructions therefrom; to acquire and improve public mooring places for water craft; to improve the water front of the city; including the ocean front thereof, and to build and construct breakwaters, jetties and sea wall; to construct and maintain embankments and other works, to protect such city from overflow; and to acquire, own, construct, maintain, and operate on any lands bordering on any navigable bay, lake, inlet, river, creek, slough, or arm of the sea within the corporate limits of such city or contiguous thereto, wharves, chutes, piers, breakwaters, bathhouses and life-saving stations. Rivers, harbors, etc.

SEC. 15. Section 862.14 is hereby added to said act to read as follows: New section

862.14. To erect and maintain buildings for municipal purposes, and to acquire and maintain cemeteries, situated outside or inside of said city. Public buildings and cemeteries

SEC. 16. Section 862.15 is hereby added to said act to read as follows: New section

862.15. To acquire, own, construct, maintain and operate bus lines, street railways, steam railway spur tracks, telephone and telegraph lines, gas and other works for light, power and heat; public libraries, museums, gymnasiums, parks, and baths, and to grant franchises for the construction of public utilities as it may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, or other power thereon, and the laying of gas and water pipes in the public streets, and to permit the construction and maintenance of telegraph and telephone lines therein. Public utilities

SEC. 17. Section 862.16 is hereby added to said act to read as follows: New section.

862.16. To impose fines, penalties, and the forfeitures for any and all violations of ordinances; and for any breach or violation of any ordinance; to fix the penalty by fine or imprisonment or both; but no such fine shall exceed three hundred dollars, nor the term of imprisonment exceed three months. Fines

New section. SEC. 18. Section 862.17 is hereby added to said act to read as follows:

Prisoners 862.17. To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other public property, or works within the city.

New section. SEC. 19. Section 862.18 is hereby added to said act to read as follows:

Fire limits. 862.18. To establish and maintain fire limits, and regulate building and construction and removal of buildings within the municipality.

New section. SEC. 20. Section 862.19 is hereby added to said act to read as follows:

Building regulation. 862.19. To regulate the construction of and the materials used in all buildings, chimneys, stacks and other structures; to regulate the erection, construction, reconstruction, conversion, repair or alteration of any building or buildings, as provided in section 84 of the State Housing Act; to prevent the erection and maintenance of insecure or unsafe building walls, chimneys, stacks, or other structures, and to provide for their summary abatement, destruction or removal; to provide for the abatement, destruction or removal of unsightly or partially destroyed buildings; to regulate the materials used in and the method of construction of foundations and foundation walls, the manner of construction and location of drains and sewers, the materials used in wiring buildings or other structures for the use of electricity for lighting, power, heat or other purposes and materials used for piping buildings or other structures for the purpose of supplying the same with water, gas or electricity, and the manner of so doing; to prohibit the construction of buildings and structures which do not conform to such regulations.

New section. SEC. 21. Section 862.20 is hereby added to said act to read as follows:

Signs, advertising, etc. 862.20. To regulate the exhibition, posting or carrying of banners, placards, posters, cards, pictures, signs or advertisements in or on the street, or on or upon buildings, fences, billboards or other structures; or on or upon any pole in any sidewalk, alley, street, lane, court, park or other public place; to regulate the suspension of banners, flags, signs, advertisements, posters, pictures, or cards across, or over any sidewalk, alley, street, lane, court, park, or other public place, or such suspension from fences, poles, houses, or other structures; to prohibit and prevent encroachments upon or obstruction in or to any sidewalks, street, alley, lane, court, park or other public place, and to provide for the removal of such encroachment or obstruction.

New section. SEC. 22. Section 862.21 is hereby added to said act to read as follows:

Debris, weeds, etc. 862.21. To compel the owner, lessee, or occupant of buildings, grounds, or lots to remove dirt, rubbish, weeds and rank growths from the sidewalk opposite thereto, and from the buildings or grounds, and on his default, after such notice as

the city council may prescribe, to authorize the removal or destruction thereof by some officer of the city at the expense of such owner, lessee or occupant, and by such procedure as the city council may prescribe, to make such expense a lien upon such buildings or grounds.

SEC. 23. Section 862.22 is hereby added to said act to read as follows: New section.

862.22. To issue subpenas for the attendance of witnesses, or the production of books or other documents, for the purpose of producing evidence or testimony in any action or proceeding pending before the city council, which subpenas must be signed by the mayor, and attested by the city clerk and may be served in the same manner as subpenas are served in civil actions. Whenever any person duly subpenaed to appear and give evidence, or to produce any books or any documents as herein provided, shall neglect or refuse to appear, or to produce such books or documents, as required by such subpena, or shall refuse to testify before such city council, or to answer any questions which a majority thereof shall decide to be proper and pertinent, it shall be the duty of the mayor to report the fact to the judge of the superior court of the county, who shall thereupon issue an attachment in the form usual in the court of which he shall be judge, directed to the sheriff of the county where such witness was required to appear and testify, commanding the said sheriff to attach such person, and forthwith bring him before the judge by whose order such attachment was issued. On the return of the attachment and the production of the body of the defendant, the said judge shall have jurisdiction of the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted as in the case of a witness subpenaed to appear and give evidence on the trial of a civil cause before a superior court. Witnesses

SEC. 24. Section 862.23 is hereby added to said act to read as follows: New section.

862.23. To expend such sum as the city council shall deem proper, not to exceed five per cent of the moneys accruing to the general fund in any fiscal year, for music and promotion. Music and promotion.

SEC. 25. Section 862.24 is hereby added to said act to read as follows: New section.

862.24. To accept such contributions of money, each contribution to be at least fifty dollars ($50), as may be tendered it, to be held in trust, the income from which to be used for the perpetual care and upkeep of a designated plot or plots in the local city and/or community cemetery; said contributions to be placed in the city treasury in a fund designated as the "cemetery fund." The city council shall appoint the city clerk or any competent resident of the city to administer said fund, the person so appointed to execute an official bond in the amount of a sum prescribed by said city council, and to Cemetery trust funds.

receive annually one dollar for each plot cared for, said expenditure to be made only from the income of said fund. Any moneys remaining in said fund after the expenditures for care and upkeep of the designated plot or plots and the payment to the person administering said fund shall be used in the care and upkeep of the roads, walks or other portions of the cemetery.

If the city should at any time disincorporate, the trust fund shall be turned over to the board of supervisors of the county within which the cemetery is located, in which event said board of supervisors shall act as trustees until such time as they may appoint some suitable organization to take charge of the fund.

New section

SEC. 26. Section 862.25 is hereby added to said act to read as follows:

Destitute or needy unemployed.

862.25. To apply any available funds to provide employment for the destitute or needy unemployed residents of the city.

New section.

SEC. 27. Section 862.26 is hereby added to said act to read as follows:

Pensions.

862.26. To provide for a pension fund for city employees. The city council may by a four-fifths vote of all of its members set aside from the general fund or any surplus funds or from any moneys received from the sale of bonds for that purpose a pension sinking fund and may annually thereafter appropriate for said purpose an amount which shall not exceed five per cent of the amount of the annual payroll of said city.

Other powers.

862.27. To do and perform any and all other acts and things necessary or proper to carry out the provisions of this act.

CHAPTER 738.

An act to validate the organization and bonds of municipal improvement districts formed under the Municipal Improvement District Act of 1927 and providing for the levy of special assessment taxes to pay said bonds.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Validation of formation of municipal improvement districts.

Stats 1927, p 1351.

SECTION 1. Whenever proceedings have been taken in any municipality in this State for the formation of a portion of such municipality into a municipal improvement district under the provisions of the Municipal Improvement District Act of 1927, approved May 24, 1927, as approved or, as amended, and bonds of such district have been voted, all acts and proceedings of such municipality and of all of the officers thereof leading up to and including the formation of such district are hereby legalized, ratified and confirmed and declared valid for all intents and purposes, and any such dis-

trict is hereby declared to be a legally formed municipal improvement district.

Bonds validated.

SEC. 2. In all cases where proceedings have been taken for the issuance of bonds of any municipal improvement district under said act and such bonds have been authorized by not less than two-thirds of all the voters voting at the election at which the question of the issuance of such bonds was submitted, the power to issue such bonds and all the acts and proceedings of such municipality and of the officers thereof leading up to and including the issuance and sale of such bonds if such bonds have heretofore been issued and sold, and all acts and proceedings heretofore taken by the municipality or any officials thereof if such bonds have not been issued and sold are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and bonds heretofore issued and sold are declared to be and shall be, in the actual form in which such bonds have been issued, the legal and binding obligations of and against such district, and bonds heretofore voted which may hereafter be issued and sold are declared to be and shall be the legal and binding obligations of and against such district, and the full faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of all of said bonds.

Tax by municipality

SEC. 3. The legislative body of such municipality shall at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect annually each year until said bonds are paid a tax upon the taxable land in such district sufficient to pay the interest on such bonds for that year and such portion of the principal thereof as is to become due before the time for making the next general tax levy; provided, however, that if the maturity of the indebtedness created by the issue of such bonds be made to begin more than one year after the date of such issue, such tax shall be levied and collected at the time and in the manner aforesaid each year sufficient to pay the interest on such indebtedness as it falls due and also to constitute a sinking fund for the payment of the principal thereof on or before maturity. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes and shall be collected at the same time and in the same manner as other municipal taxes are collected and be used for no other purpose than for the payment of said bonds and the accruing interest thereon.

Effect of act.

SEC. 4. This act shall not operate to legalize any bonds which have been sold for less than par nor to legalize any bonds the issuance of which has not received the assent of two-thirds of the qualified electors of such municipal improvement district voting at an election held for the purpose of determining whether such indebtedness should be incurred nor to legalize any bonds which mature at a date more than forty years from the time of their issuance.

CHAPTER 739.

Stats 1911, p 730. amended

An act to amend sections 23 and 66 of an act entitled "An act to provide for work in and upon public streets, avenues, lanes, alleys, courts, places, sidewalks, highways, roads, and other public property and rights of way, in whole or in part, including property over which possession and right of use has been obtained under the provisions of section fourteen of Article one of the Constitution within municipalities, or within unincorporated territory and one or more municipalities, or lying within two or more municipalities, and for establishing and changing the grades of any such public streets, avenues, lanes, alleys, courts, places, sidewalks, highways, roads, properties or rights of way: and providing for the issuance and payment of street improvement bonds to represent certain assessments for the cost thereof, and providing a method for the payment of such bonds," approved April 7, 1911, as amended, relating to priority of liens and bonds.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1927, p 1407.

SECTION 1. Section 23 of the act designated in the title hereof is hereby amended to read as follows:

Recording and delivery of warrants, etc.

Sec. 23. Said warrant, diagram and assessment, shall be recorded in the office of said superintendent of streets. When so recorded the several amounts assessed shall be a lien upon the lands, lots, or portion of lots assessed, respectively, and such lien shall so continue until it and any bond or bonds issued to represent the assessment be discharged of record. Such lien, whether a bond or bonds issue to represent the assessment or otherwise, shall be subordinate to all special assessment liens previously imposed upon the same property, but it shall have priority over all special assessment liens which may thereafter be created against the said property; and from and after the date of said recording of any warrant, assessment and diagram, all persons shall be deemed to have notice of the contents thereof. After said warrant, assessment and diagram are recorded, the same shall be delivered to the contractor, or his agent, or assigns, on demand, but not until after the payment to the said superintendent of streets of the incidental expenses not previously paid by the contractor, or his assigns; and by virtue of said warrant said contractor, or his agents or assigns, shall be authorized to receive the amount of the several assessments made to cover the sum due for the work specified in such contract and assessments.

Stats 1933, p. 2390.

SEC. 2. Section 66 of said act is hereby amended to read as follows:

To whom payable.

Sec. 66. The bonds so issued by said treasurer shall be payable to the party to whom they issue, or order, and shall be serial bonds, as is hereinbefore described, and shall bear

interest at the rate specified in the resolution of intention to do said work. They shall have annual coupons attached thereto, payable in annual order, on the second day of January of every year after the next October fifteenth following the date of the bond, until all are paid, and each coupon shall be for an even annual proportion of the principal of the bond. They shall have semiannual interest coupons thereto attached, as set forth in section 60 hereof. The city treasurer shall, in addition to his other duties in the premises, keep a record of all bonds issued by him, of all payments on said bonds with the dates thereof and of all penalties accruing thereon; and he shall report all payments of coupons or penalties upon said bonds, with the dates thereof, to the street superintendent, who shall forthwith indorse the same upon the margin of the record of the assessment to the credit of which the same are paid, and said assessment shall be a lien upon the property affected thereby, with priority as fixed in section 23 of this act, until the bond issued to represent the assessment and which it is hereby declared does represent the assessment, and the accrued interest thereon and the penalties, if any, shall be fully paid according to the terms thereof. Said bonds, by their issuance, shall be conclusive evidence of the regularity of all proceedings thereto under this act.

Coupons.

Record of bonds.

CHAPTER 740.

An act to amend the title and sections 1, 2, 3, 4, 5, 6, 7, 9, 10, 15, 16, 17, 20, 22 and 24½ and to repeal section 3½ of an act entitled "An act to allow unincorporated towns and villages to equip and maintain a fire department and to assess and collect taxes, from time to time, for such purpose, and to create a board of fire commissioners," approved March 4, 1881, as amended, relating to fire departments in unincorporated towns and villages.

Stats. 1881, p. 26, amended

[Approved by the Governor July 20, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The title to an act entitled "An act to allow unincorporated towns and villages to equip and maintain a fire department and to assess and collect taxes, from time to time, for such purpose, and to create a board of fire commissioners," approved March 4, 1881, is hereby amended to read as follows:

Title amended.

An act to allow and provide for the organization, incorporation and maintenance of fire districts to be governed by board of fire commissioners; to provide for the equipment and maintenance of fire departments and the acquisition of all property necessary therefor.

Stats 1909, p. 1028.

Fire departments in unincorporated towns.

SEC. 2. Section 1 of the act, the title of which is recited in the preceding section, is hereby amended to read as follows:

Section 1. Any unincorporated town, village or area of this State may be organized as a fire district and may equip and maintain a fire department for the purpose of protecting property from destruction by fire.

Stats 1909, p. 1028

Appointment of commissioners.

SEC. 3. Section 2 of the act, the title of which is recited in section 1 hereof, is hereby amended to read as follows:

Sec. 2. Upon the application by petition of fifty or more taxpayers and residents of any town or village or unincorporated area to the board of supervisors of the county in which the same is situated, the said board of supervisors shall fix the same for hearing and give notice thereof by two publications in a newspaper published in said county, if such there be, and if there be no such newspaper so published, then by posting such notice in three public places in said county, the first of which publications or the posting of such notice to be not less than ten days before the time fixed for such hearing. Any interested person may appear at such hearing and show cause why the application should not be granted. After due hearing the board of supervisors may in its discretion grant the application and if it does so grant the application, shall determine the boundaries of the district and thereupon appoint three commissioners, to be known as and called the board of fire commissioners of the _____ fire district (naming district), who shall hold their office until the second Monday in April next thereafter, and until their successors are elected and qualified.

Stats 1931, p 2231.

Powers and duties of board of fire commissioners.

SEC. 4. Section 3 of the act, the title of which is recited in section 1 hereof, is hereby amended to read as follows:

Sec. 3. The board of fire commissioners so appointed by said board of supervisors, and their successors, shall be authorized and empowered, and it shall be their duty:

(1) To have perpetual succession;

(2) To make all necessary or convenient contracts with water companies or others engaged in the supply and distribution of water, for a supply of water, and any and all necessary or convenient contracts for attaching hydrants or fire plugs to the pipes, or conduits, or cisterns of such water companies or others so furnishing water; to purchase all necessary and convenient engines, hose, hose carts or carriages, and other appliances and supplies for the full equipment of a fire company or department;

(3) To call an election and submit to the electors residing within said district, the question whether a tax shall be levied and raised for the purpose of establishing and equipping a fire department for the said district and for protecting the said district from loss by fire;

(4) To estimate and determine the annual amount of money required for the maintenance of the fire department and report the same to the board of supervisors of the county in which

said district is situated, not later than the first day of August of each year;

(5) To call elections and appoint judges and clerks to conduct the same, and to canvass the votes cast thereat and to issue certificates of election thereon;

(6) To borrow money and incur indebtedness in anticipation of the revenue for the current year in which such indebtedness is incurred or of the ensuing year thereafter, such indebtedness not to exceed the total amount of the estimated tax income for either such current year or such ensuing year;

(7) To adopt a seal;

(8) To take by grant, purchase, gift, devise or lease, and to hold, use, enjoy and to lease or dispose of real and personal property of every kind, necessary for the exercise of the powers of the district; and to construct or otherwise acquire suitable firehouses and other buildings or structures suitable for housing the equipment, apparatus and supplies of the district, or for carrying on its business and affairs, such property to be taken and held in the name of ------ fire district (naming said district);

(9) To do and perform such other acts and things as may be proper and necessary to carry out the full intent and meaning of this act; provided, however, that nothing in this act shall be interpreted as empowering the board of fire commissioners to delegate any of its authority to sub-fire commissioners or other agents.

SEC. 5. Section 4 of the act, the title of which is recited in section 1 hereof, is hereby amended to read as follows: Stats. 1909, p. 1029.

Sec. 4. Elections within said district may be called by the board of fire commissioners by posting notices thereof in three of the most public places in the district for not less than ten days before the date fixed for the election, and also, if there be a newspaper printed and published in the district, by publishing such notice therein in at least two issues of the paper. Elections so called may be either general or special. Such notice must specify the time and place for holding the election and set forth in general terms the purposes of the election. Calling of tax elections

SEC. 6. Section 5 of the act, the title of which is set forth in section 1 hereof, is hereby amended to read as follows: Stats 1929, p 1922.

Sec. 5. A special tax may be levied upon the property within the district, provided same is first authorized by a majority vote of the voters voting on such proposition at the annual election or at a special election to be called by the board of fire commissioners for that purpose. Such tax shall be in addition to the annual maintenance tax authorized by this act. Such tax may be voted for the purpose of acquiring land or erecting buildings or purchasing apparatus and equipment or buildings or for paying indebtedness of the district previously incurred. The board of fire commissioners may sell, or otherwise dispose of any such real or personal property or other property previously acquired by the district where the same has ceased to be suitable for the uses of the district; provided, however, that if the same shall have been Special tax levy.

originally acquired pursuant to the vote of the electors within the district as herein permitted, then the same shall not be sold except by like vote of the electors within this district. In the event of such sale the proceeds derived from the sale of any such land or property shall be exclusively devoted to the purchase of other land or like property for the use of the district.

Stats. 1935, Ch. 279

SEC. 7. Section 6 of the act, the title of which is recited in section 1 hereof, is hereby amended to read as follows:

Conduc of election.

Sec. 6. The board of fire commissioners shall appoint the boards of election at any and all such elections, which boards shall consist of one inspector, one judge, and two clerks. Such board shall designate the precincts for such election, if there be more than one, and for such purpose may consolidate any county precincts therein into such number as they may deem advisable. They are also authorized to fix the polling place and the hours within which the polls at such election shall be open; provided further, that such polls shall open not later than eight o'clock a.m. of the day of the election, and close not earlier than five o'clock p.m. of the same day; however, no new registers shall be required, and the polls may be opened at one o'clock p.m. and closed at six o'clock p.m. on the day appointed for any election. Such election shall be held in all respects as nearly as practicable in conformity with the general laws governing elections in cities of the sixth class, so far as the same may be applicable, and except as herein otherwise provided

Stats. 1909, p. 1030.

SEC. 8. Section 7 of the act, the title of which is recited in section 1 hereof, is hereby amended to read as follows:

Ballots.

Sec. 7. The ballots used at such election shall set forth the propositions submitted thereat in terms conforming to such general election law. It shall be unnecessary to mail sample ballots at such election. The expense of such election shall be a charge against the district.

Stats. 1929, p. 1922.

SEC. 9. Section 9 of the act, the title of which is recited in section 1 hereof, is hereby amended to read as follows:

Tax levy.

Sec. 9. The board of supervisors must, at the time of levying the county taxes, levy a tax upon all the taxable property within the district sufficient to defray the cost of the maintenance thereof, and of making such other expenditures as are authorized by this act in connection therewith. The taxes so levied shall be computed and entered on the assessment roll and collected at the same time and in the same manner as the State and county taxes, and when collected shall be put in the county treasury for the use of the district for which the tax was authorized.

Stats 1909, p 1030.

SEC. 10. Section 10 of the act, the title of which is recited in section 1 hereof, is hereby amended to read as follows:

Moneys arising from tax.

Sec. 10. All moneys arising from the taxes herein authorized to be levied and collected, shall be kept by the treasurer of the county in which such district is situated, subject only to the order of the board of fire commissioners thereof.

SEC. 11. Section 15 of this act, the title of which is recited in section 1 hereof, is hereby amended to read as follows: Stats 1909, p 1031

Sec. 15. No member of said board of fire commissioners shall receive any compensation for his services as such. Compensation of board members

SEC. 12. Section 16 of this act, the title of which is recited in section 1 hereof, is hereby amended to read as follows: Stats 1909, p. 1031

Sec. 16. In case of a vacancy of any or all of the members of the board of fire commissioners, after election had, by death, resignation or otherwise, such vacancy shall be filled by appointment by the board of supervisors of the county; provided, however, that the appointee shall only hold office until the next general election within said district at which time a successor shall be elected to serve for the unexpired term. Vacancies

SEC. 13. Section 17 of the act, the title of which is recited in section 1 hereof, is hereby amended to read as follows: Stats 1919, p. 7.

Sec. 17. An election shall be held on the first Monday of April subsequent to the appointment of the fire commissioners by the board of supervisors for the election of three fire commissioners who shall take office on the next succeeding Monday of the same month. Said commissioners shall at their first meeting so classify themselves by lot that one of their number shall go out of office on the second Monday of April of the year next succeeding said first election, one thereof on the second Monday of April of the second year succeeding, and one thereof on the second Monday of April of the third year succeeding. On the first Monday of April of the year next succeeding said first election and on the first Monday of April of every year thereafter, an election shall be held for the election of one fire commissioner, who shall take office on the next succeeding Monday in the same month and shall hold office for the term of three years, or until his successor is elected and qualified; provided, that as to fire districts heretofore created under this act, the commissioners of which were elected prior to the date this amendment becomes operative, said commissioners at their first meeting after said amendment becomes operative shall classify themselves by lot so that one of their number shall go out of office on the second Monday of April of the year next succeeding, one thereof on the second Monday of April of the second year succeeding, and one thereof on the second Monday of April of the third year succeeding. Notice of such election shall immediately be given by the board of fire commissioners as hereinbefore provided. Annual elections

SEC. 14. Section 20 of the act, the title of which is recited in section 1 hereof, is hereby amended to read as follows: Stats 1909 p 1031

Sec. 20. Construction of Act. No assessment or act relating to the assessment of collection of taxes, nor any election held under the provisions of this act, shall be held illegal, void or voidable on account of any error, omission or informality or failure to comply strictly with the provisions of this act, nor on account of any misnomer; but the same Construction of act

Time for commencement of actions

shall be liberally construed, with a view to holding valid all acts done hereunder. Any proceeding wherein the validity of the organization of such district is denied shall be commenced within three months from the date of the first appointment of fire commissioners for said district by the board of supervisors, or within three months from the date when this provision of the act becomes effective, otherwise such organization and the legal existence of said district, and all proceedings in respect thereto, shall be held valid and in every respect legal and incontestable. Any district which has functioned as such, or for which taxes have been collected, for a period of three years shall be deemed and held to have been validly organized. In any such district, where any portion thereof, less than the whole, becomes a part of any municipal corporation, that fact shall not affect the organization of the district, but the district shall continue to function as if such portion thereof were not a part of any municipal corporation, unless the district be dissolved or such territory or any portion thereof be withdrawn from the limits of the district as provided in this act.

Stats 1909, p. 1031.

SEC. 15. Section 22 of the act, the title of which is recited in section 1 hereof, is hereby amended to read as follows:

Fire ordinances

Sec. 22. They may adopt such ordinance, within the purview of the preceding section, as they may deem proper to prevent fires and conflagrations, and for the protection of property at and during the pendency of any fire, and for that purpose may provide that at and during the pendency of any fire the officers of the fire company or companies present shall be vested with police powers. Such ordinances shall be signed by the said fire commissioners, and published in a newspaper printed in said district, or posted in three of the most public places thereof, for a period of two weeks, at the end of which time it shall be and become a law for the government of the inhabitants of said district.

Stats 1933, p. 1690

SEC. 16. Section 24½ of the act, the title of which is recited in section 1 hereof, is hereby amended to read as follows:

Procedure to include territory within fire limits of unincorporated towns

Sec. 24½. Territory contiguous to any such district and being in the same county as such district may be included in the fire limits thereof in the manner following: A petition signed by the owners of real property in such contiguous territory, which real property represents at least seventy-five per cent of the total assessed valuation of said contiguous territory, as shown by the last equalized assessment book of the county in which such district is located, designating specifically, the boundaries of such contiguous territory and the assessed valuation thereof, as shown by such last equalized assessment book, and showing the amount of real property owned by each of the petitioners, and the assessed value thereof, as shown by the last equalized assessment book of the county in which said real property is situated, and stating that such territory is not within the fire limits of any other fire district, and asking that such territory be included in the

fire limits of such district, which said petition shall also be signed by the board of fire commissioners of such district, shall be presented to the board of supervisors of the county in which such district is located.

Verified petition

The petition must be verified by the affidavit of one of the petitioners and must be published at least two weeks preceding the hearing thereof, by the board of supervisors, in a newspaper of general circulation published in the county in which the district is located, together with a notice stating the time when such petition will be presented to the board of supervisors and that all persons interested therein may appear and be heard.

Hearing

At such time the board of supervisors shall hear the petition, and any person interested therein and may adjourn such hearing from time to time. Upon the hearing of the petition the board of supervisors shall have the power to determine whether or not it is for the best interests of such district and of such contiguous territory that said territory be included in the fire limits of such district and such board of supervisors shall have the power to modify the boundaries of such contiguous territory proposed to be included in the fire limits of the district as set forth in the petition;

Provided, however, that the board of supervisors shall not modify the boundaries of such contiguous territory proposed to be included in the district as set forth in said petition so as to exclude therefrom any real property which will be benefited by inclusion in the fire limits of such district, nor shall any real property which will not in the judgment of the board of fire commissioners, be benefited by inclusion in the fire limits of such district, be included within the boundaries of the territory proposed to be included;

Provided, however, that the board of supervisors of said county shall not include within the fire limits of the district any areas of land not subdivided or any lots or parcels of property containing more than five acres of land each, if the owners thereof file objections to the inclusion of any such land within a district with said board. If the board of supervisors upon final hearing shall determine that it is for the best interests of such district and the territory proposed to be included therein that such territory be included, it shall make an order including such contiguous territory within the fire limits of the district which order shall describe the exterior boundaries of such contiguous territory.

Order including territory

Where any lot or parcel of land containing more than five acres is included within the fire limits of the district, the board of supervisors, upon application of the owner or owners of such lot or parcel, shall exclude from such district and from the taxable property therein, all of said lot or parcel in excess of five acres thereof, which five acres shall include all portions of said lot or parcel on which are situated any buildings or improvements.

Stats 1919, p. 8, repealed.

SEC. 17. Section 3½ of the act, the title of which is recited in section 1 hereof, is hereby repealed.

CHAPTER 741.

Stats. 1933, p. 60.

An act to add a new chapter, to be numbered 1a, to Division V of the Agricultural Code, relating to the standardization of tomatoes.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New chapter

SECTION 1. A new chapter is hereby added to Division V of the Agricultural Code, to be numbered 1a, and to read as follows:

CHAPTER 1a. TOMATO STANDARDS.

"Canning purposes" defined

761. By "canning purposes" is meant the packing of commercially canned tomatoes, the manufacture of tomato paste, tomato puree, tomato pulp, tomato catsup, tomato sauce, tomato juice, and similar manufactured tomato products wherein the contents of the product is all, or practically all, made up of tomatoes.

Standards for canning purposes

762. Tomatoes shall be suitable for canning purposes, and except in the case of the pear or plum types shall be vine-ripened. No tomatoes shall be regarded as suitable for canning purposes if the delivery contains spray residue which can not be removed by washing in plain water in order to meet the tolerances permitted by the United States Food, Drug and Insecticide Administrations. No tomato shall be regarded as suitable for canning purposes if

(a) Any worm or worms are present which have penetrated beyond the outer fleshy wall or fleshy core of the tomato.

(b) In excess of ten per cent of the weight of the tomato can not be used for canning purposes, due to damage caused by worms.

(c) In excess of ten per cent of the weight of the tomato can not be used for canning purposes. due to the presence of mold.

(d) In excess of twenty per cent of the weight of the tomato can not be used for canning purposes, due to presence of rot.

(e) In excess of twenty-five per cent of the weight of the tomato can not be used for canning purposes, due to the presence of sunburn or sunscald.

(f) In excess of twenty-five per cent of the weight of the tomato can not be used for canning purposes, due to the presence of growth cracks.

(g) In excess of twenty-five per cent of the weight of the tomato can not be used for canning purposes, due to the tomato being green or yellow at the butt (stem end).

(h) The tomato is sufficiently overripe, shriveled, frozen or frosted to make it useless for canning purposes.

(i) The tomato is not fairly well colored, which means that the tomato does not show at least two-thirds good red color, as such color is illustrated as "U. S. No. 2" in the color chart

of the United States Department of Agriculture, Bureau of Agricultural Economics, U. S. Grades for Cannery Tomatoes, in effect the day of the passage of this chapter.

763. Any load of tomatoes offered for delivery to a canner shall be rejected and turned back to the grower if in excess of ten per cent of the delivery by weight fails to comply with subsection (a), and/or (c) of section 762. Rejection of load

Any load of tomatoes offered for delivery to a cannery shall be rejected and turned back to the grower if in excess of fifteen per cent of the delivery by weight fails to comply with subsections (a) to (i) inclusive of section 762.

764. The size of tomatoes shall be determined by contract between buyer and seller, but in no event shall the minimum contract size be more than two inches in diameter, when measured through the widest portion of the cross-section, provided that there shall be no minimum size on pear or plum types. Contract governing size.

765. The official standards established herein shall be the only standards of quality for canning tomatoes. The provisions of any contract to sell canning tomatoes, or to deliver them on consignment, dated subsequent to the effective date of this chapter, which prescribe other or different standards, shall be ineffective, and in such contracts the standards prescribed here shall be implied by law. Contracts for other than official standards

766. The standards established by this chapter shall be considered as a grade under the provisions of Division V, Chapter 1, of the Agricultural Code. Standards to be considered a grade.

CHAPTER 742.

An act to amend the title and sections 1 and 24, and to add section 8a to the "Storm-water District Act of 1909," approved March 13, 1909, as amended, relating to the formation of districts for the purpose of controlling soil erosion and protecting the lands in such district from damage by storm-water or other waters. Stats 1909, p. 339, amended

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. The title of the "Storm-water District Act of 1909" is hereby amended to read as follows: Title amended

An act to provide for the formation, organization and government of districts to be known as storm-water districts for the purpose of protecting the lands therein from damage and soil erosion caused by storm-water or other waters and from the waters of any innavigable stream, watercourse, canyon or wash, for the construction of the necessary works of protection by said district and for the levying of taxes and assessments to pay for the cost of constructing, repairing and maintaining such improvements.

Stats. 1919, p. 525

SEC. 2. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Formation of districts.

Section 1. Storm-water districts may be formed under the provisions of this act for the purposes of preventing or controlling soil erosion, of protecting the lands in such district from damage by storm-water, by the construction of dams, ditches, dikes, terraces and other structures, by planting of trees, shrubs, grasses or other vegetation and by spreading, conserving, storing, retaining or causing to percolate into the soil any or all waters falling on or passing across said lands or of any innavigable stream, watercourse, canyon or wash. The term storm-water district in this act shall be construed to mean and include districts organized for any of the aforesaid purposes and districts may be organized under the provisions of this act for the sole purpose of repaying in whole or in part the cost of works constructed in whole or in part by the United States government for any of the purposes of this act or for the operation, maintenance and control of such works. Said storm-water districts may include within their exterior boundaries land which lies within incorporated territory with land which lies in unincorporated territory, or said districts may be formed from land lying wholly within or wholly without incorporated territory. When twenty-five per cent or more of the owners of land whose names appear as such upon the last assessment roll in any district of land which lies in one body and is liable to damage from storm or other water or from the waters of any innavigable stream, watercourse, canyon or wash, shall present a petition to the board of supervisors of the county in which said land lies, or if the same lies in more than one county, then to the board of supervisors of the county in which the greater area of such land lies, setting forth the exterior boundaries of said district and asking that the district so described be formed into a storm-water district under the provision of this act, the said board of supervisors shall pass a resolution declaring their intention to form or organize said portion of said county or counties into a storm-water district for the purpose of preventing or controlling soil erosion or protecting the land therein from damage from storm or other water and from the waters of any innavigable stream, canyon, or wash, and describing the exterior boundaries of the district. Said resolution shall fix a time and place for the hearing of the matter, not less than thirty days after the passage thereof, and direct the clerk of said board to publish the notice of intention of the board of supervisors to form such storm-water district and of the time and place fixed for the hearing, and shall designate some newspaper of general circulation, published and circulated in said proposed storm-water district, or if there is no newspaper so published and circulated, then some newspaper of general circulation published and circulated in each county in which any part of said proposed district is situated in which said notice is to be published.

Petition

Resolution of intention

Hearing

Notice

SEC. 3. Section 24 of said act is hereby amended to read as follows: Stats 1913, p 506

Sec. 24. The improvements made under this act may include the widening, deepening, and straightening of the channels of the innavigable streams, watercourses, or washes, the construction of new courses therefor and the construction of levees, banks, dikes, conduits, ditches, canals, reservoirs, and the sinking of shafts for the conveyance of storm-waters of any innavigable stream, canyon or wash or for confining such streams, watercourses, or washes to their channel, or for the spreading, conveying, storing, retaining or causing to percolate into the soil within such district any and all such waters and terraces, ditches, banks, dikes and dams or other structures and the planting of trees, shrubs, grasses or other vegetation for the prevention or control of erosion on any lands within the district and said works may be done either within or without the boundaries of the district, as may be necessary in order to properly protect the land in said district from damage and secure a free outlet for such streams, watercourses, washes, and storm-water or to spread, conserve, store, retain or cause to percolate into the soil within such district any such water. Kinds of improvements

SEC. 4. A new section to be numbered 8a is hereby added to said act to read as follows: New section

Sec. 8a. The trustees shall have the right and authority to enter into contracts or other arrangements with the United States government or any department or agency thereof, for cooperation or assistance, in constructing, maintaining, operating or using the works of the district or for making surveys, investigations or reports thereon. In case of contract with the United States government or any department or agency thereof, the provisions of section 8 pertaining to the receiving of bids and the letting of contracts, and section 9, pertaining to surveys, plans, maps and specifications and section 23 pertaining to the time of beginning construction and the amount of work to be done each year, of this act made unnecessary or inconsistent by the terms of said contract shall not apply. Contracts with Federal government

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CHAPTER 743.

An act to amend sections 18 and 21 of an act entitled "An act to conserve the agricultural wealth of the State of California, and to prevent economic waste in the marketing of agricultural crops produced in the State of California, and in that behalf creating an Agricultural Prorate Commission; providing for the appointment of members of said commission, fixing the term of office of the members of said commission: prescribing the powers, duties and authority of said commission and the members thereof; providing for the institution of proration programs with respect Stats 1933, p 1969, amended

to agricultural crops; providing for the enforcement of such programs; providing penalties for violation of such programs; providing for the creation of funds for the purposes of said act and providing for the collection thereof; and making an appropriation therefor," approved June 5, 1933, relating to fees.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1976.

SECTION 1. Section 18 of said act is hereby amended to read as follows:

Proration program committee.

Sec. 18. In the event of the institution of a marketing program in a proration zone, it shall be the duty of the commission to forthwith select a proration program committee of five producers and two handlers operating within the zone. The producer members of said program committee shall be chosen by the commission from a group of fifteen nominees who are to be nominated by the producers. The commission in the selection of the program committee, shall take cognizance of and, in so far as possible, give representation upon such committee to the various geographical areas or districts coming under the proration program. No producer member of the program committee shall be a handler or processor or an employee or officer of a handler or processor, except that a nonprofit cooperative organization may be represented by officers or directors who are producers, providing that no more than three such producer members of the prorate program committee shall be members of the same nonprofit cooperative organization. In the case of commodities, the bulk of which is processed before consumption, one of the producer members of said program committee shall be a processor. In the event that the commission shall be of the opinion that a committee of seven will not afford adequate representation to all of the factors in the industry concerned, it may appoint a program committee of six producers and three handlers provided said producers are selected from the list of nominees selected by the growers as provided for herein. The members of such program committee shall not be entitled to compensation but may be reimbursed their actual and necessary traveling expenses. Such prorating program may be altered or modified from time to time by such committee.

Upon request of petitioners for the institution of a program or of a program committee therefor, the commission shall also appoint in the same manner as the program committee was appointed an alternate for each member of the committee. Such alternate shall be entitled to sit as a regular member of the committee in case the member for whom he is an alternate fails for any reason to attend any meeting of the committee.

Vacancies on the program committee occasioned by the death or resignation of any member, or by removal for incompetence or inattention or neglect of duties as a member of the program committee by the commission, or by a member ceasing to qualify as a producer or handler of the commodity concerned, shall be filled in the same manner as the original appointments were made.

The program committee shall appoint an agent, who shall administer the proration program under the direction of the program committee and who may be removed from office in the same manner as he was appointed.

Pending action by the commission on the approval of any such agent, he shall act as such and shall appoint such deputy agents and other assistants as may be necessary to properly direct the program. Such agent shall appoint such deputy agents and other assistants as may be necessary to direct the program which appointments shall be subject to the approval of the program committee. The salary and/or compensation received by the secretary shall not exceed the sum of five thousand dollars ($5,000) per annum from all sources and no officer or employee shall receive compensation based on a percentage of volume involved in a prorate program, or in any manner that would lend encouragement to the promotion of a proration program for the purpose of increasing salaries and income.

SEC. 2. Section 21 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933, p. 1977.

Sec. 21. The agent under each zone program shall collect for each certificate issued to the producers, a reasonable and proportional fee to be fixed by the program committee so calculated as to produce the expenses of the administration of the program, the costs of the institution of the program, and a proper proportion of the cost of the maintenance of the commission which shall be fifteen per cent of the fees collected for certificates, by the agent of the zone unless the commission determines that a lesser percentage will provide sufficient revenue for its maintenance. Fees

All such fees shall be used under rules and regulations prescribed by the commission only for the purpose of defraying the expenses of the organization, administration and enforcement of the program under which they were collected and, to the extent herein prescribed, for the support of the commission. Not to exceed fifteen per cent of the fees collected for certificates shall be remitted weekly to the commission and shall be paid monthly by the commission into the State treasury to the credit of the "Agricultural Prorate Commission fund" which fund is hereby created. All moneys credited to such fund shall be used for the support of the commission. At the end of each marketing season and after payment of all of the costs of the operation of the program, if the funds collected during the season and still remaining for the use of the program committee exceed ten per cent of the Fund created

fees collected during the season, such funds shall be disbursed to the producers who contributed thereto in proportion to their contribution. No person, committee or commission shall have or receive any funds whatever under the provisions of this act until there shall have been filed and maintained with the Secretary of State in the manner prescribed by law by such person, committee or commission, individually or as a whole, an official bond or bonds in such penal sum or sums as may be prescribed by the commission.

CHAPTER 744.

Stats. 1925, p. 648, amended.

An act to add section 11a to and to amend section 23 of an act entitled "An act authorizing the establishment of municipal courts, prescribing their constitution, regulation, government, procedure and jurisdiction, and providing for the election and appointment of the judges, clerks and other attaches of such courts, their terms of office, qualification and compensation and for the selection of jurors therein," approved May 23, 1925, relating to municipal courts.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. Section 11a is hereby added to the act cited in the title hereof to read as follows:

Cities of population over forty thousand, not otherwise provided for.

Sec. 11a. The municipal court in a city or city and county with a population of over forty thousand, as determined by the last preceding census taken under the authority of the United States shall be constituted, and the judges, officers and attaches thereof shall receive compensation as follows, except as otherwise specifically provided in this act for cities of a particular class;

(a) There shall be two judges each of whom shall receive six thousand five hundred dollars per annum payable in equal monthly installments;

(b) There shall be one clerk, to be appointed by the judges of the court, who shall receive two hundred fifty dollars per month;

(c) The clerk shall appoint the following:

Two court clerks, each of whom shall receive one hundred seventy-five dollars per month;

One deputy clerk, who shall receive one hundred seventy-five dollars per month;

One stenographer who shall receive a salary of one hundred twenty-five dollars per month;

(d) There shall be one marshal, to be appointed by the judges of the court, who shall receive two hundred fifty dollars per month;

(e) The marshal shall appoint the following: One chief deputy who shall receive one hundred seventy-five dollars per month;

Three deputies, each of whom shall receive one hundred fifty dollars per month;

One stenographer who shall receive one hundred twenty-five dollars per month.

SEC. 2. Section 23 of said act is hereby amended to read as follows: Stats 1925, p 656.

Sec. 23. Whenever a municipal court is established for any city which lies partly within and partly without one or more judicial townships the board of supervisors of the county within which the municipal court is established shall immediately by ordinance divide such county into judicial townships as public convenience may require. Such redistricting shall not be effected in such manner as to affect the tenure of any judge or justice in the county, but such judge or justice may be required to serve in a court other than the one to which he was elected. Judicial townships

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CHAPTER 745.

An act to amend sections 4.222, 4.770, 4.771, 4.773, 4.785, 4.796, 4.797, 4.872, 4.883 and 4.886-1 of the School Code and to add thereto four new sections to be numbered 4.223, 4.774, 4.784, and 4.874-1, all relating to the apportionment of State funds for public school purposes.

[Approved by the Governor July 20, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 4.222 of the School Code is hereby amended to read as follows: Stats 1933 p 2700.

4.222. In those counties in which no high school is maintained the county superintendent of schools may submit to the Superintendent of Public Instruction an estimate of the amount of money needed for the unapportioned county high school fund of his county in order to meet the expenses charged in the School Code against such fund for the payment of the transportation and/or tuition of pupils residing within the county and attending high school in other counties in the State, and for such other purposes as may be specified in the School Code. The amount of such estimate shall be subject to the approval of the Superintendent of Public Instruction. Counties where no high school maintained

SEC. 1a. A new section is hereby added to the School Code to be numbered 4.223, and to read as follows: New section

4.223. The Superintendent of Public Instruction shall apportion to the unapportioned county high school fund in those counties in which no high school district is located, from the State high school fund, one-third of the approved amount Apportionment to counties where no high school maintained.

estimated as needed for such unapportioned county high school fund, and from the State general fund he shall apportion the remaining two-thirds of the amount estimated as needed for such unapportioned county high school fund.

Stats. 1931, p. 2514.

SEC. 1b. Section 4.770 of the School Code is hereby amended to read as follows:

Teacher units allowed

4.770. One teacher unit shall be allowed to each elementary school district for each thirty-five or fraction of thirty-five units of average daily attendance of pupils therein during the preceding school year, exclusive of the average daily attendance of pupils in emergency schools maintained within the school district by the county superintendent of schools as provided elsewhere in this code.

Stats 1931, p 2514.

SEC. 2. Section 4.771 of the School Code is hereby amended to read as follows:

Additional teacher unit

4.771. One additional teacher unit shall be allowed to each union elementary school district and to each elementary school district which is not a part of a union elementary school district for each three hundred units of average daily attendance in the aggregate therein during the preceding school year, exclusive of the average daily attendance of pupils in emergency schools maintained within the school district by the county superintendent of schools as provided elsewhere in this code.

Stats 1931, p. 2515

SEC. 3. Section 4.773 of the School Code is hereby amended to read as follows:

Supervision fund

4.773. One teacher unit shall be allowed to the county elementary school supervision fund of each county for each three hundred or major fraction of three hundred units of average daily attendance in the aggregate in all the elementary districts of the county, including union elementary school districts, having less than three hundred units of average daily attendance therein during the preceding school year and in the emergency schools maintained within the elementary school districts of the county by the county superintendent of schools during the preceding school year as provided elsewhere in this code.

Stats 1933, p 2702.

SEC. 4. Section 4.785 of the School Code is hereby amended to read as follows:

Apportionment of State school fund balance.

4.785. After making all other apportionments required from the State school fund he shall apportion the balance of the fund to the several elementary school districts of the State and to the several unapportioned county elementary school funds pro rata on the total average daily attendance credited to such districts and funds during the preceding school year as reported by the county superintendent of schools.

Stats 1933, p 2703.

SEC. 5. Section 4.796 of the School Code is hereby amended to read as follows:

Unapportioned fund

4.796. He shall allow to the unapportioned county elementary school fund of each county seven hundred dollars for each teacher unit allowed to such fund on account of emergency schools maintained in the elementary school districts

of the county during the preceding school year by the county superintendent of schools, together with such additional amounts as shall be estimated by the county superintendent of schools and approved by the Superintendent of Public Instruction as the amount needed in the unapportioned county elementary school fund for the current school year as provided in this code.

SEC. 6. Section 4.797 of the School Code is hereby amended to read as follows: Stats 1933, p. 2703.

4.797. He shall prorate the remainder of the apportionment to each county from the State general fund to the several elementary school districts of the county and to the unapportioned county elementary school fund on the basis of the total average daily attendance credited to such districts and fund during the preceding school year. Proration of remainder.

SEC. 7. A new section is hereby added to the School Code to be numbered 4.774, and to read as follows: New section.

4.774. One teacher unit shall be allowed to the unapportioned county elementary school fund of each county for each thirty-five or fraction of thirty-five units of average daily attendance of pupils in attendance upon emergency schools maintained in each elementary school district of the county by the county superintendent of schools during the preceding school year as provided elsewhere in this code. Teacher unit emergency schools

SEC. 8. A new section is hereby added to the School Code to be numbered 4.784, and to read as follows: New section

4.784. He shall apportion from the State school fund to the unapportioned county elementary school fund of each county seven hundred dollars for each teacher unit allowed to such fund on account of emergency schools maintained in the elementary school districts of the county during the preceding school year by the county superintendent of schools. Apportionment of fund

SEC. 9. Section 4.872 of the School Code is hereby amended to read as follows: Stats 1931, p. 2495

4.872. He shall apportion two thousand two hundred dollars to each high school district during the first school year in which its organization becomes effective. Apportionment to new district

SEC. 10. A new section is hereby added to the School Code to be numbered 4.874-1 and to read as follows: New section

4.874-1. He shall apportion to the unapportioned county high school fund of each county in which no high school district is located an amount equal to one-third of the approved amount estimated as needed for such fund as provided elsewhere in this code. Apportionment where no high school district.

SEC. 11. Section 4.883 of the School Code is hereby amended to read as follows: Stats 1933, p 2704.

4.883. The Superintendent of Public Instruction shall allow one thousand dollars for each high school district during the first school year in which its organization becomes effective. New high school districts

SEC. 12. Section 4.886-1 of the School Code is hereby amended to read as follows: Stats 1933, p 2705.

Estimate of unapportioned high school fund.

4.886-1. He shall allow to the unapportioned county high school fund of each county an amount equal to the sum estimated by the county superintendent of schools as the amount of the unapportioned county high school fund for the current school year as provided in this code; except that in the case of each county in which no high school district is located he shall allow to the unapportioned county high school fund an amount equal to two-thirds of the approved amount estimated as needed for such fund as provided elsewhere in this code.

CHAPTER 746.

An act to amend the Political Code by amending sections 3456, 3466a and 3191, relating to reclamation districts.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p. 773

SECTION 1. Section 3466a of the Political Code is hereby amended to read as follows:

Sale of unsold land

3466a. After the lapse of one year from and after the expiration of the period of redemption of any land sold to the district, or county treasurer as trustee for the district, either pursuant to the provisions of section 3466, 3480 or section 3480a of this code, the county treasurer of the main county, when and as directed by the board of trustees of the district, may in their discretion then sell any land remaining unsold, to the highest bidder for cash at the front door of the courthouse of the main county of the district after giving previous notice of such sale, and the time and place of holding the same, by publication thereof in some newspaper published in the county in which the land to be sold or some portion thereof is situated for two times, to wit: once a week for two successive weeks. It shall be sufficient to describe said land in said notice by reference number as set forth in the assessment lists to which reference shall be made in said notice, and to the date and time of filing same, for further particulars. The trustees of the district shall have the right to reject any and all bids and no bid shall be accepted for an amount less than such price as shall be approved by them. No parcel shall be sold for an amount less than the fair market value thereof as such value shall be ascertained by the board of trustees. One or more parcels of such land may be included in the same notice and sold severally at the time and place set forth in said notice. Upon such last mentioned sale being made as herein provided the said county treasurer shall execute a deed to the purchaser conveying the land sold, upon payment of the price bid, which deed shall have the effect of conveying title to the land sold to the purchaser free of encumbrance, except district assessments (including the unpaid balance of said assessment for

Notice.

Bids

Deed to purchaser.

the delinquency of which said property was sold) which upon the date of the sale herein provided had not been called, and except as may be otherwise provided by law, and such deed duly executed and acknowledged shall be prima facie evidence that all the proceedings for the levy and collection of the delinquent assessment for which said land was sold, and all of the proceedings for the sale of said land have been duly and regularly taken, and all notices required to be given or published have been so duly given and published for the time and manner as required by law.

Rights in land sold for delinquent assessment

Where any land has been sold for a delinquent assessment, pursuant to the provisions of section 3466, 3480 or 3480a of the Political Code for a delinquent assessment or installment of the same and no redemption has been made and the time for redemption has expired, the district shall have the right to the possession of the land so sold and unredeemed and the board of trustees shall have the right to bring and maintain any and all actions in equity or law in connection with said land and the protection of the district's rights therein to the same extent as any other owner; and the costs and expenses of such action or actions shall be a charge against the district. The board of trustees shall also have the right to expend funds of the district in such amounts that may from time to time be necessary for the purpose of retiring any and all liens against such land superior to the title of the county treasurer therein. The trustees of the district shall have the management and control of, and right to lease out to a tenant or tenants for such reasonable rental and upon such terms as such trustees may deem advisable, any and all lands in the district which have been sold to the county treasurer, as trustee, for delinquent assessments, where the time for redemption has expired and said lands remain unsold and to receive and collect the rental for the same. All rentals collected or moneys received by the trustees of the district from such lease of land or for the use or occupation of such land may be applied by them to the payment of the incidental expenses of holding and leasing said lands and to the payment of any other incidental expenses of, or legal charge against the district or for the purpose of purchasing any outstanding bonds of the district matured or unmatured together with the coupons thereunto appertaining at not more than the face value of such bonds plus the accrued interest thereon; which said bonds and/or coupons when so purchased shall be forthwith delivered to the county treasurer and canceled, and to the payment of any call of any maintenance assessment on any tract of land theretofore bought in by county treasurer as trustee of the district for a delinquent installment of any assessment theretofore levied on any such tract of land and then remaining unsold by said county treasurer; provided, however, that after the period of redemption has expired all rentals collected or moneys received from lease of land sold to the county treasurer as trustee of the district pursuant to the provisions of section 3480 or 3480a of this code

Management and control

Rentals

or for the use or occupation of such land, less the incidental expenses of leasing or holding the same and less the amount required to pay any called or delinquent installment of any maintenance assessment on any tract of land which has been theretofore bought in by the said county treasurer for the payment of any delinquent installment of any assessment theretofore levied on any such tract of land, and then remaining unsold by such county treasurer, shall, in the event said district shall be in default for interest or principal payments on any of said bonds issued by said district, be deposited in said county treasury of the main county, to the credit of the bond fund of the district. An amount equal to the revenues derived from each tract by reason of the leasing, use or occupation thereof, less the incidental expenses of leasing and holding same, shall be credited by the county treasurer on the assessment lists against the delinquent charges on said tract. The provisions hereof shall apply to all lands heretofore sold for delinquency to a district or to the county treasurer, as trustee as well as to future sales under assessments whether heretofore, or hereafter to be, levied.

Application of section

C. A. 1880, p. 60.

SEC. 2. Section 3491 of said code is hereby amended to read as follows:

See Stats. 1935, Ch. 759

Election of trustees of reclamation district.

3491. In each reclamation district in this State, formed under this code or any statute, there shall be an election every two years, held at such time and place, in or near the district, and after such notice as the board of supervisors shall direct; provided, that the notice shall be not less than one month, and at such election each bona fide owner of lands in the district shall be entitled to vote in person or by proxy, and shall have right to cast one vote for each one dollar's worth of real estate owned by him or her in the district, the value thereof to be determined from the next preceding assessment-roll of the county, and a majority of the votes cast at such election shall elect. In all elections for trustees every owner of real estate shall have the right to cumulate his or her votes, and give one candidate as many votes as the number of trustees to be elected multiplied by the number of dollars' worth of real estate owned by him or her shall equal, or to distribute them on the same principle among as many candidates as he shall think fit.

Supervisors to appoint time and place for election

The board of supervisors to which the petition for the formation of the district was presented shall, upon the verified petition of twenty per cent of the landowners in the district holding title or evidence of title to and owning at least twenty per cent in value of the lands in the district, appoint a time and place for holding such election, which election shall be held within sixty days from the time of such application; the place of such election shall in all cases be in or near the district.

Notice.

Notice of such election shall be given by publication for not less than one month in a newspaper in each county in which any portion of the lands of the district are situate, if any newspaper is published therein, and if not, then in a newspaper having general circulation in such county.

The trustees elected under the provisions of section 3452 shall hold office until their successors are elected under the provisions of this section.

Conduct of election

For the purposes of such election the board of supervisors of the county in which the whole or the larger part of the lands of any district are situate, must appoint from the landholders of the district one inspector and two judges of election, who shall constitute a board of election for such district; but in case the board of supervisors fail to appoint, or the persons appointed fail to attend at the time and place appointed for the election, the voters present at the time and place of opening the polls may appoint the board, or supply the place of an absent member thereof. Each member of the board must, upon entering upon his duties, be sworn to a faithful performance thereof by some officer authorized to administer oaths. The board of election must canvass the votes cast and issue certificates of election to the persons elected, and must place the ballots, when canvassed, in an envelope and forward the same, sealed, to the clerk of the board of supervisors.

Any legally qualified voter may challenge any vote, and the board of election shall determine, by the oath of the parties or otherwise, as they may think proper, whether or not the person challenged is entitled to vote, and in case of challenge, either one of the board of election is hereby authorized to administer oaths.

The polls shall be open from 10 a.m. until 4 p.m.

Vacancies.

In case of vacancy in the board of trustees, the board of supervisors shall, by appointment, fill such vacancy.

Stats 1933, p. 1211.

SEC. 3. Section 3456 of the Political Code is hereby amended to read as follows:

Commissioners to assess land

3456. (a) If such reclamation district is located, in whole or in part, within the Sacramento and San Joaquin Drainage District, then if and when the said reclamation board shall have approved the plan or plans of the works of reclamation, after a hearing as provided in section 3455 of this code, then the board of trustees of the reclamation district shall so report to the board of supervisors of the county within which the district or the greater part thereof is situate, and shall set forth in their said report the estimated cost of the said works of reclamation, and petition the said board of supervisors to appoint three commissioners who shall have no interest in any real estate within said district, each of whom, before entering upon his duties, shall make and subscribe an oath that he is not in any manner interested in any real estate within said district, directly or indirectly, and that he will perform the duties of a commissioner to the best of his ability. Upon receipt of said petition from the board of trustees the board of supervisors to whom the same was presented must within not more than sixty days appoint said assessment commissioners above referred to. Said commissioners must view and assess upon the land within said district the said sum so estimated and shall apportion the same according to the bene-

fits that will accrue to each tract of land in said district, respectively, by reason of the expenditures of said sums of money, and shall estimate the same in gold coin of the United States. The sums must be collected and paid into the county treasury as hereinafter provided, and be placed by the treasurer to the credit of the district, and paid out for the works of reclamation upon the warrants of the trustees or, if bonds of such district have been issued upon said assessment, then said treasurer shall set the same apart as a separate fund for the purpose of paying the principal and interest of such bonds, and shall not pay any part of the moneys received from such assessment for any purpose other than the payment of the principal and interest of such bonds, and the expenses of county treasurer as hereinafter provided.

Sums paid into county treasury

Report on maintenance, etc

(b) In all cases when the work contemplated by the original or any supplemental plan of reclamation of any reclamation district shall have been completed, the trustees may so report to the board of supervisors of the county in which the district, or the greater part thereof is situate, together with a petition to the said board of supervisors to appoint assessment commissioners. Said report and petition shall set forth that the work contemplated by the original or supplemental plan of reclamation has been completed, and that hereafter the said reclamation district will only require funds for the maintenance and repair of the said works of reclamation. Upon filing said report and petition the said board of supervisors shall appoint three commissioners, each of whom shall be similarly qualified, and shall make and subscribe the same oath as is provided hereinabove for commissioners.

Assessment list

When so appointed and so qualified such commissioners shall prepare an assessment list, which list shall contain the following information in separate columns:

1. A description of each tract assessed by legal subdivisions, swamp land surveys, or other boundaries sufficient to identify the same.

2. The number of acres in each tract.

3. The names of the owners of each tract, if known; and if unknown, that fact; but no mistake or error in the name of the owner or supposed owner of the property assessed, and no mistake in any other particular, shall render the assessment thereof invalid.

4 The assessment valuation per acre of each tract assessed.

5. The total assessment valuations of each said tract.

6. A blank column for rate to be fixed as shown hereinafter.

7. A blank column for amount of assessment to be computed as shown hereinafter.

Thereafter said assessment valuations shall be used as a basis for assessments in raising funds for the maintenance and repair of the works of reclamation and incidental expenses of said district. Said assessment list, when completed, shall be filed with the clerk of the board of supervisors

in the same manner as a report made under an original or modified plan of reclamation.

Hearing on list

Thereupon the said board of supervisors shall appoint a time when it will meet for the purpose of hearing objections; said objections, if any, must be in writing, verified and filed with the clerk of said board of supervisors. Notice of the said hearing shall be given in the same manner and for the same time as notice of hearing objections to an original assessment. At said hearing, the board of supervisors shall hear such evidence as may be offered in support of said written objections, and may modify or amend the said assessment valuations in any particular. No objections to said assessment valuations shall be considered by the board of supervisors, or allowed in any other action or proceeding, unless said objections shall have been made in writing to the board of supervisors before the date of such hearing.

Action in superior court

Any person aggrieved by the decision of the board of supervisors may commence an action in the superior court of the county in which the greater part of the said district is situate, to have said assessment valuations corrected, modified or annulled. Such action must be commenced within thirty days days after said assessment valuations have been approved by the board of supervisors. If said action shall not be commenced within thirty days, no action or defense shall thereafter be maintained attacking the legality of said assessment valuations in any respect.

Fixing assessment rates

Thereafter, whenever, in the opinion of the trustees of the district, it shall be necessary to raise any sum for the construction, maintenance or repair of the works of reclamation, or for the incidental expenses of the district, the said board of trustees shall make an order, which order shall be entered in the minutes of the board and shall recite the total amount necessary to be raised and shall fix a rate designating the number of cents to be levied on each one hundred dollars of assessment valuation shown on the list prepared and approved in the manner hereinabove provided. Incidental expenses, as used in this section and in section 3480a of the Political Code are hereby declared to include, among other things, the difference in amount between the par value of refunding bonds sold pursuant to section 3480a of this act and the amount less than par for which said bonds may be sold, and also the amount necessary to be made available for the payment of interest upon said refunding bonds directed to be sold from the date of sale thereof to the date of maturity of the bonds to be refunded out of the proceeds of such sale.

"Incidental expenses." Stats 1931, p 1667

Thereafter the board of trustees must complete said assessment list by inserting the rate and the total assessment in columns six and seven as provided therefor.

Collection.

The assessment made in pursuance hereof shall be filed with the county treasurer and thereafter collected in the same manner provided for the collection of any original assessment; provided, however, that the board of trustees may, in their

discretion, direct the payment of any such assessment in one installment.

Lien

Said installment when called by the board of trustees shall constitute a lien on the lands and shall bear interest from the date of delinquency at the rate of seven per cent per annum.

Disbursement of moneys.

The money so collected shall be placed by said county treasurer in which the greater portion of said district is situated, to the credit of said district in a separate fund to be designated "maintenance fund" of such district, and be paid out or disbursed only in payment of said costs of such maintenance, repairs, and incidental expenses thereof and only upon orders or warrants of the trustees of the district issued or drawn in payment of the cost or expense of such maintenance and repair of the works of reclamation of such district, and incidental expenses thereof as aforesaid and all orders or warrants so issued or drawn on such fund shall designate the said fund from which they are drawn and are to be paid, and shall not be required to be in the form specified in section 3457 of the Political Code; and warrants or orders issued or drawn by the trustees on said maintenance fund shall be presented to the said county treasurer of said county, and if there be insufficient money in said fund to pay the same, endorsement of that fact must be made thereon by said county treasurer, and any such warrant not paid for want of funds at the time it is presented shall be registered by said county treasurer separately from other warrants of the district and shall thereafter bear interest from their date at the rate of seven per cent per annum until paid, and be payable only from said maintenance fund, and in the order of their registration; and all of the provisions of section 3457 of the Political Code as to the payment or renewal of warrants shall be applicable to said warrants.

Duration of list.

The report of assessment commissioners as herein provided, fixing the assessment valuations for reclamation purposes, after having first been approved by the board of supervisors as hereinabove provided, shall continue in force as the basis for raising necessary funds for construction, maintenance and repair of the works of reclamation, and for incidental expenses of the district until the trustees of said district, or the holders of title or evidence of title representing fifteen per cent or more of the lands within the district, shall petition said board of supervisors to make an order directing the commissioners who made the original assessment list or other commissioners, to be named in such order to prepare a new assessment list. Such commissioners must have the same qualifications and take the same oath as the original assessment commissioners.

New list.

Filing new list.

The assessment list when so prepared by said commissioners shall be filed with the clerk of the board of supervisors, and shall thereafter in all respects be subject to the same provisions as an original assessment list. All provisions of this code relating to collection of unbonded assessments and sale

Code sections applicable.

of land for delinquent assessments, and for sale, leasing and other disposition of land as in section 3466a of this code provided, shall be applicable to assessments levied in accordance with the provisions of this section.

CHAPTER 747.

An act authorizing any irrigation district, reclamation district, municipal utility district, public utility district, municipality, water district, water storage district, and any public or municipal corporation, political subdivision, district, State agency or authority, to enter into and execute appropriate contracts with the water project authority of the State of California, created in and by the Central Valley Project Act of 1933, under the provisions of Chapter 1042 of the Statutes of 1933, and authorizing any such agency or entity to comply with the provisions of any such contract; and authorizing any such agency or entity to segregate, allocate, devote and pledge revenues derived from the sale, use or distribution of facilities received from said Water Project Authority under any such contract, for the purpose of securing payments under such contract; and authorizing any such agency or entity to establish a special account for the purposes of such contract, funds accruing to which shall be and constitute a trust fund for the purpose of making payments under such contract to said Water Project Authority.

[Approved by the Governor July 20, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

"State agency" defined

SECTION 1. For the purposes of this act, "State agency" shall mean and include any irrigation district, reclamation district, municipal utility district, public utility district, municipality, water district, water storage district, and any public or municipal corporation, political subdivision, district, State agency or authority, now organized, or which may hereafter be organized, under and by virtue of the laws of the State of California, now in effect or which may hereafter be enacted.

State agency may contract with Water Project Authority

SEC. 2. In addition to the powers conferred by law, and not in derogation or in limitation thereof, any State agency is hereby authorized, enabled and empowered to enter into and execute appropriate contracts with the Water Project Authority of the State of California, a body politic and corporate, created in and by the Central Valley Project Act of 1933, Chapter 1042 of the Statutes of 1933, for any and all the purposes and objects of the said act and as provided and contemplated therein; and any such State agency is hereby

Stats 1933, p 2643

authorized, enabled and empowered to comply with any and all the terms, provisions and conditions of any such contract.

Payments to Water Project Authority for water, etc.

SEC. 3. Any such State agency may, in any such contract, provide therein for the segregation and allocation of any and all revenues received by any such State agency from the sale, use or distribution of any water, use of water, electric energy or other facilities to be received, used or distributed by any such State agency under such contract with the said Water Project Authority; and, pursuant to the terms and provisions of any such contract, may segregate, allocate and devote any such revenues, in whole or in part, solely for the purpose of making payments to said Water Project Authority, for such water, use of water, electric energy or other facilities to be received, used or distributed under any such contract; and any such State agency may further provide in any such contract for the pledge, in whole or in part, of any such revenues for the purpose of securing to the said Water Project Authority any payments which may become due under any such contract, and may, pursuant to the terms of any such contract, so pledge such revenues, in whole or in part, for any such purpose.

Trust fund for payments by State agency

SEC. 4. Any such State agency may further, in any such contract, promise and agree to and with said Water Project Authority to establish and maintain a special account to be created in and from its general fund, or other appropriate fund, and may, pursuant thereto, create establish and maintain such special account, and any and all funds accruing to said special account, or deposited therein, in compliance with the terms and provisions of any such contract shall be and constitute a trust fund for the purpose of making payments to said Water Project Authority, as may be provided in such contract.

Constitutionality

SEC. 5. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, void or inoperative, the unconstitutionality or invalidity of such section, subsection, sentence, clause or phrase, shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, void or inoperative.

CHAPTER 748.

An act to amend section 1429 of the Penal Code, relating to the entering of pleas by a defendant.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1429 of the Penal Code is hereby amended to read as follows: C. A. 1880, p. 30

1429. The defendant may make the same plea as upon an indictment, as provided in section 1016. His plea must be oral and in the case of a misdemeanor may be made by the defendant or by his counsel. When made, the plea must be entered in the minutes. If the defendant pleads guilty, the court may, before entering such plea or pronouncing judgment, examine witnesses to ascertain the gravity of the offense committed; and if it appear to the court that a higher offense has been committed than the offense charged in the complaint, the court may order the defendant to be committed or admitted to bail, to answer any indictment which may be found against him by the grand jury, or any information which may be filed by the district attorney. Plea by defendant

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CHAPTER 749.

An act to amend the County Water District Act, approved June 10, 1913, as amended, by amending sections numbered 5, 7, 12 and 25, and repealing section 52, thereof, and adding sections 16a, 25a, 25b, 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64 and 65 thereto, relating to county water districts. Stats. 1913, p. 1049, amended

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 5 of the County Water District Act, approved June 10, 1913, as amended, is hereby amended to read as follows: Stats. 1933, p. 2254

Sec. 5. (1) The mode of nomination and election of all directors of such water district to be voted for at any water district election shall be as follows and not otherwise: Nomination and election of directors

(2) The name of a candidate shall be printed upon the ballot when a certificate of nomination shall have been filed in his behalf in the manner and form and under the conditions hereinafter set forth.

(3) The certificate of nomination shall consist of one or more parts, signed by not less than twenty-five qualified electors residing within said district. Said certificate shall read substantially as follows: Form of certificate of nomination

Certificate of Nomination

State of California } ss.
County of _____}

We, the undersigned, certify that we do hereby join in a certificate of nomination of _____, whose residence is at _____, in said county and State, for the office of director of _____ county water district to be voted for at the election to be held in said district on the _____ day of _____, 19___, and each of us further certifies that he is a qualified elector residing within said district and is not at this time a signer of any other certificate nominating any other candidate for the above named office, or, in case there are several places to be filled in said office, that he has not signed more certificates than there are places to be filled in said office; that his residence and occupation are as hereinafter stated.

Signature.	Residence.	Occupation

Affidavit

Verification Deputy's Affidavit.

State of California } ss.
County of _____}

I, _____, solemnly swear that I have been appointed according to provisions of the County Water District Act as a verification deputy to secure signatures to a certificate of nomination of _____ as a candidate for election to the office of director, of _____ county water district; that all the signatures on this section of said certificate were made in my presence and that to my knowledge and belief each of said signatures is the genuine signature of the person whose name it purports to be.

_____
Verification Deputy.

Subscribed and sworn to before me this _____ day of _____, 19__.

_____
Notary Public (or other official).

The certificate of nomination of which this section forms a part shall, if found sufficient, be returned to said verification deputy at No. _____ Street, _____, California.

Signers of certificates

(4) It shall be the duty of the county clerk to furnish upon application a reasonable number of forms of certificate of nomination. All certificates must be of uniform size as determined by the county clerk. Each signer of a certificate must not at the time of signing a certificate have his name signed to any other certificate for any other candidate for the same office, nor, in case there are several places to be filled in the same office, signed to more certificates for candidates for said office than there are places to be filled in such office. In case an elector has signed two or more conflicting certificates, all his signatures shall be rejected.

(5) The candidate or any five qualified electors of the district may appoint verification deputies to secure the signatures to certificates of nomination and the document in which such verification deputies are appointed, as herein provided, shall be filed with the county clerk at or before the time the certificate of nomination is left with the county clerk for filing or for examination. Said document shall be in substantially the following form: Verification deputies.

Form for Appointment.

The undersigned hereby appoint__ the following qualified electors of _____ county water district as verification deputies to obtain signatures to a certificate of nomination nominating _____ as a candidate for the office of director of said district at an election to be held in said district on the _____ day of _____, 19__.

Name.	Address.
_____	_____
_____	_____
_____	_____
_____	_____

Dated this _____ day of _____, 19__.

_____	_____
Residence.	Signature.

(6) The certificate of nomination consisting of one or more parts may be presented to the county clerk not earlier than forty-five days nor later than thirty days before the election. The county clerk shall endorse thereon the date upon which the certificate was presented to him and shall forthwith examine the same and ascertain whether or not it conforms to the provisions of this section. If found not to conform thereto, he shall immediately, in writing, designate on said petition the defect or omission or reason why such certificate can not be filed and shall return the certificate to the person therein designated. The certificate may then be amended and again presented to the clerk as in the first instance and he shall forthwith examine the same. If necessary the board of supervisors shall provide extra help to enable the clerk to perform satisfactorily and promptly the duties imposed by this section. Presentation of certificate

(7) Any signer of a certificate of nomination may withdraw his name from the same by filing with the county clerk a written revocation of his signature before the certificate is filed by the clerk and not otherwise. He shall then be at liberty to sign a certificate for another candidate for the same office. Withdrawal of signature.

(8) Any person who has been nominated under this section as a candidate may, not later than twenty-five days before the day of election, cause his name to be withdrawn from nomination by filing with the county clerk a written request therefor. No name so withdrawn shall be printed upon the ballot. If, upon such withdrawal, the number of candidates Withdrawal of candidate.

remaining does not equal the number to be elected, then other nominations may be made by filing certificates therefor not later than twenty-five days prior to such election.

Certificate filed

(9) If either the original or amended certificate of nomination be found sufficiently signed, the clerk shall file the same twenty-five days before the date of the election. When a certificate of nomination shall be filed with the clerk it shall not be withdrawn nor added to.

Certificates preserved

(10) The county clerk shall preserve in his office, for a period of two years, all certificates of nomination filed under this section.

List of candidates.

(11) Immediately after such certificates are filed, the county clerk shall enter the names of the candidates in a list, with the offices to be filled, and shall, not later than twenty days before the election, certify such list as being the list of candidates nominated, and the board of supervisors shall cause said certified list of names and the offices to be filled to be published in a proclamation calling an election at least once a week for two successive weeks next before the date of the election in some newspaper of general circulation published in the district and designated by the board of directors of the district. In case there is no newspaper of general circulation published in the district, such board of directors may designate any newspaper of general circulation published in the county Such proclamation shall conform in all respects to the general State law governing the conduct of general elections now or hereafter in force, applicable thereto, except as otherwise herein provided.

Ballots

(12) The county clerk shall cause the ballots to be printed and bound and numbered as provided by said general State law, except as otherwise required in this act. The ballots shall contain the list of names and the respective offices as published in the proclamation and shall be in substantially the following form:

Form

General (or Special) District Election,
_____ County Water District
(Inserting date thereof.)

Instructions to Voters: To vote, stamp or write a cross (+) opposite the name of the candidate for whom you desire to vote. All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void. If you wrongly mark, tear or deface this ballot, return it to the inspector of election, and obtain another.

How printed

(13) All ballots printed shall be precisely on the same size, quality, tint of paper, kind of type, and color of ink, so that without the number it would be impossible to distinguish one ballot from another; and the names of all candidates printed upon the ballot shall be in type of the same size and style. A column may be provided on the right-hand side for questions to be voted upon at water district elections, as provided for under this act. The names of the candidates for each office

shall be arranged in alphabetical order, and nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate.

(14) The ballot shall contain the following instructions: "For director vote for (giving number)." Arrangement.

(15) A half-inch square shall be provided at the right of the name of each candidate wherein to mark the cross. Voting squares

(16) Half-inch spaces shall be left below the printed names of candidates for each office equal in number to the number to be voted for, wherein the voter may write the name of any person or persons for whom he may wish to vote. Write-in blanks

(17) The county clerk shall cause to be printed sample ballots, identical with the ballot to be used at the election, and shall furnish copies of the same on application to registered voters at his office at least five days before the date fixed for such election, and shall mail one such ballot to each voter entitled to vote at such election, so that all of said sample ballots shall have been mailed at least three whole days before said election. Sample ballots

(18) In case there is but one person to be elected to an office, the candidate receiving a majority of the votes cast for the candidates for that office shall be declared elected; in case there are two or more persons to be elected to an office, then those candidates equal in number to the number to be elected, who receive the highest number of votes for such office shall be declared elected; provided, however, that no person shall be declared elected to any office at such first election unless the number of votes received by him shall be greater than one-half the number of ballots cast at such election. Votes necessary to elect.

(19) If at any election held as above provided there be any office to which the required number of persons was not elected, then as to such office the said first election shall be considered to have been a primary election for the nomination of candidates, and a second election shall be held to fill said office. The candidates not elected at such first election, equal in number to twice the number to be elected to any given office, or less if so there be, who receive the highest number of votes for the respective offices at such first election, shall be the only candidates at such second election; provided, that if there be any person who, under the provisions of this subdivision, would have been entitled to become a candidate for any office, except for the fact that some other candidate received an equal number of votes therefor, then all such persons receiving such equal number of votes shall likewise become candidates for such office. The candidates equal in number of the persons to be elected who shall receive the highest number of votes at such second election shall be declared elected to such office. First election considered primary

(20) The said second election, if necessary to be held, shall be held three weeks after the first election. Second election.

(21) All the provisions and conditions above set forth as to the conduct of an election, so far as they may be applicable,

shall govern the second election, except that notice of election need be published twice only; and provided, also, that the same precincts and polling places shall, if possible, be used.

Failure to qualify

(22) If a person elected fails to qualify, the office shall be filled as if there were a vacancy in such office, as provided in section 4 of this act.

Informality not to invalidate.

(23) No informality in conducting district elections shall invalidate the same.

Stats. 1913, p. 1057.

SEC. 2. Section 7 of said act, as amended, is hereby amended to read as follows:

Officers subject to recall.

Sec. 7. Every incumbent of the office of director, whether elected by popular vote for a full term, or appointed by the board of directors to fill a vacancy, is subject to recall by the voters of any county water district organized under the provisions of this act, in accordance with the recall provisions of the general laws of the State applicable to officers of counties.

Stats 1933, p. 2259.

SEC. 3. Section 12 of said act, as amended, is hereby amended to read as follows:

Powers of district

Sec. 12. Any county water district incorporated as herein provided shall have power:

1. To have perpetual succession;

Sue and be sued.

2. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction;

Adopt seal

3. To adopt a seal and alter it at pleasure;

Hold property.

4. To take by grant, purchase, gift, devise, or lease; to hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the district, necessary to the full exercise of its powers;

Acquire waterworks

5. To construct, purchase, lease or otherwise acquire waterworks and other works and machinery, canals, conduits and reservoirs, and to purchase, lease or otherwise acquire water rights, storage sites, watersheds, lands, rights and privileges, useful or necessary to convey, supply, store or otherwise make use of water for irrigation, power or other useful purposes, and to operate and maintain such water rights, water works, canals, conduits, reservoirs, storage sites, watersheds, works, machinery, lands, rights and privileges for the uses aforesaid for the benefit of the district;

Store water

6. To store water for the benefit of the district; to conserve water for future use; to appropriate, acquire and conserve water and water rights for any useful purpose; to commence, maintain, intervene in and compromise, in the name of the district, and to assume the costs of any action or proceeding involving or affecting the ownership or use of waters or water rights within the district used or useful for any purpose of the district or a benefit to any land situated therein; to commence, maintain, intervene in, defend and compromise actions and proceedings to prevent interference with or diminution of the natural flow of any stream or natural subterranean supply of waters used or useful for any purpose of the district or a common benefit to the lands within the district or its inhabitants; and

to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger the inhabitants or lands of the district;

Lease waterworks

7. To lease of and from any person, firm or public or private corporation, with the privilege of purchase, or otherwise, existing water rights, water works, canals, or reservoir systems; and to carry on and maintain the same; also to sell water, or the use thereof, for irrigation, power, or other useful purposes, and whenever there is a surplus, sell, or otherwise dispose of the same, to municipalities, or towns, or to consumers, located, within or without the boundaries of the district;

Right of eminent domain

8. To have and exercise the right of eminent domain in the manner provided by law for the condemnation of private property for public use, to take any property necessary to supply the district or any portion thereof with water, whether such property be already devoted to the same use or otherwise, and may condemn any existing water rights, canals, reservoirs, storage sites, watersheds, water works or systems, or any portion thereof owned by any person, firm or corporation; provided that property and water rights of municipal corporations shall not be subject to the provisions of this section. In proceedings relative to the exercise of such right, the district shall have the same rights, powers and privileges as a municipal corporation;

Cooperate with United States

9. To cooperate and contract with the United States, under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of Congress heretofore or hereafter enacted, authorizing or permitting such cooperation or contract for purposes of construction of works, whether for irrigation, drainage, flood control or for the development of electric or other power, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States, and to carry out and perform the terms of any contract so made; and for said purposes the district shall have all powers, rights and privileges possessed by irrigation districts and exercise such powers, rights and privileges in the same manner as irrigation districts, all as provided in that certain act of the Legislature of the State of California entitled "An act to authorize irrigation districts to cooperate and contract with the United States under the provisions of the Federal reclamation laws for a water supply, or the construction, operation or maintenance of works, including drainage works, or for the assumption by the district of indebtedness to the United States on account of district lands; and to provide the manner and method of payment to the United States under such contract, and for the apportionment of assessments, and levy thereof, upon the lands of the district to secure revenue for such payments, and to provide for the judicial review and determination of the validity of the proceedings in connection with such contract," approved May 5, 1917, as such act now exists or may

Stats 1917, p. 243

hereafter be amended; provided that if any section, subsection, sentence, clause or phrase of said act of May 5, 1917, is for any reason held to be unconstitutional, such decision shall not affect the validity of the adoption by reference herein of the remaining portions of said act of May 5, 1917, and the Legislature hereby declares that it would have referred to and incorporated by reference in this act the provisions of said act of May 5, 1917, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases of said act of May 5, 1917, be declared unconstitutional; and provided further, that in any such contract made between a county water district and the United States, the lands which may be charged with any taxes or assessments under such contract, shall be designated and described, and the contract shall not include any lands which are not susceptible of service with water from the water works or system contemplated under such contract. The proceedings for voting at an election upon a proposal to enter into such contract with the United States shall be had in so far as applicable in the manner provided in the case of the ordinary issuance of bonds by county water districts. Notwithstanding any provision of said act of May 5, 1917, as such act now exists or may hereafter be amended, or any other provision of this act or other law, when any district has contracted with the United States under the provisions of this or any other act for the construction of works or for the acquisition, purchase, extension, operation or maintenance of such works or for water supply, then, in the event that the revenues of the district from water rates shall be, or in the judgment of the board of directors are likely to be, inadequate to pay all charges payable to the United States under such contract, and all charges for construction, acquisition, operation and maintenance of any irrigation, drainage, flood control or power system or works acquired or constructed under such contract, any tax or assessment, general or special levied for the payment of any of said charges in any manner provided by law shall be levied only upon land exclusive of improvements and personal property in the portion of such district to be served with water under such contract as therein described or thereunder modified;

Borrow money.

10. To borrow money and incur indebtedness and to issue bonds or other evidences of such indebtedness; also to refund or retire any indebtedness or lien that may exist against the district or property thereof;

Levy taxes

11. To cause taxes to be levied for the purpose of paying any obligation of the district and to accomplish the purposes of this act in the manner herein provided;

Make contracts

12. To make contracts, to employ labor and to do all acts necessary for the full exercise of the foregoing powers The board of directors of the district may, but shall not be required to, cause to be performed or carried out construction or other work by contract or by the district, under its own

superintendence in any manner authorized as to irrigation districts in section 53 of the California Irrigation District Act, as now existing or as hereafter amended;

13. To contract with the United States upon such terms as the board of directors may find to be to the best interest of the district, for permanent or temporary service of water to Indian lands lying within the exterior boundaries of the district; Service of water to Indian lands

14. To sell or lease any lands belonging to the district for oil, gas or other hydrocarbon substances or other minerals, when deemed by the board for the best interest of the district. Sale or lease of mineral or oil lands

SEC. 4. A new section is hereby added to said act, as amended, to be numbered 16a and to read as follows: New section

Sec. 16a The board of directors may, by resolution, submit to the electors of the district, a proposition for the issuance of new bonds for the purpose of refunding any or all of the bonds outstanding, voted by such electors and in like manner may submit to the electors of any improvement district of the district a proposition for the issuance of new bonds for the purpose of refunding bonds voted by the electors of such improvement district, which proposition may be voted on at any general or special water district election and the procedure upon such election shall be in accordance, so far as applicable, with the procedure upon an original issue of bonds, except that no hearing need be held upon the question whether the bond issue will benefit the entire district or only a portion thereof and the vote of a majority of the electors voting upon the proposition shall be sufficient to authorize the issue of refunding bonds Such refunding bonds shall not bear a higher rate of interest than the bonds to be refunded and may be issued and sold in the manner and form prescribed for an original issue of bonds and may, if the holders of bonds of an original issue and the board of directors so agree, be exchanged for such original bonds, provided that the face value of the refunding bonds so exchanged shall not exceed the face value of the original bonds. The board of directors may raise money by water rates or taxes to pay principal and interest of such refunding bonds in the same manner as prescribed for payment of bonds of an original issue. Issue of refunding bonds; Election

SEC. 5. Section 25 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1911, p. 1062

Sec. 25. Any portion of a county or of any municipality, or both, consisting of lands susceptible of service with water from works of the district, or practicable works in connection therewith, which lands will be benefited by such service and may consist of several parcels which are or are not contiguous with each other nor with the boundary of the district, may be added to any district organized under this act, at any time, in the following manner: Annexation of land to district

(a) A petition may be filed with the secretary of the board of directors, signed by a majority in number of the holders of title, or evidence of title, to the lands proposed to be added, Petition

who shall hold title or evidence of title, to a majority in acreage of said lands, containing a description of said lands sufficient to identify the same and praying that said lands be added to the district. Such petition may consist of one or more separate instruments and each signature thereto shall be acknowledged or proved in the manner required to entitle an instrument to be recorded.

Notice.

(b) The secretary of the board of directors shall, commencing not later than forty days after the filing of the petition, cause to be published in a newspaper printed and published in the district, or a newspaper printed and published in the county, if there be no newspaper printed and published in the district, once a week for two successive weeks a notice stating the purpose of the petition and describing the lands proposed to be added and notifying all persons interested in or who may be affected by the proposed addition of said lands to the district to appear at the office of the board at a time named in such notice for the hearing of said petition and objections thereto and show cause in writing, if any they have, why said lands, or any part thereof, should not be added to the district The time of hearing to be specified in said notice shall be that of the regular meeting of said board next after the expiration of the time for publication of said notice.

The secretary shall, within two days after first publication of said notice, send a copy thereof by mail to each person who has not signed the petition, to whom any lands proposed to be added to the district were assessed on the last equalized county assessment roll, at the address of such person appearing on said assessment roll. Irregularity or defect in mailing, or failure to mail such copies shall not in any manner impair nor invalidate the addition of such lands to the district. The petitioners shall advance to the secretary the cost of publication and mailing of such notice, and unless so advanced at the time of filing the petition, or provided by the board the secretary shall not publish nor mail the notice.

Hearing.

(c) At the time of hearing specified in said notice, or other time to which the hearing shall be adjourned, the board of directors shall proceed to hear the petition and all written objections thereto and if said board shall find that said petition complies with the requirements of this act and that the addition to the district of the lands proposed to be added, or some portion thereof, is authorized by this act and will be for the best interest of the district, and of the lands to be added the board shall by ordinance declare that said lands, or said portion thereof, shall be added to the district. Said board shall not determine that only a portion of said lands shall be so added, unless the petitioners include a majority in number of the holders of title, or evidence of title to said portion of said lands and represent a majority in acreage thereof. The ordinance shall contain a description of the lands added to the district, sufficient to identify the same.

(d) The board of directors may, without petition, except as may be required by the laws of the United States, by resolution propose the addition to the district of any public lands of the United States which might, if privately owned, be added on petition. The secretary of said board shall thereupon cause publication of notice stating such proposal and otherwise complying with subdivision (b) of this section and said board shall hold a hearing pursuant to said notice and if said board shall find that all requirements of this act and of the laws of the United States have been complied with and that the addition of said lands, or some portion thereof is authorized by this act and will be for the best interest of the district and of the lands to be added, the board shall by ordinance describe said lands, or portion thereof and declare that said lands, or said portion thereof, shall be added to the district.

Addition of public lands of the United States.

(e) If no petition for the holding of an election for the disapproval and veto by the electors of any ordinance adding lands to the district be filed within the period provided by law, after the adoption of such ordinance, then said ordinance shall be effective.

Effective date of ordinance

(f) The president and secretary of the board of directors shall, if no petition for disapproval and veto of such ordinance is filed within the time provided by law, or if such petition is filed and upon the election the electors shall not disapprove and veto said ordinance, forthwith file with the Secretary of State and with the county recorder of the county in which said district is located certified copies of said ordinance and certificates stating said facts and the Secretary of State shall, within ten days after receipt of such papers, issue his certificate, reciting the addition to the district of the lands so added and describing the same and shall transmit to and file with the county clerk of the county in which said district is located a certified copy of said certificate. From and after the date of said certificate the lands therein described shall be deemed added to the district and form a part thereof, and shall be subject to existing bond issues and indebtedness of the district.

Filing copies of ordinance

SEC. 6. Section 25a is hereby added to the act cited in the title hereof to read as follows:

New section

Sec. 25a. Any lands, situate in any county which lies contiguous to the county in which any county water district was organized, may be added to such district, under the requirements and in the manner set forth in section 25 of this act. In addition to said requirements the notice of hearing upon the petition or proposal for addition of said lands shall be published in at least one newspaper printed and published in the county in which said lands are situate; the president and secretary shall file with the county recorder of said county duplicates of the papers required to be filed with the Secretary of State and the latter shall file with the county clerk of said

Adding lands in contiguous county to district.

county a certified copy of his certificate reciting the addition of said lands.

After said lands have been added to the district:

(a) The secretary of the board of directors of the district shall perform all duties prescribed by law to be performed by county clerks in connection with district elections and for such purpose is authorized to procure from the proper county clerks all requisite registration books and copies of indexes thereof; all papers required by this act to be filed with county clerks shall be filed with said secretary and the board of directors shall perform all duties prescribed by law to be performed by boards of supervisors in connection with district elections; and

(b) The district shall assess property and levy and collect taxes in the manner prescribed in sections 30 to 51, inclusive, of this act.

New section.

SEC. 7. Section 25b is hereby added to the act cited in the title hereof to read as follows:

Conditions imposed upon lands added to district.

Sec. 25b. If the board of directors shall, on any hearing on a petition to add lands to the district find that such addition of any lands without condition would work an injury to lands already within the district, the board may by resolution prescribe conditions upon such addition, either by providing for priority of right to water for the lands theretofore in the district, or for the payment of special taxes upon the lands to be added, or special rates for water served such lands, or for such other conditions as may to the board seem just. As part of such conditions said board may in its discretion prescribe that the lands so added shall be added to and form a part of any improvement district then existing within the county water district or shall constitute one or more additional improvement district or districts.

If any such conditions be prescribed by the board, the board shall adjourn the hearing upon the addition of said lands for not less than thirty nor more than sixty days. If upon the adjourned hearing it shall appear that written objections to the addition of said lands subject to such conditions have been filed with the secretary of the board, signed and acknowledged by the majority in number of holders of title, or evidence of title, to said lands, representing a majority in acreage of said lands, then said board shall by resolution dismiss said petition. If such objections have not been so filed, the board may proceed by ordinance to declare that said lands shall be added to the district subject to said conditions.

Without any other proceedings than those necessary to comply with the laws of the United States and regulations issued thereunder, the board of directors may by any ordinance providing for addition to the district of any public lands of the United States impose upon such lands any such conditions as the board may deem just.

SEC. 8. Section 52 of the act cited in the title hereof is hereby repealed and a new section is hereby added to said act, to be numbered section 52, and to read as follows: Stats. 1933, p. 2275.

Sec. 52. All lands which are now privately owned and situate within the exterior boundaries of any district organized and existing under this act but which were public lands of the United States or lands of this State at the time of the organization of such district and have not heretofore been added to such district are hereby added to such district. The Legislature hereby finds and determines that all such lands are and will be benefited by the organization, existence and operation of such district. Lands added which were public lands when district organized.

SEC. 9. Section 54 is hereby added to the act cited in the title hereof to read as follows: New section

Sec. 54. Districts May Be Consolidated. Two or more districts organized or existing under this act may be consolidated, as hereinafter provided, whether their boundaries are contiguous or not, and when so consolidated the consolidated district shall possess all the powers and be governed by and be subject to all of the provisions of this act (except as hereinafter otherwise provided) as though originally organized under this act. Consolidation of districts.

SEC. 10. Section 55 is hereby added to the act cited in the title hereof to read as follows: New section.

Sec. 55. Petition. When in the judgment of the board of directors of a county water district it is for the best interests of such district that it be consolidated with one or more other districts organized or existing under this act, or when there is presented to said board a petition signed by signers equal in number and possessing the qualifications required by this act for a petition for the organization of a county water district, said board must pass a resolution reciting such facts and declaring the advisability of such consolidation and its willingness to consolidate, and forward to the State Engineer a copy thereof, duly certified to be such by the president or secretary of the district. Petition for consolidation.

SEC. 11. Section 56 is hereby added to the act cited in the title hereof to read as follows: New section

Sec. 56. Investigation by State Engineer. Upon the receipt of a certified copy of such resolution adopted by two or more of such districts, the State Engineer shall forthwith make or cause to be made such investigation as he may deem necessary. Investigation.

SEC. 12. Section 57 is hereby added to the act cited in the title hereof to read as follows: New section

Sec. 57. Report by State Engineer; Recommendation; Report Favorable. Upon the completion of such examination, but not more than ninety (90) days after the receipt by him of a copy of the resolution from the board last adopting the same, the State Engineer shall submit to the board of directors of each of said districts his report thereon. Favorable report

In case said State Engineer shall consider the elimination of a portion of the lands included in any of the original districts advisable, he shall recommend the same in his report, stating his reasons therefor. He shall also set out the boundaries of the consolidated district recommended.

New section. SEC. 13. Section 58 is hereby added to the act cited in the title hereof to read as follows:

Election. Sec. 58. Election. Within ten (10) days after receiving said report, if the State Engineer deems such consolidation desirable, the board of directors of each of said districts must make an order calling a special election at which shall be submitted to the electors of such district possessing the qualifications required of electors under this act the question whether or not said consolidation shall be effected, which said election shall be conducted and returns canvassed so far as practicable in accordance with the requirements for the general county water district election provided for in this act. The boards of directors of each of the two or more districts proposed to be consolidated shall fix a date upon which said election shall be held for the purpose of voting upon such consolidation within their respective districts, provide for the holding of such election on the day so fixed, and give notice of the holding of such election, which notice shall contain the resolution calling the election adopted by such boards of directors of said county water districts. Said boards of directors shall also each fix the boundaries of voting precincts within their respective districts, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector and two clerks in each precinct. Notice of such election shall be given for the time and in the manner, and the holding thereof shall be, so near as may be, in accordance with the provisions for the holding of elections for the issuance of bonded indebtedness, as provided by section 15 of this act. The ballots shall contain the words "Consolidation—Yes" and "Consolidation—No," or words equivalent thereto, and if a majority of the votes cast in each district are "Consolidation—Yes," then such districts shall be consolidated.

Ballot.

Directors of consolidated district. At such election there shall also be elected the directors of the consolidated district, who shall be nominated and voted for as herein provided as to the nomination and election of directors of a county water district.

New section SEC. 14. Section 59 is hereby added to the act cited in the title hereof to read as follows:

Unfavorable report. Sec. 59. Report of State Engineer Unfavorable; Action by Board. After receiving said report, if said State Engineer deems such consolidation not desirable, or if no report is received from said engineer within ninety (90) days after the submission to him of said copy of said resolution from the board last adopting the same, said boards of directors, if they shall determine and declare by resolution that the proposed consolidation is desirable, shall make an order calling a special

election in the same manner as provided in section 5 hereof, which said election shall be conducted in the same manner and upon the same notice as provided therein.

SEC. 15. Section 60 is hereby added to the act cited in the title hereof to read as follows: New section

Sec. 60. Offices. Upon the voters of said districts consolidating said districts as herein provided, the directors then elected shall thereupon become the directors of such consolidated district and shall qualify, organize and elect officers in the manner provided for a newly organized district. Offices.

SEC. 16. Section 61 is hereby added to the act cited in the title hereof to read as follows: New section.

Sec. 61. Indebtedness. The report of said engineer shall recommend the apportionment to the lands of the respective districts any outstanding indebtedness that he deems equitable, and the board of directors of the consolidated district, if such consolidation be made, shall, within sixty (60) days after such consolidation, act upon such recommendation and shall apportion to the lands of said consolidated district any outstanding indebtedness as it deems equitable. Indebtedness.

SEC. 17. Section 62 is hereby added to the act cited in the title hereof to read as follows: New section.

Sec. 62. Name and Powers of District. In the original resolution of consolidation, the said boards of directors of the several districts shall specify the name agreed upon for said consolidated district, and, if such consolidation is adopted at such election, then said consolidation shall be immediately effective and the districts consolidated shall cease to exist and shall be superseded by the consolidated district and the consolidated district under the said name shall immediately succeed to all of the rights, privileges, functions and properties of all of the districts participating in such consolidation and shall be deemed to assume and be subject to all of the indebtedness, bonded and otherwise, thereof, as so respectively apportioned, and all future assessments necessary shall be levied in accordance with such apportionment. Name and powers.

Within ten (10) days after said consolidation is made, the board of directors of said consolidated district shall make an order declaring such consolidation effective and setting out the date that the same became effective and the boundaries of said consolidated district. A copy of said order, duly certified by the president and secretary thereof, shall be forthwith filed with the Secretary of State and a like copy shall be forthwith recorded in the office of the county recorder of each county in which any lands of said consolidated district are situate.

SEC. 18. Section 63 is hereby added to the act cited in the title hereof to read as follows: New section

Sec. 63. Sale of Bonds. Any bonds of any county water district or districts participating in such consolidation pursuant to the provisions of this act which have been authorized by the electors of such district or districts prior to such consolidation, but which have not been issued, may, by order Sale of bonds.

of the board of directors of the consolidated district, be sold or disposed of in the manner required by said County Water District Act and the proceeds thereof applied to the purpose for which such bonds were authorized.

New section

SEC. 19. Section 64 is hereby added to the act cited in the title hereof to read as follows:

Informality not to invalidate.

Sec. 64. Informality Not to Invalidate. No informality in any proceeding nor informality in the conducting of any election, not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate the consolidation of two or more county water districts, and any proceedings, where the validity of such consolidation is denied, shall be commenced within three (3) months from the date of the recording of the order of the board of directors of the consolidated district declaring such consolidation effective; otherwise said consolidation and the legal existence of said consolidated county water district and all proceedings in respect thereto shall be held to be valid and in every respect legal and incontestable.

New section.

SEC. 20. Section 65 is hereby added to the act cited in the title hereof to read as follows:

Rights of creditors

Sec. 65. Rights of Creditors. Nothing herein contained shall operate, or be deemed, to impair the rights of bondholders or other creditors, and each such creditor shall be entitled to enforce against and through the consolidated district all his rights against any district consolidated hereunder in the same manner and with the same effect, except for the substitution of the consolidated district for the districts consolidated, as if the consolidation had never been effected.

CHAPTER 750.

An act to amend section 107 of the Penal Code, relating to punishment for escape of a prisoner.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1072.

SECTION 1. Section 107 of the Penal Code is hereby amended to read as follows:

Punishment for escape of prisoner

107. Every prisoner charged with or convicted of a felony who is confined in any jail or prison or who is an inmate of any public training school or reformatory or county hospital or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, who escapes or attempts to escape from such jail, prison, public training school, reformatory, county hospital, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged on or going to or returning from such county

work or from the custody of any officer or person in whose lawful custody he is, is guilty of a felony and is punishable by imprisonment in the State prison not exceeding ten years, or by a fine not exceeding ten thousand dollars, or by both such fine and imprisonment.

CHAPTER 751.

An act to amend section 1530 of the Insurance Code relating to reciprocal or interinsurance exchanges.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 752.

An act validating the formation and organization of county sanitation districts under the provisions of an act of the Legislature of the State of California, approved May 29, 1923, as amended February 2, 1925, April 18, 1927, April 22, 1927, May 22, 1929 and June 9, 1931, and entitled, as amended, "An act authorizing the creation, government, maintenance and dissolution of county sanitation districts, the annexation of contiguous territory to such districts, the issuance of bonds by such districts and the powers thereof," and validating bonds of such districts.

Stats 1923, p. 498.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Any county sanitation district organized, formed and established under the provisions of an act of the Legislature of the State of California, approved May 29, 1923, amended February 2, 1925, April 18, 1927, April 22, 1927, May 22, 1929 and June 9, 1931, and entitled, as amended, "An act authorizing the creation, government, maintenance and dissolution of county sanitation districts, the annexation of contiguous territory to such districts, the issuance of bonds by such districts and the powers thereof," and all proceedings leading to such organization, formation or establishment of such district, are hereby affirmed and validated and such district is hereby declared to be duly organized and incorporated; and all the powers given to such district and the officers thereof by said act are hereby declared to be enjoyed by such district, and all the acts of such district and its officers are hereby ratified and approved, and all acts and proceedings of the board of directors of such district, leading up to and

County sanitation districts validated, etc

including the issuance of bonds if they have been heretofore sold, and all such acts and proceedings heretofore had, although the bonds are not sold, are hereby legalized, ratified, confirmed and validated to all intents and purposes, and the power of such district and of the board of directors of such district to issue such bonds is hereby ratified, confirmed and declared, and bonds heretofore sold are declared to be and shall be, in the form and manner in which such bonds have been actually issued and delivered, the legal and binding obligations of and against such district and bonds hereafter sold are declared to be and shall be legal and binding obligations of such district, and the full faith and credit of such district is hereby declared to be pledged for the prompt payment and redemption of the principal and interest of such bonds.

CHAPTER 753.

Stats. 1923, p. 695, amended.

An act to amend section 1 of an act entitled "An act to control and regulate the possession, sale and use of pistols, revolvers and other firearms capable of being concealed upon the person; to prohibit the manufacture, sale, possession or carrying of certain other dangerous weapons within this State; to provide for registering all sales of pistols, revolvers or other firearms capable of being concealed upon the person; to prohibit the carrying of concealed firearms except by lawfully authorized persons; to provide for the confiscation and destruction of such weapons in certain cases; to prohibit the ownership, use, or possession of any of such weapons by certain classes of persons; to prescribe penalties for violation of this act and increased penalties for repeated violations hereof; to authorize, in proper cases, the granting of licenses or permits to carry firearms concealed upon the person; to provide for licensing retail dealers in such firearms and regulating sales thereunder; and to repeal Chapter 145 of California Statutes of 1917, relating to the same subject," approved June 13, 1923, and relating to penalties for violations of this act.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1923, p. 542.

SECTION 1. Section 1 of an act entitled, "An act to control and regulate the possession, sale and use of pistols, revolvers and other firearms capable of being concealed upon the person; to prohibit the manufacture, sale, possession or carrying of certain other dangerous weapons within this State; to provide for registering all sales of pistols, revolvers or other firearms capable of being concealed upon the person; to prohibit the carrying of concealed firearms except by lawfully authorized persons; to provide for the confiscation and destruction of such

weapons in certain cases; to prohibit the ownership, use, or possession of any of such weapons by certain classes of persons; to prescribe penalties for violation of this act and increased penalties for repeated violations hereof; to authorize, in proper cases, the granting of licenses or permits to carry firearms concealed upon the person; to provide for licensing retail dealers in such firearms and regulating sales thereunder; and to repeal Chapter 145 of California Statutes of 1917, relating to the same subject," approved June 13, 1923, is hereby amended to read as follows:

Manufacture, sale, possession, etc., of certain weapons prohibited

Section 1. On and after the date upon which this act takes effect, every person who within the State of California manufactures or causes to be manufactured, or who imports into the State, or who keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument or weapon of the kind commonly known as a black-jack, slungshot, billy, sand-club, sandbag, or metal knuckles, or who carries concealed upon his person any explosive substance, other than fixed ammunition, or who carries concealed upon his person any dirk or dagger, shall be guilty of a felony and upon a conviction thereof shall be punishable by imprisonment in the county jail not exceeding one year or in a State prison for not less than one year nor for more than five years; provided, however, that nothing in this act shall prohibit police officers, special police officers, peace officers, or law enforcement officers from carrying any wooden club, baton, or any equipment authorized by the properly constituted authorities for the enforcement of law or ordinance in any town, municipality, county, city and county in the State of California.

Possession by peace officer

CHAPTER 754.

An act to amend section 667 of the Penal Code, relating to the punishment of petty theft after a prior conviction of a felony.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1931, p. 1051.

SECTION 1. Section 667 of the Penal Code is hereby amended to read as follows:

Second offenses, petit theft

667. Every person who, having been convicted of any felony either in this State or elsewhere, and having served a term therefor in any penal institution, commits petit theft after such conviction, is punishable therefor by imprisonment in the county jail not exceeding one year or in the State prison not exceeding five years; provided, however, that any such person who has been, or who shall hereafter be, sentenced to the State prison shall be subject to parole by the State Board of Prison

Directors, under the restrictions now provided by law for the parole of first term prisoners, any act to the contrary notwithstanding.

CHAPTER 755.

Stats. 1933, p. 80.

An act to amend sections 137 and 140 of, and to add section 108.5 to, the Agricultural Code, relating to pest control and abatement.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section to be numbered 108.5 is hereby added to the Agricultural Code, to read as follows:

Prohibition of growing, etc., of host plants.

108.5. Whenever the director determines that a particular pest can not be eradicated or effectively controlled by recognized ordinary means or that it is impractical to eradicate or control such pest without the destruction in whole or in part of uninfected or uninfested host plants, the director may issue a proclamation declaring a host-free period or a host-free district or both, describing the host or hosts and the district wherein the planting, growing, cultivating or maintenance in any manner of any plants capable of continuing the particular pest is prohibited during a specified period of time and until the menace therefrom no longer exists.

Stats. 1933, p. 84.

SEC. 2. Section 137 of the Agricultural Code is hereby amended to read as follows:

Expense.

137. The expense of such abatement shall be a county charge payable out of the general fund of the county. The entire amount thereof shall be a lien on the property from which said nuisance has been removed or abated in pursuance of this chapter. Said lien shall take precedence over and be paramount to all encumbrances upon said property, excepting only the lien of taxes, if a copy of said notice to abate nuisance shall have been recorded and a copy thereof served upon or mailed to the holder of any such encumbrance in the manner hereinbefore provided. Notice of such lien shall be recorded within thirty days after the date of payment out of the general fund of the county of the last item of expense of such abatement.

Notice of lien.

Canals and ditches

Where the notice to abate said nuisance shall have been served upon the users of water from an irrigation canal or ditch not subject to the control of any district or political subdivision, the amount of such expense shall be a lien upon each parcel of property in an amount proportionate to the acreage served by the water from such canals or ditches.

Stats 1933, p. 85.

SEC. 3. Section 140 of the Agricultural Code is hereby amended to read as follows:

140. The provisions of this chapter shall not be construed to conflict with any other act or acts providing for the extermination or control of ground squirrels or other animal pests; but when any proceedings are commenced under this chapter, the provisions of this chapter and no other law shall apply to such proceedings. Construction of provisions of chapter.

CHAPTER 756.

An act providing for the organization and government of horticultural protection districts for the purpose of protecting horticultural products and the vines, trees and shrubs whereon the same are grown against diseases, insects and pests; defining the powers of such districts and authorizing any such district to eradicate, remove or prevent the spread of any disease, insect or pest injurious to the horticultural product which such district is organized to protect; to provide for the levying and collection of taxes to pay the costs and expenses of administering such districts and carrying on their operations; defining the duties and powers of county agricultural commissioners, and other county officers in connection with such districts; to provide for including lands within and excluding lands from any such district, and to provide a method of dissolving such districts. "Horticultural Protection District Act"

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Horticultural protection districts may be organized and established by the board of supervisors of any county in this State, as herein expressly provided, and may exercise the powers herein expressly granted, or necessarily implied. Horticultural protection districts authorized.

SEC. 2. In order to propose the organization of a horticultural protection district, a petition shall be presented to the board of supervisors of the county wherein the lands included within said proposed district are situated. Such petition may consist of any number of separate instruments. Such petition must be signed by not less than fifty owners of lands within the proposed district which lands are devoted in whole or in part to the growing of the horticultural products which it is proposed to protect by the organization of said district. Petition

Such petition shall set forth and particularly describe either by metes and bounds or by legal subdivisions, all lands included within the proposed district. The lands included within any such district need not be contiguous. The petition shall set forth a name of the proposed district which name must contain the name of the horticultural product sought to be protected through the organization of such district. The petitioners must accompany the petition with a good and suf- Contents Surety bond

ficient bond, to be approved by said board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the obligors will pay all costs and expense incurred in case the organization of the district is not effected. The petition shall be presented to and filed with the board of supervisors at a regular meeting, and that board shall immediately refer the same to the agricultural commissioner of the county for his report and recommendation as to whether or not conditions of disease, insect or other pest or other physical danger to the trees, vines or plants producing the particular horticultural product sought to be protected, warrant the board of supervisors in proceeding with the organization of such district. The agricultural commissioner must file his report and recommendation in writing with the board of supervisors within fifteen days after the matter is referred to him. If the agricultural commissioner recommends that the proceedings for the organization of a district be carried on, the board of supervisors shall thereupon immediately refer the petition to the county assessor who shall examine the same by reference to the last equalized assessment roll of the county, and shall within fifteen days after receiving the petition, return the petition to the board of supervisors with his certificate attached thereto certifying whether or not it appears from said assessment roll that fifty or more signers of said petition are owners of lands included in said district devoted in whole or in part to the growing of the horticultural product intended to be protected by such district. The certificate of the assessor shall be conclusive as to the sufficiency of the signatures on said petition.

Presentation and investigation.

Report.

Notice.

SEC. 3. At its meeting at which said certificate is received from the assessor, or at its next meeting, regular or special, thereafter, the board of supervisors shall fix a time and place for hearing said petition, which time shall be not less than twenty days nor more than forty days from the date of such order, and shall give notice of such hearing by publication of the time and place thereof with a general statement of the purpose of said proposed district, together with a description of the lands included within the proposed district as described in the petition, and the name of the horticultural product proposed to be protected thereby, once a week for two successive weeks immediately prior to the date fixed for such hearing, in a newspaper of general circulation printed and published in the county wherein said district is situated. Such newspaper shall be selected and designated by order of the board of supervisors as the newspaper most likely to give notice to the persons interested in the industry of producing the horticultural product specified in said petition. On said hearing, the board of supervisors shall hear all persons who appear, and shall make such changes in the lands proposed to be included in said district as the board of supervisors may determine to be advisable, and shall thereupon determine and describe the lands to be included therein. Said board of supervisors shall

Hearing

not modify the lands to be included in said district so as to exclude therefrom any lands devoted in whole or in part to the growing of the horticultural product proposed to be benefited by the formation of such district. Any person who owns lands in the county devoted in whole or in part to the growing of said horticultural product, may, upon his application, and in the discretion of the board of supervisors, have such lands included within such district. The board of supervisors must, at said hearing, hear all competent and relevant testimony, in support of said petition, and in opposition thereto, and must determine whether or not said petition complies with the requirements of this act. The determination of the board of supervisors shall be entered upon the minutes of said board. No defect in the contents of the petition, or in the title to or form of the notice or signature shall vitiate any proceedings thereon, provided such petition have a sufficient number of qualified signatures attached thereto.

Election.

SEC. 4. Upon determining the sufficiency of said petition and the lands to be included within said proposed district, the board of supervisors shall then, at said meeting, call an election within said proposed district to determine whether such proposed district shall, or shall not be organized. For the purpose of holding said election, the board of supervisors shall divide said proposed district into convenient precincts, and fix a polling place in each of said precincts. The board of supervisors shall fix the hours during which said election shall be held, and shall appoint an inspector, a judge, and two clerks for each of the precincts to conduct said election. The inspector, judge and clerks of election for each precinct shall constitute the board of election for such precinct. The inspector shall be chairman of the election board in each precinct, and may administer all oaths required in the progress of the election. Any member of the board of election may administer and certify oaths required to be administered during the progress of the election. If the board of election, or any member thereof, fails to appear at the opening of the polls on the morning of the election, the electors of the precinct present at that hour may appoint a board or supply the place of the absent member thereof. The election must be held within fifty days from the date of the order calling the same. Such election shall be called by publication of notice thereof in a newspaper of general circulation printed and published within the county in which said proposed district is situated, once a week for three successive weeks previous to such election, and by posting notice thereof in one public place in each of the precincts not less than fifteen days prior to said election. Such published and posted notices shall each designate the name of said proposed district, and designate the respective election precincts and the polling place in each of the same, and the election officers, and the date of the election, and the hours during which the polls will be kept open; provided, that the polls in each precinct

Notice of election

must be opened not later than eight o'clock a.m. and kept open until at least four o'clock p.m.

Ballot.

The board of supervisors shall require the clerk of said board to furnish ballots and necessary supplies for said election. No particular form of ballot shall be required except that the same shall contain the words: "Shall _____ Protection District be organized under the provisions of the Horticultural Protection District Act?

Yes

No"

The ballots shall have printed thereon instructions that the voter shall write or print or stamp a cross after the words that indicate his choice, together with the number of votes he is entitled to cast as hereinafter provided.

Conduct of election.

Said election, and all other elections held under the provisions of this act, shall be conducted in accordance with the general election laws of this State so far as applicable, and except as herein otherwise provided. The election officer in delivering to each voter his ballot shall ascertain from the register hereinafter provided for, and write upon the ballot, the number of votes the holder of the ballot is entitled to cast, and, in canvassing the returns, shall see to it that the number of votes cast does not exceed the number of votes such voter was entitled to cast, but, if there is an excess, the ballot shall not be disregarded or invalidated, but only the number which the voter was entitled to cast shall be counted.

Immediately, at the close of said election the election officers in each precinct shall publicly count the votes cast at the election and shall certify the returns of said election to the board of supervisors of the county.

Electors

No person shall be entitled to vote at any election held under the provisions of this act, unless he is the owner of land included in the district on which said land there is planted or growing the particular horticultural product sought to be protected by the organization of the district. Each and every owner of land included in said district on which said land there is planted or growing the said horticultural product, shall be entitled to vote in person or by proxy at any election held under the provisions of this act, and shall have the right to cast at any such election, one vote for each such acre of land owned by him on which there is planted or growing said horticultural product. An owner of such planted land within the district comprising less than one acre shall be entitled to one vote. In calculating the number of acres owned by any voter, any fraction of an acre in excess of the integral number owned by him shall be disregarded. Whenever it becomes necessary under this act to determine the acreage on land irregularly or unevenly planted to the given product, or planted in border, the trees, shrubs or vines producing the product as planted on such land shall be counted. At the time of, and as a part of his report to the board of supervisors on the petition for the organiza-

tion of any horticultural protection district under the provisions of this act, the agricultural commissioner of the county wherein said proposed district is situated shall certify in writing to the board of supervisors, the average number of vines, trees or shrubs growing the horticultural product sought to be protected by such district, which are customarily planted on one acre of land in his county. For all purposes of voting and taxation as herein provided, said number so certified shall be conclusive, and the number of acres comprised in any parcel irregularly or unevenly planted, or in any border planting shall be conclusively determined by dividing the number of trees therein by the number so certified by the agricultural commissioner. All persons, firms and corporations owning lands as hereinbefore described and included in said district shall be entitled to vote at any election held under the provisions of this act. Where land is owned by two or more persons, the votes for such land shall be divided in accordance with the interest of each owner at any such election. Where a corporation or partnership appears as the owner of any land included in the district, the vote of such corporation or partnership at any election held under the provisions of this act shall be cast by any person holding a proxy from such corporation or partnership. Executors, administrators, special administrators, guardians and trustees may cast the votes of the estates or lands represented by them at any election held under the provisions of this act upon filing with the board of election, a certified copy of their letters testamentary or of administration or guardianship or of appointment as trustee. No person shall vote by proxy at any such election unless authority to cast such vote shall be evidenced by an instrument in writing duly acknowledged and certified in the same manner as a grant of real property, and filed with the board of election. No vote representing any land shall be cast at any election held hereunder in any precinct other than the precinct within which the land represented by such vote is situated.

Registration of voters

Every person, firm and corporation desiring to vote at any election held under the provisions of this act must be registered as such voter with the agricultural commissioner of the county within which the district is situated not less than twenty days prior to any such election. Such registration may be made by the voter in person or by any person for the voter. Such registration shall be made upon oath on forms provided for that purpose by the agricultural commissioner, and in each instance shall specify the number of acres of land owned by the registrant included in the district and planted to the horticultural product protected or sought to be protected by said district, the precinct of the district wherein such land is situated, the location of such land by government or other subdivision, and the number of votes claimed by such registrant. Such claim shall not be conclusive as to the number of votes to which the registrant is entitled. The agricul-

tural commissioner shall, for each election held hereunder, investigate each and every registration, and shall determine the number of votes which each person, firm or corporation registered with him shall be entitled to cast at such election. Not less than five days before the date of any election held under the provisions of this act, the agricultural commissioner shall prepare a complete register of all persons, firms and corporations registered with him as herein provided, and entitled to vote at such election, and shall therein specify the precinct in which each such person, firm or corporation may vote, and the number of votes which each such person, firm or corporation may cast at such election. The register so prepared shall be final and conclusive as to qualification to vote and number of votes allowed, and no person, firm or corporation shall cast any ballot at any election held under the provisions of this act, except as authorized by the said register and one copy of such register shall be provided for and at each precinct at each election held under the provisions of this act. For the election upon the question of organizing a district hereunder, the board of supervisors shall require the agricultural commissioner to prepare the register in the manner herein specified.

Organization of district.

SEC. 5. The said board of supervisors shall, on the first Monday following the election upon the question of the organization of the proposed district, meet, and canvass the returns of such election, and, if, upon such canvass, it determines that a majority of the votes cast at such election are in favor of the organization of the proposed district, then the board of supervisors shall, by order entered upon its minutes, declare the district duly organized under the name theretofore designated. Such order must particularly describe the territory included in said district so that all lands included in said district may be known therefrom, and a copy of said order duly certified by the clerk of the board of supervisors, must be forthwith filed for record in the office of the county recorder of the county wherein the district is situated.

Board of directors.

SEC. 6. If such district is declared to be organized, the board of supervisors shall, at the meeting at which said order declaring the district to be organized is made, appoint a board of five directors to administer the affairs of the district. No person shall, at any time, be eligible to hold the office of director of any such district unless he is a citizen of the United States and of the State of California, and an owner, either individually or as a joint tenant of, or is a member of a partnership which owns, or is an officer of a corporation which owns lands within the district devoted in whole or in part to the growing of the horticultural product which the district is organized to protect. Each director so appointed shall, in the manner provided by law, give such official bond for the faithful performance of his duties as shall be fixed by the board of supervisors, and shall subscribe the oath of office, and such bonds and oaths shall be filed with the county clerk of the

county in which said district is situated. From and after the filing for record of the order declaring it organized and the appointment and qualifying of its board of directors, the organization of the district shall be complete.

Powers of district.

SEC. 7. Any horticultural protection district organized as herein provided shall have power:

(1) To have perpetual succession;

(2) To sue and be sued in all actions and proceedings in all courts and tribunals of competent jurisdiction;

(3) To adopt a seal and alter it at pleasure;

(4) To take by grant, purchase, gift, devise, lease or otherwise, and to hold, use and enjoy, and to lease, or otherwise dispose of, real and personal property of every kind and description within or without the district necessary to the full and convenient exercise of its powers;

(5) To cause taxes to be levied as herein provided, for the purpose of paying any obligation of the district, and to accomplish the purposes of the district in the manner herein provided;

(6) To make contracts, and to employ except as otherwise provided herein, all persons, firms and corporations necessary to carry out the purposes and the powers of the district, and at such salary, wage or other compensation as the board of directors shall determine;

(7) To eradicate, remove or prevent the spread of any disease, insect or other pest injurious to the horticultural product of the trees or vines on which it is grown, for the protection of which horticultural product the district is organized;

(8) To enter into or upon any land included in the district for the purpose of inspecting the vines, trees and fruits growing thereon;

(9) To commence and prosecute appropriate actions to have it adjudged that any tree, shrub or vine in the district infested with disease, insects or pests injurious to the product which the district is formed to protect, is a public nuisance, and to have it decreed that such nuisance be abated.

Board of directors

SEC. 8. The general control and management of each horticultural protection district shall be vested in a board of directors of five members. The members of the board of directors of each district shall each receive such salary as shall be fixed by the board of supervisors of the county in which the district is situated, and such salary shall not be increased during the term of office of such director. Directors shall also be reimbursed for actual and necessary traveling expenses incurred by them in and about the performance of any duties required by the board of directors to be performed by them for the district. All claims presented by any director shall be subject to the approval of three other members of the board of directors.

Term of office.

SEC. 9. The term of office of the directors shall be four years, except those first appointed as aforesaid upon the organization of the district. Said appointees shall, immedi-

ately upon their appointment, classify themselves by lot so that the terms of three of them shall expire on the first day of May following the first biennial election of the district and the terms of the other two shall expire on the first day of May following the second biennial election of the district.

In the event of a vacancy in the board of directors either by resignation, death or otherwise, the vacancy shall be filled by appointment by the board of supervisors and the person so appointed shall hold office for the remainder of the term of his predecessor. The board of directors of each horticultural protection district organized hereunder shall have power to appoint and to fix the compensation of a secretary of the district who shall keep all records and perform such other duties as are ordered by the board of directors.

Procedure.

SEC. 10. Except as herein otherwise provided, all acts of the board of directors shall be by resolution and a majority of the board of directors must concur in the adoption thereof.

Powers are cumulative.

SEC. 11. The powers conferred upon any horticultural protection district and its board of directors by the provisions of this act shall be cumulative to other disease, pest or insect control statutes, and shall not be construed to be in lieu of any such other disease, insect or pest control statutes, and no act of any such district or of any of its directors, agents or employees shall operate to deprive or hinder the duly appointed or designated State, county or Federal authorities in conducting any operation for the eradication or control or prevention of any disease, insect or pest in the district.

Duty of agricultural commissioner.

SEC. 12. The agricultural commissioner of the county in which any horticultural protection district organized hereunder is situated, shall, without fee or charge, supervise and direct in accordance with the best known accepted methods as determined by the board of directors, all inspection, eradication, fumigation and other activities undertaken by such district. The agricultural commissioner shall employ any and all assistants required in and about any such work, and the district shall bear and pay all expense incurred in and about such work.

Assessment roll.

SEC. 13. In every county wherein any horticultural protection district has been organized and exists under the provisions of this act, the county assessor in making the annual assessment of property in each and every year after the organization of such district, must assess and enter as a separate item on the assessment roll for each parcel of real property included in such district, the value, as improvements thereon, of all trees, vines or shrubs of the horticultural product protected by such district, growing thereon. Such assessment shall be upon an acreage basis and the number of acres in the case of irregular or border planting, shall be determined conclusively by the assessor by counting such trees and dividing the total number by the number per acre of average planting certified as hereinbefore provided, by the county agricultural commissioner. Upon completing the assessment

roll of the county in each year, the assessor shall separately compute and certify to the board of supervisors, the total assessed value, as shown by said assessment roll, of all such trees, vines or shrubs so assesed in each horticultural protection district situated in the county.

Budget

SEC. 14. The board of directors of each horticultural protection district organized hereunder must, on or before the first Monday in July of each year, prepare and file with the board of supervisors of the county within which such district is situated a budget setting forth all estimated expenditures of the district for the fiscal year commencing on the first day of such month of July. A copy of said budget shall also at the same time be filed with the auditor of the county. The board of supervisors of each county wherein is situated a horticultural protection district organized under the provisions of this act, must annually, at the time of levying other county taxes, levy a tax upon all the trees, vines or shrubs of the variety of horticultural product protected by said district and planted or growing in said district as assessed by the assessor under the provisions of this act. The board of supervisors must determine the rate of such tax by deducting ten per cent for anticipated delinquencies from the total assessed value of such trees, vines or shrubs included in the district as it appears on the assessment roll of the county, and dividing the sum reported by the district board of directors as required to be raised, by the remainder of such total assessed value; provided, that if a fraction of a cent occur on a valuation of one hundred dollars, it shall be taken as a full cent.

Tax levy.

Collection of tax

SEC. 15. The tax so levied shall be computed and entered upon the assessment roll by the county auditor, and if the supervisors fail to levy the tax as provided in the foregoing section, then the auditor must do so. Such tax shall be collected at the same time, and in the same manner as general county taxes, and when collected shall be paid into the county treasury for the use of said district.

Manner of levying and collecting tax.

SEC. 16. The provisions of the Political Code of this State, prescribing the manner of levying and collecting taxes and the duties of the several county officers with respect thereto, are, so far as they are applicable and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof. Said officers shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this act.

Duty of county treasurer

SEC. 17. The treasury of the county wherein any horticultural protection district is located shall be the repository of all the moneys of such district. The county treasurer shall receive and receipt for all such moneys, and place the same to the credit of the district. He shall be responsible upon his official bond for the safe keeping and disbursement, in the manner herein provided, of all moneys of any such district so held by him. The county treasurer shall pay out the

moneys of the district only upon warrants of the county auditor drawn upon the order of the board of directors of the district signed by the president of said board and attested by the secretary. The county treasurer shall report in writing on the first day of July, October, January and March of each year, to the board of directors of each horticultural protection district in his county, the amount of money he then holds for such district, the amount of receipts since his last report, and the amounts paid out; and each such report shall be verified and filed with the secretary of the district to whom it is addressed.

Election of directors.

SEC. 18. In each horticultural protection district organized under the provisions of this act, a biennial election shall be held on the first Monday in April of each odd numbered year, and the board of directors of such district shall, for the purpose of holding such election, divide the district into convenient precincts, establish the polling place in each precinct, and appoint the same number of election officers for each precinct as for the election upon the question of organizing the district. The board of directors of the district shall cause notice of such election to be published once a week for three successive weeks in a newspaper of general circulation printed and published in the county wherein the district is situated, and by causing such notice to be posted in a public place in each of the precincts not less than fifteen days before the date of such election. At said election, a sufficient number of directors shall be elected to fill the places of those directors whose terms expire the first day of May immediately following said election. Any person eligible for the office of director, and desiring to be a candidate for election to such office must file a written notice with the secretary of the district declaring his candidacy, at least fifteen days before the said election. The names of all persons who have filed such declaration shall appear on the ballot, together with instructions to the voters to vote for the number of directors who are to be elected at such election, and the persons up to the number of directors to be elected who receive the highest number of votes shall be declared elected. The register for each such election shall be prepared by the agricultural commissioner of the county in the manner hereinbefore provided. The returns of each such election shall be reported by the boards of election to the board of directors of the district who shall meet on the Monday following such election and canvass said returns. The persons declared elected shall take the oath of office and file their official bonds with the county clerk of the county on or before the first day of May following such election, and shall take office at noon of that day. The persons, firms and corporations entitled to vote at such biennial elections and the number of votes each shall be entitled to cast shall be determined in the same manner as for the election upon the organization of the district.

Notice.

Candidates.

Register.

SEC. 19. Upon the written petition of any owner of land in the county wherein the district is situated devoted to the growing of the horticultural product protected by such district filed with the board of directors of any horticultural protection district, such land may, by order of such board of directors be included within the said district. A certified copy of each order of the board of directors so including additional lands within the district shall be filed for record by the secretary of the district in the office of the county recorder of the county immediately upon its passage by the board of directors, and each such order shall particularly describe each parcel of land so included in the district. Petition for inclusion of land in district.

Whenever all trees, vines or shrubs of the particular horticultural product protected by a horticultural protection district have been completely removed from any parcel of land included in said district, the owner of such parcel of land may file with the board of directors a verified petition particularly describing said parcel of land, and setting forth the fact of the removal therefrom of such trees, vines or shrubs. Thereupon, the board of directors shall cause an investigation of said parcel of land to be made, and, if the board finds the allegations of said petition to be true, then it shall by order entered upon its minutes, and upon the payment of such landowner of all taxes whether delinquent or otherwise then levied upon such parcel of land for the district, exclude said parcel of land from the district. A certified copy of such order particularly describing said parcel of land, shall be immediately filed for record in the office of the county recorder of the county wherein such district is situated. Exclusion of lands.

SEC. 20. The board of directors of each horticultural protection district organized under the provisions of this act shall hold a regular meeting at least once each month at such time and place in the district as shall be appointed by resolution of such board; and the board of directors of each such district shall prescribe the rules and regulations for the conduct of its meetings and for calling and giving notice of special meetings of such board. Meetings of board.

SEC. 21. Whenever a petition approved by the agricultural commissioner of the county in which any horticultural protection district is located and signed by not less than fifty landowners residing within said district who are engaged in the growing of the particular horticultural product protected by the district praying for the dissolution of the district is presented to and filed with the board of directors of the district, the said board of directors shall submit the question of the dissolution of said district to the qualified voters of the said district at the next biennial election of the said district; provided, however, the board of directors shall not be required to accept a petition for the dissolution of the district within ten days preceding any biennial election of such district. If, at said election, sixty per cent of the votes cast thereat are in favor of the dissolution of the district, then the directors of Dissolution of district.

said district must, within sixty days thereafter, file for record in the office of the county recorder of the county a certified copy of an order declaring said district to be dissolved, and cease all activities, and shall proceed immediately to wind up the affairs of the district. At the expiration of ninety days after said election, the board of directors shall deliver all property and assets in their possession belonging to said district to the agricultural commissioner of the county to be held and used by him as in his judgment shall be for the best interests of the product formerly protected by the district. Any funds which may be in the hands of the county treasurer to the credit of the district or to which the district may thereafter become entitled, shall be transferred to the credit of the county in which said district is located and shall be expended by the board of supervisors for the benefit of the product formerly protected. All claims and accounts against said district which have not been settled by the board of directors within ninety days after the election authorizing the dissolution of the district shall be presented to the board of supervisors of the county in which said district was located and shall be passed and approved by them in the same manner as county claims and shall be paid out of the funds of the dissolved district. In the event there are insufficient funds to discharge all claims and accounts, then the board of supervisors shall, at the time of levying the next general county taxes, make a levy upon the property of said dissolved district sufficient in amount to discharge all outstanding claims and accounts against said district.

Rights of creditors.

Short title.

SEC. 22. This act shall be known and may be cited as the Horticultural Protection District Act.

Constitutionality.

SEC. 23. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the act. The Legislature hereby declares it would have passed this act, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

CHAPTER 757.

An act to amend section 4014 of the Political Code of the State of California, relating to township officers.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1921, p. 838.

SECTION 1. Section 4014 of the Political Code of the State of California is hereby amended to read as follows:

Township officers

4014. The officers of a township are: two justices of the peace, two constables and such subordinate officers as are pro-

vided by law. In townships containing cities, or parts of cities, of the second, third, fourth, fifth or sixth class, in which city justices or recorders are elected or appointed, there shall be but one justice of the peace, and one constable, and in townships having a population of less than ten thousand, there shall be but one justice of the peace, and one constable. In townships containing cities of the first and one-half class there shall be four justices of the peace and four constables. For the purpose of this section, the population of townships in the State of California is hereby determined to be the population of such townships as shown by the last preceding Federal census or by a subsequent census taken as provided in section 4055 of this code.

Appointments to fill any additional offices created by this section as amended, shall not be made by the board of supervisors except upon the presentation of a petition therefor to said board, signed by not less than forty per cent of the qualified electors residents of such townships, whose names appear upon the great register of the county at the last general election.

Nothing in this section contained shall be deemed to shorten or extend the term of office or employment of any person.

CHAPTER 758.

An act to add a new section to be numbered section 17½ to an act entitled "An act providing for the incorporation of public utility districts in unincorporated territory, authorizing such districts to incur bonded indebtedness for the purpose of the construction of works and the acquisition of property, and to levy and collect taxes to pay the principal and interest on bonds and for carrying on their operations, and providing for the powers, management and government of such districts, and imposing certain duties and functions in connection with such districts upon certain county officers," approved May 31, 1921, as amended, relating to elections.

Stats 1921, p. 906, amended

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section to be numbered section 17½ is hereby added to the act cited in the title hereof, to read as follows:

New section

SEC. 17½. The board of directors of any public utility district may by ordinance provide that any election in said district thereafter held shall be conducted between the hours of one o'clock p.m. to six o'clock p.m. and may provide that the election officers shall consist of one inspector, one judge and one clerk.

Conduct of election.

CHAPTER 759.

An act to amend section 3491 of the Political Code, relating to reclamation districts.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1935, Ch 746.

SECTION 1. Section 3491 of the Political Code is hereby amended to read as follows:

Elections of trustees of reclamation districts.

3491. In each reclamation district in this State, formed under this code or any statute, there shall be an election every two years, held at such time and place, in or near the district, and after such notice as the board of supervisors shall direct; provided, that the notice shall be not less than one month, and at such election each bona fide owner of lands in the district shall be entitled to vote in person or by proxy, and shall have right to cast one vote for each one dollar's worth of real estate owned by him or her in the district, the value thereof to be determined from the next preceding assessment-roll of the county, and a majority of the votes cast at such election shall elect. In all elections for trustees every owner of real estate shall have the right to cumulate his or her votes, and give one candidate as many votes as the number of trustees to be elected multiplied by the number of dollars' worth of real estate owned by him or her shall equal, or to distribute them on the same principle among as many candidates as he shall think fit. Executors, administrators, special administrators, guardians and trustees may cast the votes of the estates represented by them.

Supervisors to appoint time and place for election

The board of supervisors to which the petition for the formation of the district was presented shall, upon the verified petition of twenty per cent of the landowners in the district holding title or evidence of title to and owning at least twenty per cent in value of the lands in the district, the value thereof to be determined from the next preceding assessment roll of the county, appoint a time and place for holding such election, which election shall be held within sixty days from the time of such application. The place of such election shall in all cases be in or near the district.

Notice.

Notice of such election shall be given by publication for not less than one month in a newspaper in each county in which any portion of the lands of the district are situate, if any newspaper is published therein, and if not, then in a newspaper having general circulation in such county.

The trustees elected under the provisions of section 3452 shall hold office until their successors are elected under the provisions of this section.

Conduct of election.

For the purposes of such election the board of supervisors of the county in which the whole or the larger part of the lands of any district are situate, must appoint from the landholders of the district one inspector and two judges of elec-

tion, who shall constitute a board of election for such district; but in case the board of supervisors fail to appoint, or the persons appointed fail to attend at the time and place appointed for the election, the voters present at the time and place of opening the polls may appoint the board, or supply the place of an absent member thereof. Each member of the board must, upon entering upon his duties, be sworn to a faithful performance thereof by some officer authorized to administer oaths. The board of election must canvass the votes cast and issue certificates of election to the persons elected, and must place the ballots, when canvassed, in an envelope and forward the same, sealed, to the clerk of the board of supervisors. The board of trustees of the district shall, prior to the election, cause to be prepared and certified by the proper officer and furnished to the board of election, a true and correct copy of the said next preceding assessment roll of the said county or counties, which said certified roll shall be used by the said board of election in determining the number of votes each voter is entitled to cast.

Any legally qualified voter may challenge any vote, and the board of election shall determine, by the oath of the parties or otherwise, as they may think proper, whether or not the person challenged is entitled to vote, and in case of challenge, either one of the board of election is hereby authorized to administer oaths.

The polls shall be open from 10 a.m. until 4 p.m.

In case of vacancy in the board of trustees, the board of supervisors shall, by appointment, fill such vacancy. Vacancies

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CHAPTER 760.

An act to amend section 4245 of the Political Code, relating to the compensation of county officers in counties of the sixteenth class.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4245 of the Political Code is hereby amended to read as follows: Stats. 1933, p. 1576.

4245. In counties of the sixteenth class, the following county officers shall receive as compensation for services required of them by law or by virtue of their offices the following salaries to wit: Santa Barbara County. Salaries.

1. The district attorney, five thousand dollars per annum for all services. The district attorney shall devote his entire time during office hours to the duties of his office and shall not engage in private practice of the law during his term of office. District attorney.

2. The auditor, four thousand dollars per annum. Auditor

Supervisors.

3. Each supervisor for all services required of him as supervisor and ex officio road commissioner, one thousand five hundred dollars per annum and twenty cents per mile for traveling from his residence to the county seat to attend meetings of the board of supervisors. Where necessary official business requires any supervisor to travel beyond the boundaries of the county, he shall receive actual necessary traveling expenses incurred therefor. No other mileage or remuneration and no other traveling expenses shall be allowed.

Jurors.

4. The fees of grand jurors shall be three dollars per diem and the fees of trial jurors in the superior court shall be three dollars in civil and criminal actions, and the fees of trial jurors in courts of justices of the peace shall be two dollars in civil and criminal actions, for each day's attendance. In addition, mileage fees shall be allowed all jurors to be computed at the rate of fifteen cents per mile for each mile traveled in attending court or in attending sessions of the grand jury, in going only.

CHAPTER 761.

An act to amend section 12562 of the Insurance Code, relating to mortgage insurance.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 145.

CHAPTER 762.

Stats. 1933, p. 909, amended.

An act to amend section 8 of and to add section 8a to the Sewer Revenue Bond Act, relating to acquisition and operation of sewerage disposal works.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 913.

SECTION 1. Section 8 of the Sewer Revenue Bond Act is hereby amended to read as follows:

Charges and rates.

Sec. 8. The governing body of the city, county or district, as the case may be, shall have power, and it shall be its duty, to establish just and equitable rates or charges for the use and maintenance of such works, to be paid by the person, firm or corporation leasing or occupying the building or premises served thereby or that in any way uses or is served by such works, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expenses of operation, repair, replacements and

maintenance of the works, and for payment of the sums required to be paid into the sinking fund as hereinafter mentioned. No such rates or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance, resolution or order fixing such rate or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges shall be given by one publication in a newspaper published in such city, county or district, if there be such a newspaper, but otherwise in a newspaper having general circulation therein, at least ten days before the date fixed in such notice for the hearing, which may be adjourned from time to time. After such hearing the ordinance, resolution or order establishing rates or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the clerk or secretary of such city, county or district, and shall be open to inspection by all persons interested. The rates or charges so established for any class of users or property served may be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinabove provided.

Publication of rates.

The governing body may establish variable rates and charges for different classes of users, or for different parts of the city, county, or district, where sewage works or portions thereof have been previously installed and financed under other laws or methods, so that such variable rates or charges may be most equitable and just to all concerned; provided such rates or charges may only be imposed and collected from the users of such works or portion thereof as are actually constructed with money derived from the sale of such revenue bonds; provided further, however, that if the users of any works or portion thereof previously acquired and financed by other methods, receive any additional benefits from the construction or operation of the works or portion thereof subsequently constructed or acquired from the proceeds of revenue bonds, then and in that case, the governing body shall be empowered to impose reasonable rates or charges on the works previously acquired, but only sufficient to cover the value of such additional benefits.

Variable rates may be established.

SEC. 2. Section 8a is hereby added to the Sewer Revenue Bond Act to read as follows:

New section.

Sec. 8a. If the rate or charge is not paid when due, on the first day of each calendar month thereafter a penalty of ten per cent of the amount of the delinquent rate or charge shall be

Penalty for nonpayment.

Recovery of rates and penalties.

added thereto. The following remedies are established for the collection of said rates or charges and the penalties thereon: First, an action may be brought in the name of the county, city or district in any court which has jurisdiction, against the person or persons who occupied the property when the service was rendered, for the collection of the amount of the delinquent rate or charge and all penalties thereon. In such action a reasonable attorney's fee shall be awarded the plaintiff. Second, the legislative body may provide that the rate or charge for sewage service shall be collected with the charge or charges for any other utility service rendered by the county, city or district and all such charges shall be itemized, billed upon the same bill and collected as one item.

Remedies cumulative.

The remedies for collecting and enforcing rates and charges herein set out are cumulative and may be pursued alternately or any thereof may be used consecutively when the legislative body so determines. If any one of said remedies is or may be invalid, all valid remedies shall remain effectual. Until the principal and interest of the bonds are fully paid any holder of any bond outstanding at any time may compel the use of any or all of the remedies herein provided. The Legislature may prescribe additional remedies for the prompt and efficient collection of said rates.

CHAPTER 763.

An act to amend sections 2.203 and 2.204 of the School Code and to add a new section thereto to be numbered 2.134, all relating to the formation of elementary school districts.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Sch. C., 1929, p. 34

SECTION 1. Section 2.203 of the School Code is hereby amended to read as follows:

Joint elementary school districts.

2.203. Excepting as otherwise provided in this article, joint elementary school districts shall be formed in the same manner as is prescribed by Article III of Chapter II of this part for the formation of elementary school districts.

Sch. C., 1929, p. 34.

SEC. 2. Section 2.204 of the School Code is hereby amended to read as follows:

Concurrent action.

2.204. All the provisions of this article relative to the formation of joint districts shall be by concurrent action of the superintendent of schools and the board of supervisors of each county affected. By concurrent action of the board of supervisors and the county superintendents of schools, contiguous school districts or parts of such school districts lying in different counties may, on proper petitions and the approval thereof as required by this article be united to form a joint school district.

SEC. 3. A new section is hereby added to the School Code to be numbered 2.134, and to read as follows:

New section.

2.134. A new elementary school district may be formed in whole or in part from territory lying within a union or joint union elementary school district. Territory lying within a union or joint union elementary school district when formed in whole or in part into a new elementary school district shall thereupon cease to be a part of such union or joint union elementary school district.

New elementary school district.

CHAPTER 764.

An act to amend sections 480, 481, 482, 483, 503, 505, 736, 737, 738 and 743 of the Vehicle Code, to repeal sections 502 and 739 of said code and to add sections 500, 501, 502, 506, 739, 743.5 and 743.6 to said code, relating to accidents involving motor vehicles, the duty of drivers of such vehicles to stop, render aid and give certain information, defining the crime of negligent homicide and prescribing penalties therefor, also relating to persons driving motor vehicles while under the influence of liquor or narcotic drugs, to the stealing or unlawful taking of motor vehicles, and the reckless driving of such vehicles, to the taking of persons arrested before magistrates, and the duties of arresting officers in connection with said persons, to the procedure to be followed where the person arrested is either taken before a magistrate or is given a notice to appear in court, to changes of venue in prosecutions for violations of said code, and to the procedure to be followed upon the arrest of all persons violating said code.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 765.

An act to amend the Vehicle Code by amending sections 618, 621, 623, 625, 633, 634, 635, 637, 639, 640, and 670; to renumber section 663 to be section 664; to repeal Chapter 4 of Division X embracing sections 645 to 658 inclusive, sections 661, 662 and 677; to add sections 623.5, 638, 677, a new Chapter 4 to Division X, embracing sections 645 to 656 inclusive, 660, 661, 662, 663 and 692, relating to vehicles.

[Approved by the Governor July 20, 1935. In effect October 1, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

SEC. 22. This act shall go into effect at midnight on September 30, 1935.

CHAPTER 766.

Stats. 1917, p. 673 amended.

An act to amend section 26 of an act entitled "An act providing for the regulation and supervision of companies, brokers, agents, and sales of securities as the same are therein defined, and to prevent fraud in the sale of securities; providing for the enforcement of said act and penalties for the violation thereof; and creating a State Corporation Department and the office of 'Commissioner of Corporations,' approved May 18, 1917, as amended, relating to the Division of Corporations, the regulation and supervision of companies, brokers, agents, investment counsel and sales of securities, and the prevention of fraud in the sale of securities," relating to fees.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1935, Ch. 166.

SECTION 1. Section 26 of the Corporate Securities Act is hereby amended to read as follows:

Fees.

Sec. 26. The commissioner shall charge and collect the following fees:

1. For filing an original or supplemental application for a permit to issue securities, (except certificates of deposit or any guarantee of any security, both of which are covered in paragraphs 10 and 11 of this section 26), fifteen dollars, plus—

Fifteen one-hundredths of one per cent of the amount of any excess of the aggregate value of the securities sought to be issued over five thousand dollars and not exceeding fifty thousand dollars;

Five one-hundredths of one per cent of such amount in excess of fifty thousand dollars and not exceeding one hundred thousand dollars;

Three one-hundredths of one per cent of such amount in excess of one hundred thousand dollars and not exceeding five hundred thousand dollars; and

One one-hundredth of one per cent of such amount in excess of five hundred thousand dollars.

For the purpose of determining the above fees:

(a) The value of such securities shall be deemed to be their par or face value unless the consideration for such securities is in excess of such par or face value, in which case the value will be deemed to be the amount of the consideration so received.

(b) Where the securities proposed to be issued have no nominal or par value, the value of such securities shall be deemed to be the price at which the company proposes to sell or issue the same, or the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration (if other than money) to be received in exchange therefor; provided, however, until a new value shall have been established, each share of no par value

stock proposed to be issued shall be deemed to have a value equal to the value which has been established by previous sales for money or other property of other shares of the same class. Fees.

(c) Interim or voting trust certificates shall be deemed to have a value equal to the aggregate value of the securities to be represented by said interim or voting trust certificates.

(d) Rights, warrants or other certificates evidencing stockholders' rights to purchase additional securities shall be deemed to have a value equal to the difference between the selling price of the securities represented by such rights, warrants or other certificates and the market value of the securities so represented at the date of filing of application.

(e) Where an application is made to issue securities containing a provision entitling the holder or holders thereof to convert or exchange the same for a different class of securities, the value of the securities to be so issued shall be deemed to be an amount equal to twice the amount of the consideration to be received for the securities containing the conversion or exchange provision.

2. For acting as escrow holder for securities as herein provided, ten dollars for each twelve month period, payable in advance.

3. For filing any application for a broker's or an investment counsel's certificate, twenty-five dollars.

Provided, however, that if after a certificate shall have been issued to any broker operating as a partnership there shall be a change of interest affecting less than twenty-five per cent (25%) of the whole interest therein, no new application need be made, but there shall be filed with the commissioner, accompanied by payment of a fee of ten dollars ($10), written notice of such change, stating the names and addresses of the partners and their respective interests, and any other information which may be required by the commissioner, together with evidence satisfactory to the commissioner that the bond theretofore filed by such broker is and will be maintained in good standing notwithstanding such change. The commissioner may in his discretion require a new application, in which event the procedure and fee shall be the same as upon an original application for a broker's certificate. If the commissioner shall approve such change without a new application, the certificate theretofore issued and in force and any agents' licenses theretofore issued to agents of such partnership and then in force, shall continue in full force and effect.

4. For filing any application for an agent's certificate, five dollars.

5. For any examination, audit, or investigation, the actual amount of the salary or other compensation paid to the person or persons making the examination, audit or investigation plus the actual amount of expenses, reasonably incurred in the performance of such work.

Fees.

6. For copies of papers and records not required to be certified or otherwise authenticated by the commissioner, ten cents for each folio.

7. For certified copies of official documents, orders and other papers filed in his office; for making and mailing copies of process served upon him under the provisions of section 24 of this act, and for transcript on appeal, fifteen cents for each folio and one dollar for each certificate under seal affixed thereto.

8. For certificate of service and mailing of process served upon the commissioner under the provisions of section 24 of this act, two dollars.

9. For filing any application for an amendment to an existing permit to issue securities, or for a permit to negotiate for the sale of securities or requesting the written consent of the commissioner to a proposed instrument amending, supplementing or abrogating any portion of any mortgage, deed of trust, indenture or other instrument under which bonds, debentures or other evidences of indebtedness are issued or secured, ten dollars.

10. For filing any application for a permit to issue certificates of deposit, twenty-five dollars, plus a sum, as estimated by the commissioner, to cover the actual expense of noticing and holding any hearing held in connection therewith.

11. For filing any application for a permit to execute or issue any guarantee of any security, twenty-five dollars.

No fees shall be charged or collected for copies of papers, records, or official documents furnished to public officers for use in their official capacity or for the reports of the commissioner in the ordinary course of distribution; but the commissioner may fix a reasonable charge for the publications issued under his authority.

Disposition of fees.

All fees charged and collected under this section shall be paid at least once each week, accompanied by a detailed statement thereof, into the treasury of the State to the credit of a fund to be known as the "corporation commission fund," which fund is hereby created.

CHAPTER 767.

An act to add a new section to the Political Code, to be numbered 689a, relating to use of the State's teletype system.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the Political Code, to be numbered 689a and to read as follows:

Charges for use of State teletype system.

689a. The Director of Finance shall fix the charge to be paid by any State department, officer, board or commission or any city or county, or any city and county, or other public

agency to the State Bureau of Criminal Identification and Investigation for transmitting messages over the State's teletype system. In the case of a State agency, said charge shall be paid from the money available by law for the support of such State agency so using the said system. The said Bureau of Criminal Identification and Investigation shall once each month file with the State Controller a report of all moneys received hereunder and at the same time deposit all such money with the State Treasurer. All such sums so deposited shall be credited by the State Controller to the current appropriation for the support of said bureau to be used by said bureau for the same purposes for which such appropriation was made.

Exclusively for official business.

The State's teletype system shall be used exclusively for the official business of the State, and the official business of any city or county, or city and county, or other public agency.

Connection of system with that of other States.

Nothing in this section shall be construed to prohibit the use of the State's teletype system by any other State or public agency thereof when connection is made to the State's teletype system at or within the boundaries of this State and when the messages transmitted relate to the enforcement of the criminal laws.

CHAPTER 768.

An act relating to the Sixth District Agricultural Association

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Moneys to be returned by Sixth District Agricultural Association.

SECTION 1. The amount of money required by the provisions of section 4 of Chapter 773, Statutes of 1917, to be returned to the State treasury by the Sixth District Agricultural Association is hereby reduced from fifty thousand dollars to eleven thousand four hundred eighty-nine dollars and sixty-eight cents.

CHAPTER 769.

An act to amend sections 1466, 1467, 1468 and 1469 of the Penal Code, and to repeal sections 1468a and 1470 of the Penal Code, all relating to appeals to the superior court in criminal cases.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1925, p. 950

SECTION 1. Section 1466 of the Penal Code is hereby amended to read as follows:

Allowance of appeals

1466. An appeal may be taken from a judgment or order of a justice's or police court or of a municipal court, in a criminal case, to the superior court of the county in which such inferior court is located, in the following cases:

1. By the people:

(a) From an order or judgment dismissing or otherwise terminating the action without a trial.

(b) From an order granting a new trial.

(c) From an order arresting judgment.

(d) From any order made after judgment affecting the substantial rights of the people.

2. By a defendant:

(a) From a final judgment of conviction.

(b) From any order made after judgment affecting his substantial rights.

Stats. 1925, p. 950.

SEC. 2. Section 1467 of the Penal Code is hereby amended to read as follows:

Manner of taking appeal.

1467. An appeal to the superior court may be taken by filing written notice of appeal with the court wherein the judgment or order appealed from is rendered, within five days after the rendition of such judgment or order.

Stats 1925, p 950.

SEC. 3. Section 1468 of the Penal Code is hereby amended to read as follows:

Hearing and determination.

1468. Appeals to the superior courts shall be heard and determined, the decisions thereon shall be remitted to the inferior courts, and the records on such appeals shall be made up and filed in such time and manner as shall be prescribed in rules to be promulgated by the Judicial Council. Until such rules are promulgated, the time and the manner provided by statute in force on January 1, 1935, shall govern.

Stats. 1925, p. 951.

SEC. 4. Section 1469 of the Penal Code is hereby amended to read as follows:

Power of court on appeal.

1469. Upon appeal by the people the superior court may review any question of law involved in any ruling affecting the judgment or order appealed from, without exception having been taken in the trial court. Upon an appeal by a defendant the court may, without exception having been taken in the trial court, review any question of law involved in any ruling, order, instruction, or thing whatsoever said or done at the trial or prior to or after judgment, which thing was said or done after objection made in and considered by the trial court and which affected the substantial rights of the defendant. The court may also review any instruction given, refused or modified, even though no objection was made thereto in the trial court if the substantial rights of the defendant were affected thereby. The superior court may reverse, affirm or modify the judgment or order appealed from, and may set aside, affirm or modify any or all of the proceedings subsequent to, or dependent upon, such judgment or order, and may, if proper, order a new trial. If a new trial is ordered upon appeal, it must be had in the superior court unless the appeal is from a municipal court or

from a justice's court of Class A in which case the new trial must be had in the court from which the appeal is taken.

SEC 5. Sections 1468a and 1470 of the Penal Code are hereby repealed. Repeals.

SEC. 6. The provisions of this act relating to the time and manner of taking appeals shall not apply to or affect appeals from judgments or orders rendered before this act takes effect, but all such appeals shall be taken at the time and in the manner provided by the law existing when such judgments or orders were rendered. Effect of act.

CHAPTER 770.

An act validating, ratifying, approving and confirming bonds and other instruments or obligations heretofore issued by public bodies of this State for public works projects. "The Validating Act of 1935."

[Approved by the Governor July 20, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. This act may be cited as "The Validating Act of 1935." Short title

SEC. 2. The following terms, wherever used or referred to in this act, shall have the following meaning: Definitions

(a) The term "public body" means a county, city and county, city or department or agency thereof, town, sanitation district, municipal improvement district, municipal utility district, metropolitan water district, county water district, public utility district, irrigation district, reclamation district, school district or any municipal corporation, public corporation or improvement district of this State.

(b) The term "bonds" includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

SEC 3. All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant has heretofore been made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such work, undertaking or project, including all proceedings for the authorization and issuance of such bonds, and the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack Bonds issued to finance public works validated

of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, or in such sale, execution or delivery; and such bonds are and shall be binding, legal, valid and enforceable obligations of such public body.

CHAPTER 771.

Stats. 1911, p. 730, amended.

An act amending the title and sections 31, 32 and 33, of the "Improvement Act of 1911," approved April 7, 1911, as amended, relating to public improvements and the repair and reconstruction of portions of improved streets, avenues, lanes, alleys, courts or places, bulkheads, retaining walls or other works for the protection of the same and to the payment of the costs thereof and establishing a procedure for the same.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Title amended

SECTION 1. The title of the Improvement Act of 1911 is hereby amended to read as follows:

An act to provide for work in and upon public streets, avenues, lanes, alleys, courts, places, sidewalks, highways, roads and other public property and rights of way, in whole or in part, including property over which possession and right of use has been obtained under the provisions of section 14 of Article I of the Constitution within municipalities, or within unincorporated territory and one or more municipalities, or lying within two or more municipalities, and for establishing and changing the grades of any such public streets, avenues, lanes, alleys, courts, places, sidewalks, highways, roads, properties or rights of way, and providing for the repair and reconstruction of portions of streets, avenues, lanes, alleys, courts, sidewalks or places, and for the duties of officers and the procedure therefor and for the payment of the cost thereof; and providing for the issuance and payment of street improvement bonds to represent certain assessments for the cost thereof, and providing a method for the payment of such bonds.

Stats 1911, p 747

SEC. 2. Section 31 of the Improvement Act of 1911, is hereby amended to read as follows:

Repairs

Sec. 31. It shall be the duty of the owners of lots or portions of lots fronting on any portion of a public street, avenue, alley, lane, court or place when said street, avenue, alley, lane, court or place shall have been improved or if and when the area between the property line of said adjacent property and the street line is maintained as a park or parking strip,

to maintain any sidewalk, curbing or park or parking strip, bulkheads, retaining walls or other works for the protection of the same in such condition that the same shall not endanger persons or property and to maintain the same in a condition which will not interfere with the public convenience in the use of said works or areas; save and except as to those conditions created or maintained in, upon, along, or in connection with such sidewalk, curb, park or parking strip, bulkheads, retaining walls or other works by any individual, firm or corporation other than said owner, under and by virtue of any permit or right to them granted by law or by the municipal authorities in charge thereof, and such persons, firms or corporations shall be under a like duty in relation thereto. When any portion of such sidewalk, curb or park or parking strip, bulkheads, retaining walls or other works shall be out of repair or pending reconstruction and in condition to endanger persons or property or in condition to interfere with the public convenience in the use of such sidewalk, curb, or park or parking strip, bulkheads, retaining walls or works or area, it shall be the duty of the superintendent of streets to notify the owner or person in possession of the property fronting on that portion of such sidewalk, curb, or park or parking strip, bulkheads, retaining walls or other works so out of repair, to repair the same.

Notice to repair.

Such notice to repair may be given by delivering a written notice personally to the owner or to the person in possession of the property facing upon the sidewalk, curb, or park or parking strip, bulkheads, retaining walls or other works so out of repair, or by mailing a postal card, postage prepaid, to the person in possession of such property, and/or to the owner thereof at his last known address as the same appears on the last equalized assessment rolls of such city, or city and county, or to the name and address of the person owning such property as shown in the records of the office of the city clerk. Said postal card shall contain a notice to repair said sidewalk, curb, or park or parking strip, bulkheads, retaining walls or other works so out of repair, and the superintendent of streets shall, immediately upon the mailing of said notice, cause a copy thereof printed on a card of not less than eight inches by ten inches in size, to be posted in a conspicuous place on said property.

Contents of notice

Such notice shall particularly specify what work is required to be done, and how the same is to be done, and what materials shall be used in said repair and shall further specify: that if said repair is not commenced within three days after notice is given as aforesaid, and diligently and without interruption prosecuted to completion, the superintendent of streets shall make such repair, and the cost of the same shall be a lien on such property. If said repair is not commenced and prosecuted to completion with due diligence, as required by said notice, the superintendent shall forthwith repair said side-

walk, curb, or park or parking strip, bulkheads, retaining walls or other works.

Notice of cost.

Upon the completion of such repair, the superintendent of streets shall cause notice of the cost of such repair to be given in the same manner hereinabove specified for the giving of notice to repair, which notice shall specify the day, hour and place when the legislative body of such city, or city and county will hear and pass upon a report by the superintendent of streets of the cost of such repair, together with any objections or protests, if any, which may be raised by any property owner liable to be assessed for the cost of such repair and any other interested persons. Upon the completion of such repair, the superintendent of streets shall prepare and file with the legislative body a report specifying the repairs which have been made, the cost of the same, a description of the real property in front of which said repairs have been made and the assessment against each lot, piece or parcel of land proposed to be levied to pay the cost thereof.

Report

Hearing

Upon the day and hour fixed for hearing said report, the legislative body shall hear and pass upon the same, together with any objections or protests which may be raised by any of the property owners liable to be assessed for the work of making such repair and any other interested persons, and thereupon said legislative body may make such revision, correction or modifications in the report as it may deem just, after which, by motion or resolution, said report as submitted, or in the event any revisions, corrections or modifications have been ordered made by said legislative body, then said report as revised, corrected or modified, shall be confirmed. Said legislative body may adjourn said hearings from time to time. The decisions of the legislative body on all protests and objections which may be made, shall be final and conclusive.

Stats 1911, p. 748.

SEC. 3. Section 32 of the Improvement Act of 1911 is hereby amended to read as follows:

Assessment of cost of repair.

Sec. 32. The cost of such repair may be assessed by the legislative body against the parcel of property fronting upon the sidewalk, curb, or park or parking strip, bulkheads, retaining walls or other works upon which such repair was made, and such cost so assessed, if not paid within five days after its confirmation by the legislative body shall constitute a special assessment against said parcel of property, and shall be a lien on said property for the amount thereof which lien shall continue until said assessment and all interest thereon are paid, or until it is discharged of record. The superintendent of streets shall file in the office of the county recorder of the county in which such city is located, a certificate substantially in the following form, to wit:

Form of certificate

Notice of Lien.

Pursuant to the authority vested in me by the Improvement Act of 1911, I did, on the ------ day of ------, 19----, cause the sidewalk, curb, or park or parking strip, bulkheads,

retaining walls or other works (as the case may be) in front of the real property hereinafter described, to be repaired and improved, and the legislative body of said city (or city and county) did, on the _____ day of _____, 19____, by Resolution No. _____ assess the cost of such repair upon the real property hereinafter described, and the same has not been paid nor any part thereof, and the said city (or city and county), does hereby claim a lien on said real property in the sum of $_____, and the same shall be a lien upon said real property until the said sum, with interest at the rate of six per cent per annum, from the said _____ day of _____, 19____, (insert date of confirmation of assessment) has been paid in full and discharged of record.

The real property hereinbefore mentioned, and upon which a lien is claimed, is that certain piece or parcel of land lying and being in the (name of city, or city and county) the county of _____, State of _____, and particularly described as follows, to wit:

(Description of property)

Dated this _____ day of _____, 19____.

_____
Superintendent of Streets.

Lien.

From and after the date of the recording of said notice of lien, all persons shall be deemed to have had notice of the contents thereof. The statute of limitation shall not run against the right of the city to enforce the payment of said lien.

Stats. 1911, p. 749.

SEC. 4. Section 33 of the Improvement Act of 1911 is hereby amended to read as follows:

Alternative method of collection of lien.

Sec. 33. As an alternative method of collection of the amount of said lien, the legislative body, after confirmation of the report of said superintendent of streets, may order said notice of lien hereinabove provided for to be turned over to the assessor and the tax collector of such city, or city and county, whereupon it shall be the duty of said officers to add the amount of the assessment to the next regular bill for taxes levied against the said lot or parcel of land for municipal purposes; where the municipal taxes are collected by the county officials, said notice of lien shall be delivered to the county auditor, who shall enter the amount thereof on the county assessment book opposite the description of the particular property and said amount shall be collected together with all other taxes thereon against said property; provided, said notice of lien shall be delivered to the county auditor before the date fixed by law for the delivery of the assessment book to the county board of equalization. Thereafter said amount shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and interest and to the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, col-

lection and enforcement of city taxes and county taxes are hereby made applicable to such special assessment taxes.

Sections not applicable to construction of new improvements. Stats. 1931, p. 1372.

Sections 31, 32 and 33 of this act shall be deemed to apply only to maintenance and repair proceedings and shall not be used for the construction of new improvements. The "Special Assessment Investigation, Limitation and Majority Protest Act of 1931" shall not be deemed to apply to proceedings taken under sections 31, 32 and 33 of this act.

CHAPTER 772.

Stats. 1909, p. 87.

An act to add two sections to the Bank Act numbered 67.1 and 80.1, relating to loans of the character prescribed by section 13b of the Federal Reserve Act or by section 5d of the Reconstruction Finance Corporation Act.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. There is hereby added to the Bank Act a new section to be numbered 67.1 reading as follows:

Savings banks may participate in certain loans

Sec. 67.1. Savings banks may participate with the Federal Reserve Bank or the Reconstruction Finance Corporation in loans of the character prescribed by the provisions of section 13b of the Federal Reserve Act or of section 5d of the Reconstruction Finance Corporation Act, as said acts were amended by an act of Congress approved June 19, 1934, provided:

(a) That the portion of such loan on which the bank assumes direct liability shall not exceed fifty per centum of the paid up capital and surplus of the bank and shall be adequately secured by a first lien on real or personal property with such margin of security as is prescribed in other sections of this act;

(b) That any portion of the loan carried by the bank in excess of the amounts otherwise prescribed in this act shall be covered by a commitment of the Federal Reserve Bank or the Reconstruction Finance Corporation to repurchase such excess portion on demand, at any time on or prior to maturity of the notes evidencing the indebtedness, without recourse upon the bank.

SEC. 2. There is hereby added to the Bank Act a new section reading as follows:

Restrictions not applicable to certain loans by commercial banks.

Sec. 80.1. None of the limitations or restrictions contained in section 80 of this Bank Act shall apply to loans made by any commercial bank of the character prescribed by the provisions of section 13b of the Federal Reserve Act or of section 5d of the Reconstruction Finance Corporation Act, as said acts were amended by an act of Congress approved June 19, 1934; provided, however, that any portion of such a loan in excess of the limitations fixed by this Bank Act shall

be covered by a commitment of the Federal Reserve Bank or the Reconstruction Finance Corporation to repurchase such excess portion on demand, at any time on or prior to maturity of the notes evidencing the indebtedness, without recourse upon the bank.

CHAPTER 773.

An act to add a new part to Division II of the School Code to be known as Part VI, relating to the formation, government, support, control, functions, maintenance, and administration of unified school districts created from elementary and high school districts, and of elementary, high school and junior college districts having coterminous boundaries and governing boards of identical personnel.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new part is hereby added to Division II of the School Code to be known as Part VI and to read as follows: New part added.

PART VI—UNIFICATION OF ELEMENTARY AND HIGH SCHOOL DISTRICTS, AND OF ELEMENTARY SCHOOL, HIGH SCHOOL AND JUNIOR COLLEGE DISTRICTS HAVING COTERMINOUS BOUNDARIES AND GOVERNING BOARDS OF IDENTICAL PERSONNEL.

CHAPTER I—GENERAL PROVISIONS.

2.2000. Every school district created under the provisions of this part shall be given the name selected therefor by the governing board of the district and shall be designated as the "_____ (using the name of the district) Unified School District." In the name by which the district is designated the governing board of the district may sue and be sued, and hold and convey property for the use and benefit of such school district. A number must not be used as a part of the designation of any school district. Name of district.

2.2001. All provisions of this code applicable to the government, maintenance, support, functions and administration of elementary, high school and junior college districts shall be applicable to the government, maintenance, support and administration of unified school districts, excepting in so far as such provisions shall be in conflict with, or inconsistent with, the provisions of this part. Law applicable.

2.2002. The provisions of section 11 of an act entitled "An act to provide for the replacement and/or the reconstruction in whole or in part of all city, county, school district, or other special district buildings wholly or partially destroyed by Stats. 1933, p. 1533.

earthquakes since January, 1933, declaring the urgency thereof and providing that this act shall take effect immediately" approved May 26, 1933, shall not operate to prevent the inclusion of any elementary school district, high school district or junior college district, in whole or in part, in any unified school district created under the provisions of this part.

CHAPTER II—FORMATION OF UNIFIED DISTRICTS IN TERRITORY LYING WITHIN ELEMENTARY SCHOOL, HIGH SCHOOL AND JUNIOR COLLEGE DISTRICTS, OR ELEMENTARY SCHOOL AND HIGH SCHOOL DISTRICTS HAVING COTERMINOUS BOUNDARIES AND GOVERNING BOARDS WITH IDENTICAL PERSONNEL.

Formation of unified districts

2.2010. On the first day of July next succeeding the taking effect of this act, in every case where the boundaries of an elementary district, high school district and junior college district are coterminous, and said districts are governed by governing boards of identical personnel, said districts shall be merged into a new district to be known as the "_____ Unified School District" and said elementary district, high school district and junior college district shall cease to exist except for such purposes as may be set forth in this part.

Same

2.2011. On the first day of July next succeeding the taking effect of this act, in every case where the boundaries of an elementary school district and high school district are coterminous, and said districts are governed by governing boards of identical personnel, said districts shall be merged into a new district to be known as the "_____ Unified School District" and said elementary school district and high school district shall cease to exist except for such purposes as may be set forth in this part.

Annexation, election

2.2012. The board of supervisors having jurisdiction over any unified school district created as provided in this part shall annex thereto any contiguous school district of any kind or class within the same or any adjoining county or counties whenever the majority of the qualified electors of such contiguous school district voting at an election called for such purpose vote in favor of such annexation. Such elections shall be called, held, and conducted in the same manner as elections for members of governing boards of unified school districts.

CHAPTER III—GOVERNING BOARDS OF UNIFIED SCHOOL DISTRICTS COTERMINOUS WITH CHARTERED CITIES OR CITIES OF THE FIRST TO FIFTH CLASSES.

Governing boards

2.2020. The governing board of each unified school district created under the provisions of this part which is coterminous with a chartered city or a city of the first to fifth classes, inclusive, shall be the board of education of such city and shall be appointed or elected according to the provisions of the charter of such city or the general law of the State governing such city, as the case may be.

2.2021. Every qualified elector residing within the boundaries of the proposed unified school district shall be eligible to vote at such election. Electors

CHAPTER IV—GOVERNING BOARD OF UNIFIED SCHOOL DISTRICTS NOT COTERMINOUS WITH CHARTERED CITIES OR CITIES OF THE FIRST TO FIFTH CLASSES.

2.2030. Whenever a unified school district is created under the provisions of this part, and such district is not coterminous with a chartered city or a city of the first to the fifth classes, inclusive, it shall be governed by a governing board of five members who shall be elected at large. Governing board

The members of the governing board of the elementary school district merged into a unified school district created under the provisions of this part, which unified school district is not coterminous with a chartered city or a city of the first to fifth classes, inclusive, shall become members of the governing board of the unified school district and shall serve until the members elected at the next succeeding election for members of the governing board of the unified school district take office. If the governing board of such elementary school district consists of only three members, the county superintendent of schools having jurisdiction over the unified school district shall appoint two additional members to said board to serve until the members elected at the next succeeding election for members of the governing board of the unified school district take office.

2.2031. Whenever two or more unified school districts unite to form a single unified school district, the county superintendent of schools having jurisdiction thereof shall appoint a governing board of five members to govern said district until their successors take office. Appointment of board

2.2032. On the day prescribed by law for the holding of elections for members of governing boards of elementary school districts following the formation of a unified school district under this part, and on the same day of each year thereafter, an election shall be held of each year in every unified school district for the members of the governing boards of the unified school districts. The elections shall be called, held and conducted as are elections for members of governing boards of elementary school districts. Election.

The members so elected shall serve for four years except that the members first elected hereunder shall so classify themselves by lot that the term of one will expire at the end of one year, the term of one will expire at the end of two years, the term of one will expire at the end of three years, and the terms of two will expire at the end of four years. Thereafter their successors will be elected for four-year terms. The terms of the members elected shall commence on the day prescribed by law for the commencement of the terms of members of governing boards of elementary school districts. Terms of members

CHAPTER V—VACANCIES.

Vacancies.

2.2040. Vacancies occurring on the governing board of a unified school district shall be filled by appointment by the county superintendent of schools having jurisdiction over the district, the person appointed to serve for the remainder of the unexpired term.

CHAPTER VI—POWERS AND DUTIES OF GOVERNING BOARDS OF UNIFIED SCHOOL DISTRICTS.

Powers and duties of boards.

2.2050. The governing board of each unified school district created under the provisions of this part shall in every case have such powers and duties as are by law granted to the governing boards of the elementary school districts, high school districts, and junior college districts merged into the unified school district.

2.2051. The governing board of a unified school district shall, in addition to the powers heretofore enumerated in this section have such powers and duties as are by law granted to governing boards of junior college districts in accordance with the provisions of this code relative thereto.

2.2052. Whenever a unified school district has within its boundaries a chartered city or a city of the first to the fifth classes, inclusive, or whenever the average daily attendance of a unified school district is one thousand five hundred or more, the governing board thereof shall have all the powers and duties of a city board of education.

CHAPTER VII—SCHOOLS MAINTAINED.

Schools maintained

2.2060. Each unified school district created under the provisions of this part shall maintain at least one elementary school and one four-year high school, or in lieu thereof, at least one elementary school, one junior high school and one senior high school.

Kindergarten.

2.2061. Kindergartens may be maintained by the governing board of a unified school district created under the provisions of this part as herein provided. The kindergarten or kindergartens maintained by an elementary school district at the time it became a part of the unified school district shall be continued, except that the kindergarten or kindergartens may be discontinued or additional kindergarten or kindergartens may be established in the manner prescribed elsewhere in this code. In any elementary school district or portion of elementary school district included in a unified school district, wherein a kindergarten was not maintained at the time of the merger of such elementary school district or portion of elementary school district into a unified school district, a kindergarten may be established by the governing board of the unified school district as provided elsewhere in this code.

CHAPTER VIII—CHANGE OF BOUNDARIES.

Change of boundaries

2.2070. The boundaries of a unified school district may be changed not later than February 10 of any school year in the same manner as boundaries of elementary school districts may be changed. Such change of boundaries shall not become effective until the first day of July next succeeding; except that, for the purpose of assessing the property contained in the territory or school districts affected by such change of boundaries for the purpose of determining the rate of school district tax to be levied, such change of boundaries shall become effective on the first Monday in March next succeeding such change of boundaries.

CHAPTER IX—MERGER AND ANNEXATION.

Merger of districts

2.2080. Two or more adjoining unified school districts may merge at any time during a school year, but not later than the tenth day of February, to form a single unified school district in the same manner as elementary school districts may be united. Whenever a unified school district is merged with another unified school district, the resulting district shall be in every respect a single unified school district. Such merger shall become effective on the first day of July next succeeding; except that for the purpose of assessing the property contained in the territory or school districts affected by such merger for the purpose of determining the rate of school district tax to be levied, such merger shall become effective on the first Monday in March next succeeding such merger.

Annexation

2.2081. One or more contiguous elementary or high school districts, one of which is contiguous to a unified school district, may, subject to the provisions of section 2.85 and 2.86 of this code, be annexed thereto not later than the tenth day of February in any school year by the board of supervisors of the county having jurisdiction over the unified school district whenever a majority of the qualified electors in each of such elementary or high school districts voting at an election held for that purpose vote in favor thereof. Such election shall be called by the county superintendent of schools having jurisdiction over the unified school district whenever a majority of the heads of families residing in each of the elementary or high school districts petition such county superintendent of schools to call said election. Such annexation shall become effective on the first day of July next succeeding; except that for the purpose of assessing the property contained in the territory or school districts affected by such annexation for the purpose of determining the rate of school district tax to be levied, such annexation shall become effective on the first Monday in March next succeeding such annexation. Elementary and high school districts which have been annexed to a unified school district shall cease to exist except for such purposes as may be specified in this part.

CHAPTER X—JUNIOR COLLEGE DISTRICTS.

Junior college districts

2.2090. A junior college district may be formed to comprise two or more unified school districts in the same manner as that provided elsewhere in this code for the formation of junior college districts, except that in the case of the formation of a junior college district comprising two or more unified school districts, a majority vote in favor thereof in each such unified school district shall be required for the formation of the junior college district.

Governing board

2.2091. Each junior college district comprising two or more unified school districts and formed under the provisions of this chapter shall be governed by a board of five members who shall be elected in the same manner, for the same terms, and at the same time as are members of governing boards of other junior college districts.

Within fifteen days after the formation of a junior college district comprising two or more unified school districts as provided in this chapter, the county superintendent of schools having jurisdiction over the junior college district shall appoint a board of five members to govern the junior college district until the next succeeding election.

Apportionment of funds

2.2092. Each unified school district created under the provisions of this part and including a junior college district shall be considered as a junior college district for purposes of the apportionment of State junior college funds and for purposes of nonresident county junior college tuition.

Single unified college district

2.2093. A junior college district may be formed to comprise a single unified school district in the same manner as that provided elsewhere in this code for the formation of junior college districts, except that a majority vote in favor thereof shall be required for the formation of a junior college district in a single unified school district.

Limitation

2.2094. A junior college district formed to comprise a single unified school district shall thereafter be considered a junior college district only for the purposes of State apportionments and nonresident county junior college tuition; for all other purposes it shall be considered an integral part of the unified school district and shall be governed by the governing board of the unified school district.

CHAPTER XI—EMPLOYEES.

Permanent employees

2.2100. Every permanent employee of a school district which becomes in its entirety a part of a unified school district, and every permanent employee of a school district employed in a school located in a portion of a district which becomes a part of a unified school district, where the whole of such district does not become a part of a unified school district, shall become a permanent employee of the unified school district.

Probationary employees

2.2101. Every probationary employee of a school district which becomes in its entirety a part of a unified school district and every probationary employee of a school district employed

in a school located in a portion of a school district which becomes a part of a unified school district, where the whole of such district does not become a part of a unified school district, shall become a probationary employee of the district so created and the service of such probationary employee in the first mentioned district shall be considered as service in the unified school district for the purpose of any law relating to the classification of persons employed in school districts in positions requiring certification qualifications.

2.2102. Any probationary employee of an elementary school district or high school district having an average daily attendance of less than eight hundred fifty, who, under the provisions of this article, becomes an employee of a unified school district having a total average daily attendance of eight hundred fifty or more at the end of his third complete consecutive school year of service in such elementary or high school district shall not become a permanent employee of the unified school district until he has served therein for a complete school year immediately following the effective date of the formation of such unified school district and has been reemployed for the succeeding school year.

CHAPTER XII—BONDED INDEBTEDNESS.

Bonded indebtedness.

2.2110. The bonded indebtedness of any elementary or high school or junior college district incurred prior to the inclusion of all or any part of such district in a unified school district shall continue to be an obligation of the territory within such elementary or high school or junior college district as it existed prior to the inclusion of all or any part thereof in a unified school district.

Election.

2.2111. Upon petition of ten per cent of the qualified electors residing in any elementary school district, high school district or junior college district which has been included in a unified school district requesting him to do so, the county superintendent of schools having jurisdiction thereof shall call an election in the unified school district for the purpose of permitting the qualified electors to vote upon the question of whether or not the unified school district shall assume the bonded indebtedness of such elementary school district, high school district or junior college district, as the case may be. Said election shall be called, held and conducted as are elections for the issuance of school district bonds excepting that the notice for such election shall contain the following:

Conduct of election.

1. The time and place, or places of holding the election;
2. The names of the officers of the election appointed to conduct the same;
3. The hours during the day during which the polls will be open;
4. The amount of the bonded indebtedness and the interest rate thereon proposed to be assumed by the unified school district;

and excepting that the ballot at such election shall contain the

words "Assumption of Bonded Indebtedness—Yes" and "Assumption of Bonded Indebtedness—No," or words of similar import.

Two-thirds vote

No bonded indebtedness shall be assumed by a unified school district under the provisions of this section unless two-thirds of the qualified electors voting at such election vote in favor thereof.

CHAPTER XIII—PROPERTY, FUNDS AND OBLIGATIONS.

Property, funds and obligations

2.2120. Whenever any unified school district is created, all funds, property, and obligations of the elementary or high school or junior college districts lying wholly within the unified school district shall, except as otherwise provided in Chapter XII of this part become the funds, property, and obligations of the unified school district

2.2121. Whenever any elementary school district is annexed to a unified school district, all property, funds, and obligations of such elementary school district shall become the property, funds, and obligations of the unified school district.

2.2122. Whenever any portion of an elementary school district is annexed to a unified school district, all property of the elementary school district situated in the portion so annexed shall become the property of the unified school district.

2.2123. Whenever the entire territory of an elementary school district is annexed to two or more unified school districts, all property of the elementary district situated in the portion so annexed to any such unified school district shall become the property of the unified school district, and a portion of the funds to the credit of such elementary school district shall be transferred to the credit of each unified school district after any outstanding obligations of such elementary school district have been discharged which bears the same ratio to the total amount of the funds to the credit of such elementary school district as the assessed valuation of the portion of the district so made a part of the unified school district bears to the total assessed valuation of the entire elementary school district.

2.2124. Whenever by reason of the annexation of the elementary school district or districts composing a high school district to a unified school district the high school district shall cease to exist, all property, funds, and obligations, except as otherwise provided, of the high school district shall become the property, funds and obligations of the unified school district.

2.2125. Whenever an elementary school district or portion of an elementary school district lying within a high school district is annexed to a unified school district, all property of the high school district which is located therein shall become the property of the unified school district.

2.2126. Whenever all territory in an elementary school district lying within a high school district is annexed to two or more unified school districts, all property of the high school

district which is located in any portion of the elementary school district shall become the property of the unified school district to which such portion is annexed, and a portion of the funds to the credit of such high school district shall be transferred to the credit of each unified school district after any outstanding obligations of such high school district have been discharged, which bears the same ratio to the total amount of the funds to the credit of such high school district as the assessed valuation of the portion of the high school district so merged or annexed to each unified school district bears to the total assessed valuation of the entire high school district.

CHAPTER XIV—FINANCIAL SUPPORT.

Apportionment of State funds.

2.2130. Apportionments of State funds to unified school districts for the support of elementary schools, high schools, and district junior colleges shall be computed and made in the same manner and from the same funds, except as hereinafter in this part provided as apportionments to elementary school districts, high school districts, and junior college districts for the maintenance of elementary schools, high schools, and district junior colleges respectively.

Computing teacher units.

2.2131. In each unified school district, each elementary school district or portion thereof constituting a part of such unified school district shall be considered a separate school district for the purpose of computing teacher units for State apportionments to such unified school district in the same manner as provided elsewhere in this code for union elementary school districts.

Additional unit.

2.2132. One additional teacher unit shall be allowed to each unified school district for each three hundred units of average daily attendance in the aggregate in the elementary schools thereof during the next preceding school year. All moneys received by a school district under this section shall be expended exclusively for the salaries and necessary expenses of supervisors of instruction and for the preparation and coordination of courses of study as prescribed in Chapter XV of this part.

Bonds.

2.2133. The total amount of bonds issued by any unified school district for elementary school purposes, high school purposes, or junior college purposes, respectively, shall not exceed, for each of such purposes, five per cent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the unified school district is located.

Maximum tax rate

2.2134. Except as otherwise provided in this code, the maximum rate which, under the provisions of this chapter, may be levied in any one year, on each one hundred dollars of assessed valuation in a unified school district must not exceed the following:

1. For elementary school purposes: seventy cents for building purposes; thirty cents for other elementary school purposes, including transportation;

2. For high school purposes, seventy-five cents, the proceeds of which may be used in the discretion of the governing board of the district for building or other purposes;

3. For junior college purposes, fifty cents, the proceeds of which may be used in the discretion of the governing board of the district for building or other purposes.

Kindergarten tax.

2.2135. If in any elementary school district, or portion of elementary school district, which is a part of a unified school district, one or more kindergartens are maintained, a tax of not to exceed fifteen cents on each one hundred dollars of assessed valuation in such elementary school district, or portion of elementary district, shall be levied and collected, the proceeds of which shall be used exclusively by the governing board of the unified school district for the expenses of such kindergarten or kindergartens in such elementary school district or portion of elementary school district.

CHAPTER XV—EDUCATION SUPERVISION IN UNIFIED SCHOOL DISTRICTS.

Supervision funds.

2.2140. The funds apportioned under the provisions of section 2.2132 of this code for a unified school district which during the preceding school year had an average daily attendance of less than one thousand five hundred in the elementary schools thereof shall be apportioned to the county elementary school supervision fund. In all other cases, funds apportioned under section 2.2132 of this code for a unified school district shall be apportioned directly to the district.

Use of funds.

2.2141. Except as hereinafter provided, funds apportioned directly to a district under the provisions of section 2.2132 of this code shall be used exclusively for the payment of salaries and necessary expenses of supervisors of instruction for elementary schools of the district.

County superintendent.

2.2142. The county superintendent of schools of each county may expend such amounts as may be necessary of the county elementary school supervision fund for the preparation and coordination of courses of study.

Contract.

2.2143. Except as otherwise provided in section 2.1340 of this code, the governing board of any unified school district may enter into a contract with the county superintendent of schools having jurisdiction over such district for the supervision of instruction in the elementary and secondary schools of the district and for the preparation and coordination of courses of study for such schools. The governing board of such district shall transfer to the county elementary school supervision fund from the funds apportioned to it under the provisions of section 2.2132 of this code, and shall transfer to the county secondary school supervision fund, which fund is hereby created in the county treasury, from the secondary school funds of the district, such sums as may be agreed upon by the governing board of the district and the county superintendent of schools.

2.2144. The county secondary school supervision fund shall be used by the county superintendent of schools for the supervision of instruction in the secondary schools of the unified school districts contracting, and for the preparation and coordination of courses of study in such schools. County secondary supervision fund

2.2145. The governing board of any unified school district having an average daily attendance of fifteen hundred or more in the elementary schools of the district during the preceding school year may enter into an agreement with the governing board or boards of one or more other unified school districts in the same or adjoining counties for the joint employment of supervisors of instruction. Contracts with other districts for joint employment of supervisors

CHAPTER XVI—SUSPENSION AND LAPSATION OF ELEMENTARY SCHOOL DISTRICTS IN UNIFIED SCHOOL DISTRICTS.

2.2150. The individual elementary school districts, or portions thereof, composing a unified school district shall be subject to suspension and lapsation in the same manner as that provided for the suspension and lapsation of the individual elementary school districts composing a union elementary school district, except that any elementary school district so lapsed shall be attached to another elementary school district in the unified school district for computing teacher units. Suspension and lapsation

CHAPTER XVII—JURISDICTION.

2.2160. The county superintendent of schools of the county in which the greatest part of the assessed valuation of any unified school district lies shall have jurisdiction over such unified school district for such purposes as may be specified in this code. Jurisdiction

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CHAPTER 774.

An act to amend the title and sections 1, 2, 3, 4 and 5, and to add section 6 to an act entitled "An act to authorize municipal corporations to issue bonds, for the purpose of investing the proceeds arising from the sale thereof, in other bonds issued for public improvements," approved April 26, 1909, relating to the issuance, sale, or exchange, and payment of the bonds issued under this act, and the acquisition, collection and payment of bonds acquired. Stats 1909, p 1096, amended.

[Approved by the Governor July 20, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. The title of the act designated in the title hereof is hereby amended to read as follows: Title amended.

An act to authorize municipal corporations to issue bonds for the purpose of acquiring other general obligation bonds of the municipal corporation, or bonds issued by or for districts therein or bonds issued for street work or other public

improvements, and providing for acquiring such bonds, and the levy or collection of taxes and assessments to pay principal and interest of bonds acquired, the use of funds derived from bonds issued under this act or acquired under this act and the payment of bonds issued under this act.

Stats 1909, p 1096

SEC. 2. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Bonded indebtedness to acquire bonds issued by municipality or district

Section 1. Every municipal corporation in the State of California may incur a bonded indebtedness to acquire any bonds issued by such municipality, or by or for any district therein, or bonds issued for street work or other public improvements, in the municipal corporation under any act of the Legislature providing for the performance of street work or other public improvements, or the issuance of bonds to represent or be secured by assessments levied for such work or improvements, including any bonds issued under the Improvement Bond Act of 1915 and the Acquisition and Improvement Act of 1925. It is the intent of this act that investments of such fund shall be for the purpose of aiding and facilitating the making of needed public improvements in the municipality or for the purpose of limiting or preventing such increasing of district taxes or assessments as might lessen or impair the general tax revenues of the municipality from any district or districts, or for the purpose of providing means whereby district indebtedness or assessments represented by or securing bonds may be reduced.

Purpose of act.

Stats 1909, p 1096

SEC. 3. Section 2 of said act is hereby amended to read as follows:

Bonds, how issued

Sec. 2. Except as herein modified, the bonds authorized to be issued under the provisions of this act shall be issued in the manner provided for in an act entitled "An act authorizing the incurring of indebtedness by cities, towns and municipal corporations for municipal improvements, and regulating the acquisition, construction and completion thereof," in effect February 25, 1901, and amendments thereto; provided that the ordinance calling the election therein provided for need not contain any statement as to the estimated cost of the proposed public improvement. The interest rate on the bonds need not be the same during the entire term thereof but different rates may be fixed for one or more interest payments on such bonds. If the bonds are to be issued to acquire outstanding bonds, the ordinance calling the election shall briefly and generally state what bonds are to be purchased or acquired, the total principal amount thereof and the maximum purchase price proposed to be paid therefor, and the maximum purchase price so stated shall not be exceeded in the purchase of such bonds. The bonds issued under this act may be sold at not less than the par value thereof or may be exchanged at their par value for the outstanding bonds; provided the outstanding bonds are taken in such exchange at a price not exceeding the maximum pur-

Stats. 1901, p 27.

Interest rate.

chase price stated in the ordinance calling the election. Such bonds, when issued, shall be redeemed and paid as provided in said act of 1901, and the taxes for the payment thereof shall be levied as provided in said act; provided, however, that where any issue of bonds under this act is to mature at one time the amount of the taxes to be levied annually shall be as provided in section 5 of this act.

Tax levy for payment.

SEC. 4. Section 3 of said act is hereby amended to read as follows:

Stats 1909, p 1096

Sec. 3. It shall be the duty of the legislative branch of every town, city or municipal corporation availing itself of this act to keep the funds arising from the sale of bonds issued under this act separate and distinct from all other municipal funds in a fund to be called "General improvement fund," and to invest and reinvest the same in bonds issued by said municipality, or bonds issued for street, sewer, drainage or any other improvements within said municipality, and to collect the principal of and interest on said bonds and credit the same to said fund; provided, however, that if the bonds are issued to acquire or to provide funds for the purchase of certain outstanding bonds, they may be used only for that purpose, and all of said funds not so used and all sums received in payment of principal or interest of the bonds acquired by the city or received from the sale of any thereof (if such bonds are sold by the city as hereinafter provided) shall be used for the payment of the principal and interest of the bonds issued pursuant to this act for the purpose of acquiring such outstanding bonds. Said municipality may sell, at the discretion of its legislative body, any of said bonds purchased by it; provided that said bonds shall not be sold at a price less than the price paid therefor. The purchase price of any bonds so sold together with the accrued interest thereon shall be placed in said general improvement fund and may be reinvested in bonds, or, where under the provisions hereinbefore in this section contained such reinvestment is not permitted, shall be used to pay principal and interest of the bonds issued under this act for the purpose of acquiring the bonds so sold.

Investment of funds

SEC 5. Section 4 of said act is hereby amended to read as follows:

Stats 1909, p 1096

Sec 4. During the time the municipality owns any district bonds payable from taxes or assessments levied wholly or partially in accordance with the assessed value of the land within the district the legislative body may, in its discretion, which may be exercised each year, omit from the amount of the annual tax or assessment to be levied for the payment of principal and interest of such bonds any sum for the payment of principal and interest past due and unpaid because of delinquencies, and may limit or omit any sum for anticipated delinquencies. The tax or assessment shall be levied in accordance with the statute under which the bonds acquired were issued, but the total amount of any annual levy may be limited as provided herein.

Bonds owned by municipality, omission of tax to pay principal and interest

Bonds acquired at less than par value.

Where any bonds acquired pursuant to the provisions of this act are acquired at less than the par value thereof, the legislative body may, in its discretion, reduce the total principal amount of any issue of bonds so acquired and held by it to a total principal amount which it may fix by ordinance; provided such reduced total principal amount of any issue shall not be less at par than the total purchase price of the total principal amount of the bonds of such issue acquired by said legislative body. The ordinance shall designate the issue of bonds to be so reduced, the total principal amount of the bonds of such issue acquired, the purchase price paid therefor, the principal amount of the proposed reduction, the numbers, denominations and maturity dates of the bonds to be canceled and the time and place of the proposed cancellation. Such ordinance shall be subject to referendum as are other ordinances of the city. At the time and place fixed, unless prevented by referendum, the bonds shall be publicly canceled and the city clerk shall enter on the minutes of the legislative body a record of the bonds canceled sufficient to identify the same and the fact and date of the cancellation thereof. If the bonds canceled are issued under the Improvement Bond Act of 1915 the legislative body shall reduce the principal amount of the assessments securing such bonds to the total principal amount of the unpaid and uncanceled bonds of the same issue. Such reduction of assessments shall be carried out by canceling such proportion of the assessments as may be necessary therefor and the legislative body is empowered to provide procedure for such cancellation in compliance with constitutional requirements. The uncanceled portion of the assessments shall be valid and collected in accordance with the terms of the statutes under which the original assessments were levied and bonds issued.

Cancellation of bonds

Stats. 1915, p. 1441

Stats 1909, p. 1096

SEC. 6. Section 5 of said act is hereby amended to read as follows:

Maturity and redemption of bonds

Sec. 5. Any issue of bonds under this act may in the discretion of the legislative body of the city be made to mature at one time provided such time shall not exceed twenty years from the date of issue of such bonds. In the event that the bonds mature at one time the annual tax levy shall be sufficient to pay the interest on such bonds as it comes due and to create a sinking fund for the payment of the principal thereof on or before maturity. The sum to be raised each year and placed in the sinking fund for the payment of the principal of the bonds shall not be less than an amount obtained by dividing the total principal amount of the bonds issued by the total number of years the bonds are to run. In the event the entire issue of bonds is to mature at one time, such bonds may be called for redemption in numerical order at par and accrued interest on any interest payment date prior to their fixed maturity, and a statement to that effect must be set forth in each bond. No bond issued hereunder shall be callable or redeemable prior to its fixed maturity date unless a statement

that the bond is callable is contained in the bond. At least once each year, within sixty days prior to an interest payment date, if the sinking fund contains sufficient available moneys to call one or more of the outstanding bonds, the legislative body shall, by notice published once a week for two successive weeks in some newspaper published in the city, and, in its discretion, in any other newspaper or newspapers, invite sealed proposals for the sale to the city of any bonds for payment of which the sinking fund was created. Said notice shall state the amount available for the redemption of said bonds and shall specify the time when and the place where such proposals will be opened. At such time and place all proposals shall be opened in public. Any or all of such proposals may be rejected in the discretion of the legislative body. No proposal shall be accepted unless the sale price is less than par and accrued interest. If no proposals are received or if those received are rejected or are insufficient to exhaust the moneys available for the redemption of bonds, the legislative body shall call in numerical order such outstanding bonds as can be redeemed from the moneys available for that purpose Notice of the call of such bonds for redemption shall be published once a week for two weeks in a newspaper of general circulation in said city. The first publication shall be not less than thirty days prior to the date fixed for such redemption. Upon the date fixed for such redemption the bonds so called shall be redeemed at par and accrued interest to that date. If any bonds so called are not presented for redemption on the date fixed therefor, then on the day following said date a sum sufficient for the payment of the principal of such bonds and accrued interest to said date of redemption shall be placed in a special fund for that purpose and interest on the bonds for which such provision is made shall cease on said redemption date.

New section

SEC. 7. A new section is hereby added to said act, to be numbered section 6 and to read as follows:

Effect of act

Sec. 6. This act shall in nowise affect any other act or acts now existing or which may hereafter be passed covering the same subject-matter, or apply to any proceedings thereunder, but is intended to and does provide an alternative system for the issuance of bonds, and, when in the discretion of any legislative body proceedings are commenced under this act, the provisions of this act shall govern all procedure to be taken.

Constitutionality

This act and all of its provisions shall be liberally construed to the end that the purposes hereof may be made effective. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this act. The Legislature hereby declares that it would have passed this act irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof be declared unconstitutional or invalid.

CHAPTER 775.

Stats 1933, p. 1281, amended

An act to amend sections 1a, 3, 4, 9, 10, 11 and 12 of, and to add new sections to be numbered 11.1, 11.2, 11.3, 11.4, 11.5 and 11.6 to an act entitled "An act to regulate land surveying and to define the duties of and to license land surveyors, to provide for the revocation of such licenses and the restoration thereof, to make certain acts misdemeanors and to provide penalties therefor, and to repeal an act entitled 'An act to define the duties of and to license land surveyors,' approved March 16, 1907," approved May 24, 1933, relating to land surveyors.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p. 1282

SECTION 1. Section 1a of the act cited in the title hereof is hereby amended to read as follows:

Definition

Sec. 1a. Land surveying within the meaning and intent of this act shall comprise the making of such observations and measurements as will determine the relative positions of points, areas, structures, or natural objects on the earth's surface, or related thereto; or the surveying of areas for their correct determination and description and for conveyancing; or for the establishment or reestablishment of land boundaries; or for the platting of lands and subdivisions thereof; or for the setting of reference or other monuments to perpetuate such observations, measurements and surveys. Provided however, that such observations, or measurements, as may be made exclusively for geological or landscaping purposes and not involving the determination of any property line, shall not be deemed to be surveying within the meaning of this act. And provided further, that such observations and measurements shall not include the design, either in whole or in part of any structure or fixed works defined as "Civil Engineering" in section 1a of an act regulating the practice of civil engineering being Chapter 801, Statutes of 1929 and any amendments thereto.

Stats 1931, p 1902

Stats 1933, p 1282.

SEC. 2. Section 3 of the act cited in the title hereof is hereby amended to read as follows:

Disposition of funds

Sec. 3. The Department of Professional and Vocational Standards shall receive and account for all income derived from the operation of this act, and shall at the end of each month, report to the State Controller such moneys and shall pay them to the State Treasurer, who shall credit such income to the civil engineers fund as created by Chapter 801, Statutes of 1929. All necessary expenses incurred in carrying out the provisions hereof, shall, in accordance with law, be paid from the civil engineers fund.

Stats 1929, p 1645

Stats 1933, p 1282

SEC. 3. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

Sec. 4. The secretary of the board shall keep a complete record of all applications for license and the board's action thereon and shall transmit to the county recorder of each county in the State lists of all licenses issued, suspended or revoked by the board, as hereinafter provided, since the date of preparation of the last preceding similar list, showing the names and addresses of such licensees, and it is hereby made the duty of such county recorders to keep full and complete records of all such licenses, suspensions and revocations. The secretary shall prepare annually a roster showing the names and addresses of all licensed land surveyors and containing all the rules and regulations adopted by the board for the administration of this act. Such roster shall be a part of the roster of registered civil engineers issued by the board and one copy thereof shall be filed with the Secretary of State, one copy shall be filed with the county recorder of each county in the State and one copy shall be furnished to each land surveyor licensed under the provisions of this act. Copies of such roster shall be available to the general public on application to the secretary at such price per copy as may be fixed by the board. The board, within thirty (30) days prior to the meeting of the regular session of the Legislature, shall submit to the Governor a full and true report of its transactions during the preceding biennium including a complete statement of the receipts and expenditures of the board during the period, attested to by the president and the secretary of the board. A copy of said report shall be filed with the Secretary of State. All records shall be public records. The Department of Professional and Vocational Standards is hereby empowered and authorized to employ such clerical assistance under civil service regulations as may be necessary to properly carry out and enforce the provisions of this act. Records

SEC. 4. Section 9 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933, p. 1285.

Sec. 9. (a) Except as provided for in section 8 hereof, any license issued under the provisions of this act shall remain in effect until the thirtieth (30th) day of June following the date of its issuance. Renewals

(b) Except as provided for in section 8 hereof, any land surveyor licensed under this act who desires to continue the practice of his profession beyond the thirtieth (30th) day of June following the date of issuance of his original license, shall on or before the thirtieth (30th) day of June of each year pay to the secretary of the board a fee of five dollars ($5.00) to be retained by the board, for which fee a renewal certificate of license for the current year shall be issued. Any license which shall have expired for nonpayment of the renewal fee may be restored, within one year from the expiration thereof, under rules and regulations prescribed by the board, which rules and regulations may provide a penalty of not more than five dollars ($5.00) for such delinquency; provided, however, that the annual renewal or reinstatement of any certificate of

registration as provided for in chapter 801, Statutes of 1929, and any amendment thereto, shall include the renewal or restoration of license as provided herein, without the payment of the above mentioned fee or penalty.

An unrevoked or unsuspended or unexpired license, or renewal certificate, issued by the board, as provided for in this act, shall be presumptive evidence in all courts and places that the person named therein is legally licensed hereunder.

Stats 1933, p. 1285.

SEC. 5. Section 10 of the act cited in the title hereof is hereby amended to read as follows:

Suspension or revocation of licenses.

Sec. 10. (a) It shall be the duty of the board to enforce all of the provisions of this act and to cause to be prosecuted all violations thereof coming to its notice. The board shall have the power by a two-thirds ($\frac{2}{3}$) vote to suspend for a period not to exceed two (2) years, or revoke the license or certificate of any land surveyor or civil engineer, respectively licensed hereunder or registered under the provisions of Chapter 801, Statutes of 1929, and any amendments thereto, found by said board to be guilty of any fraud or gross incompetency in his practice of land surveying, or to be guilty of any fraud or deceit in obtaining his license, or to be guilty of any violation of any provision of this act, or of any act repealed hereby, or of any act relating to or involving the practice of land surveying.

(b) Proceedings for the revocation of any license shall be begun by filing with the secretary of the board written charges against the accused. Such charges shall be in detail and shall be sworn to by the complainant. The board shall designate: a time and place for a hearing and shall notify the accused of this action and furnish him a copy of all charges, either by personal service or by registered United States mail, at least thirty (30) days prior to the date of hearing. The accused shall have the right to appear personally or by counsel, to cross-examine witnesses or to produce witnesses in his defense. The board shall have the power to compel the attendance of witnesses, and the production of necessary papers and documents.

The board may reissue a license to any person whose license has been revoked; provided, two (2) or more members of the board vote in favor of such reissue for reasons the board may deem sufficient.

Stats 1933, p 1286.

SEC. 6. Section 11 of the act cited in the title hereof is hereby amended to read as follows:

Seal of surveyor

Sec. 11. Each licensee hereunder may, upon being licensed, obtain a seal of the design authorized by the board bearing the licensee's name, number of certificate and the legend "Licensed Land Surveyor."

New section

SEC. 7. A new section to be numbered 11.1 is hereby added to the act cited in the title hereof, to read as follows:

Oaths and testimony

Sec. 11.1. Every licensed land surveyor or registered civil engineer is authorized to administer and certify oaths, when it becomes necessary to take testimony to identify or establish

old, lost or obliterated corners; or if a corner or monument be found in a perishable condition, and it appears desirable that evidence concerning such corner or monument be perpetuated; or whenever the importance of the survey makes it desirable, to administer an oath for the faithful performance of duty, to his assistants. A record of such oaths shall be preserved as part of the field notes of the survey, and a memorandum thereof shall be made on the map filed as herein provided.

New section

SEC. 8. A new section to be numbered 11.2 is hereby added to the act cited in the title hereof, to read as follows:

Practice of land surveying, etc.

Sec. 11.2. Any licensed land surveyor or registered civil engineer is hereby authorized to practice land surveying and to make maps, plats, reports, descriptions or other documentary evidence in connection therewith as defined under sections 1 and 1a of this act. Any map, plat, report, description, or other document issued by such surveyor or civil engineer shall be signed by him, together with his licensed or registered certificate number as the case may be, and may be stamped with his seal, whenever such map, plat, report, description, or other document is filed as a public record or is delivered as a formal or final document. It shall be unlawful for any person to so sign, stamp or seal any such map, plat, report, description or document after his license or certificate has expired, been suspended or revoked, unless his license or registry has been renewed or restored.

New section

SEC. 9. A new section to be numbered 11.3 is hereby added to the act cited in the title hereof, to read as follows:

Filing record of survey.

Sec. 11.3. Within one hundred eighty (180) days after the establishment of points or lines of any survey relating to land boundaries or property lines, which is based in whole or in part on evidence which does not appear on any map or record previously recorded or filed in the office of the county recorder, county clerk, or municipal or county surveying department, or which discloses a material discrepancy with the record so appearing, or with the records of the General Land Office of the United States, or which discloses evidence that by reasonable analysis might result in alternate positions of lines or points, the surveyor or civil engineer shall file with the county surveyor in the county in which such survey is located, a record of survey, as hereinafter provided.

Such record of survey, however, shall not be required of any survey made by a public officer in official capacity, a record of which has been filed by him as a permanent record of his office, and which is available for public inspection, or of any survey of a preliminary nature, or when a map of the survey is in preparation for recording or shall have been recorded under the provisions of the Subdivision Map Act, being Chapter 837, Statutes of 1929, and any amendments thereto, or any act superseding the same.

Stats. 1929, p. 1790

New section

SEC. 10. A new section to be numbered 11.4 is hereby added to the act cited in the title hereof, to read as follows:

County surveyor to examine maps.

Sec. 11.4. The county surveyor, within twenty days after his receipt thereof, or within such additional time as may be reasonably necessary therefor shall examine such map with respect to its accuracy of survey and mathematical data, its conformity to other records or satisfactory evidence of the error of such other records, and its compliance with the provisions of this act. If the county surveyor finds such matter sufficient, he shall indorse on the map a statement of his examination thereof, and shall present said map to the county recorder for filing, otherwise he shall return it to the person who presented it, together with a written statement of the changes necessary to make the map conform to the requirements hereof. If the matters appearing on the map can not be agreed upon by the surveyor and the county surveyor, an explanation of the matters involved in such disagreement shall be indorsed on the map and it shall be so presented to the county recorder for filing. The map thus filed with the county recorder of any county must be by him securely fastened into a suitable book provided for that purpose, and he shall keep proper indexes of such map by the name of grant, tract, subdivision, and/or United States subdivision. No charge shall be made for the filing and indexing of any such map.

New section.

SEC. 11. A new section to be numbered 11.5 is hereby added to the act cited in the title hereof, to read as follows:

Form of map.

Sec. 11.5. Such record of survey shall be a map, legibly drawn on tracing cloth, size eighteen by twenty-six inches, or eighteen by thirteen inches, as required by the county recorder with whom filed, in black waterproof India ink. A one-inch blank margin shall be left on each edge of said map. The record of survey shall show all monuments found, set, reset, replaced, or removed, describing their kind, size, location, and other data relating thereto. Monuments set shall be sufficient in number and durability, and efficiently placed so as to be not readily disturbed, to assure, together with monuments already existing, the perpetuation or facile reestablishment of any point or line of the survey. Such record of survey shall show bearing or witness monuments, basis of bearings, bearing and length of lines, scale of map, name and legal designation of tract or grant in which the survey is located and ties to adjoining tracts, memorandum of oaths as provided in section 11.1 hereinabove recited, signature and seal as provided in section 11.2 hereinabove recited, date of survey, name of person or persons for whom the survey was made, and any other data necessary for the intelligent interpretation of the various items and locations of the points, lines and areas shown on said map.

New section.

SEC. 12. A new section to be numbered 11.6 is hereby added to the act cited in the title hereof, to read as follows:

Marking monument.

Sec. 11.6. Any durable monument set by a licensed land surveyor or registered civil engineer to mark or reference a point on a property or land line shall be permanently and visibly marked or tagged with the certificate number

of the surveyor or civil engineer setting it and each number shall be preceded by the letters "L. S." or "R. E." respectively, as the case may be or if such monument be set by a public officer it shall be marked with his official title. This section shall not apply to monuments set by the State Division of Highways to mark State highway boundaries.

SEC. 13. Section 12 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933 p 1288

Sec. 12. Nothing in this act shall be construed as prohibiting any land surveyor from practicing his profession through the medium of or as an employee of a partnership or a corporation, provided that any signature or seal affixed under the provisions of this act shall be the signature or seal of the licensed land surveyor or registered civil engineer in specific and responsible charge of the work performed. No person shall represent himself as, or use the title of, licensed land surveyor unless such person is the holder of a valid, unsuspended or unrevoked license provided for herein. Application of act.

CHAPTER 776.

An act to add article 3a to Chapter 1 of Division III of the Agricultural Code, relating to the sale, purchase, transportation and marketing of poultry. Stats. 1933, p 60.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Article 3a is hereby added to Chapter 1 of Division III of the Agricultural Code to read as follows: New article

Article 3a. Sale and Transportation of Poultry.

379. The provisions of this article shall apply to the sale, purchase, or marketing of poultry in any county of this State and to the transportation of poultry in, through, or between any county or counties of this State. Poultry

379.1. As used in this article, (a) "dealer" includes any person operating as a poultry retailer, poultry wholesaler, butcher, slaughterer, poultry packer, poultry buyer or poultry commission merchant. Definitions

(b) "Poultry" includes chickens, ducks, geese, turkeys and all other fowls or birds used for food or production purposes.

(c) "Place of business" includes any place or building in which or at which the business of a poultry dealer is conducted. Any group of buildings used as an integral part of one business shall be considered as one place of business.

379.2. Any person, carrier, or transportation company receiving for transportation or transporting any poultry shall at all times keep a correct record showing the point or origin Records required

and destination of any shipment of poultry, the names and addresses of the shipper and consignee, and the kind and quantity of poultry transported.

Statement of ownership, etc.

379.3. Any person offering poultry for shipment shall furnish a statement of ownership or right of possession of such poultry, which statement shall be kept as part of the record of the person, carrier or transportation company transporting such shipment.

Handling poultry for resale

379.4. Any dealer or person handling poultry for resale shall make and retain a record showing the origin, ownership and right of possession of such poultry and the name and address of the seller or shipper of the same.

Authority to arrest violators

379.5. All peace officers, sheriffs or deputy sheriffs, members or officers of the California Highway Patrol and traffic officers shall have authority to arrest, without warrant, any person or persons found moving poultry in any manner other than as provided by the terms of this article, and seize said shipment. The carrier from whom such shipment is taken shall not be liable or responsible to the owner, shipper, or consignee for such seizure.

Penalty.

379.6. Any person who shall, by any act, whether of commission or omission, violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding six months in the county jail, or by both such fine and imprisonment.

CHAPTER 777.

An act to amend section 4.923 of the School Code, relating to computation of pupils' attendance.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Sch. C., 1929, p. 197

SECTION 1. Section 4.923 of the School Code is hereby amended to read as follows:

Computation of attendance.

4.923. Where a high school, junior college, trade school or elementary school maintains during the school year four terms of school of at least twelve weeks each, and where the course of instruction is so arranged that students may complete a full year's work in any three of these terms, the total number of days of pupils' attendance, as specified in this article, shall be divided by the greatest number of days school was actually taught in any three of the four terms, but in no case shall the divisor be less than one hundred seventy-five.

CHAPTER 778.

An act to add section 586.5 to the Vehicle Code, relating to the control of traffic upon the public highways of the State of California, whether situated within unincorporated or incorporated territory.

[Approved by the Governor July 20, 1935 In effect September 15, 1935]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 779.

An act to amend sections 5.930 and 5.931 of the School Code, both relating to balances due deceased recipients of annuities from the public school teachers' retirement salary fund.

[Approved by the Governor July 20, 1935. In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. Section 5.930 of the School Code is hereby amended to read as follows: Sch. C., 1929. p. 260.

5.930. The surviving husband or wife, or the guardian of the estate of any insane or incompetent husband or wife, of any deceased person who has been the recipient of an annuity from the public school teachers' retirement salary fund, or if no husband or wife is living, then the children or the guardian of the estates of any minor or insane or incompetent children of said decedent, or, if no children are living, then the father or mother or the guardian of the estate of any insane or incompetent father or mother of such decedent, and if neither the mother nor father is living, then the grandchildren or the guardian of the estates of any minor, insane or incompetent grandchildren of such decedent, and if no such grandchildren are living, then the brothers and sisters or the guardian of the estates of any minor or insane or incompetent brothers and sisters of such decedent, or, if no brothers or sisters are living, then the children of any deceased brothers or sisters or the guardian of the estates of any minor or insane children of any deceased brothers or sisters of such decedent, may, without procuring letters of administration, collect from the public school teachers' retirement salary fund, in the State treasury, any balance of retirement salary accrued to the credit of said deceased annuitant remaining unpaid at the time of death. Collection of balances due deceased annuitants

SEC. 2. Section 5 931 of the School Code is hereby amended to read as follows: Sch C. 1929, p. 260

5.931. The public school teachers' retirement salary fund board, upon receiving an affidavit stating that said annuitant is dead, and that the affiant is the surviving husband or wife or the guardian of the estate of an insane or incompetent husband or wife, as the case may be, of said decedent, or stating Payment on receipt of affidavit

that the decedent left no husband or wife, and that the affiant is the child, or that affiants are the children, or the guardians of the estates of the minor, insane or incompetent children, as the case may be, of said decedent, or stating that decedent left neither husband, wife nor children, and that affiant, the father or mother, or the guardian of the estate of the insane or incompetent father or mother, as the case may be, of said decedent, or stating that the decedent left neither husband, wife, children, father nor mother, and that the affiants are the grandchildren, or the guardians of the estates of any minor, insane or incompetent grandchildren, as the case may be, or stating that the decedent left neither husband, wife, father, mother, children or grandchildren and stating that the affiants are the brothers and sisters, or the guardians of the estates of the minor, insane or incompetent brothers and sisters, as the case may be, or stating that the decedent left neither husband, wife, father, mother, children, grandchildren, brothers or sisters, and the affiants are the children of deceased brothers or sisters, or are the guardians of the estates of the minor, insane or incompetent children of any deceased brothers or sisters, as the case may be, of said decedent, shall, at the next quarterly meeting of said board, when claims for retirement salaries are certified, include and certify a claim in favor of said affiant or affiants for the balance due said decedent, and the Controller shall draw his warrant in favor of the affiant or affiants in the same manner as warrants are drawn for the payment of retirement salaries, and the indorsement of such affiant or affiants upon such warrant is sufficient acquittance therefor.

CHAPTER 780.

Stats 1933, p 928, amended

An act to amend section 13 of "An act imposing a license fee or tax for the transportation of persons or property for hire or compensation upon public streets, roads and highways in the State of California by motor vehicle, and providing that this act shall take effect immediately," approved May 15, 1933, relating to the disposition and control of moneys received under said act and to provide for certain appropriations in connection therewith.

[Approved by the Governor July 26, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 936

SECTION 1. Section 13 of the act cited in the title hereof is hereby amended to read as follows:

Disposition of moneys

Sec. 13. All sums paid to the State Controller or to the State Board of Equalization under and by virtue of this act shall be deposited in the State treasury to the credit of the general fund.

SEC. 2. Any moneys in the "Motor transportation license fund" when this act goes into effect are hereby transferred to the general fund, and the unexpended balances of any specific appropriations made from said fund are hereby appropriated from the general fund for the same purposes. Transfer to general fund

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CHAPTER 781.

An act to amend section 91.5 of the Agricultural Code, relating to the sixth district agricultural association fund. Stats 1933, p. 60.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 91.5 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p. 72

91.5. All moneys collected or received, other than appropriations from the State, by the sixth district agricultural association shall be remitted monthly to the State Treasurer for credit to the "Sixth district agricultural association fund," which fund is hereby created. All moneys in said fund are hereby appropriated and shall be available for expenditure, in accordance with the provisions of law, for major and minor construction, improvements, equipment, maintenance, and support of the buildings and grounds or other property of the sixth district agricultural association. Sixth district agricultural association fund.

CHAPTER 782.

An act to amend section 810 of the Agricultural Code, relating to artichoke standards. Stats 1933, p. 60.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 810 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p. 188.

810. Globe artichokes shall be free from mold, decay, and insect injury or insect larvae; and free from serious damage due to freezing or other causes. Damage to any one artichoke from freezing is not serious unless the heart of the artichoke or that portion of the stem extending one and one-half inches or less, below the bottom of the artichoke, is discolored due to this cause. Damage from other causes is not serious unless it causes a waste of ten per cent, by weight, of the edible portion of the artichoke. Artichokes.

Not more than ten per cent, by count, of the Globe artichokes in any one container or bulk lot may be below these requirements but not to exceed one-half of this tolerance shall be allowed for any one cause.

Globe artichokes, when packed, shall not vary in size, in any one container, more than one-half of an inch in diameter when measured through the widest portion of cross section

Markings on containers

All containers of artichokes shall bear upon them in plain sight and in plain letters on one outside end: the name of the person who first packed or authorized the packing of the artichokes, or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer.

Standard containers

Artichokes shall be in standard containers numbers 21 and 22.

CHAPTER 783.

An act to amend the Vehicle Code by adding a new section to be numbered 135.5 relating to investigation of accidents.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 784.

An act to amend sections 1625.5 and 1626 of the Streets and Highways Code, relating to expenditures by boards of supervisors of moneys received by the counties from the motor vehicle fuel fund or from moneys received by the county for vehicle registration license fees and authorizing contributions to ad valorem special assessment proceedings, or the purchase, cancellation and retirement of bonds issued in any ad valorem acquisition or improvement district.

[Approved by the Governor July 20, 1935 In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 785.

An act to amend section 1197 of the Code of Civil Procedure, relative to executions in mechanics' lien actions.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1929, p. 1930.

SECTION 1. Section 1197 of the Code of Civil Procedure is hereby amended to read as follows:

1197. Nothing contained in this chapter shall be construed to impair or affect the right of any person to whom any debt may be due for work done or materials furnished, or furnishing appliances, teams or power contributing to any work of improvement to maintain a personal action to recover said debt against the person liable therefor and to, either in an action to foreclose his lien or in a separate action, take out an attachment or execution, therefor, or obtain a separate personal judgment in such mechanics' lien action, against the person personally liable for such debt notwithstanding his lien, and in his affidavit to procure an attachment need not state that his demand is not secured by a lien; but the judgment, if any, obtained by the plaintiff in such personal action, or personal judgment obtained in such mechanics' lien action, shall not be construed to impair or merge any lien held by said plaintiff under this chapter; provided, only, that any money collected on said judgment shall be credited on the amount of such lien in any action brought to enforce the same, in accordance with the provisions of this chapter.

Effect of lien on right of personal action to recover debt

CHAPTER 786.

An act to amend the title and sections 1 and 2 of an act entitled "An act prohibiting the issuance as payment for wages of any evidence of indebtedness unless the same is negotiable and payable without discount, and providing that the same must be payable upon demand," approved March 1, 1911 (Stats. 1911, Chap. 92), as amended, providing that evidences of indebtedness for wages must be payable upon demand and issued against sufficient funds or credit to cover the same and providing penalties for violation of the provisions thereof.

Stats 1911, p. 259, amended

[Approved by the Governor July 20, 1935 In effect September 15, 1935]

The people of the State of California do enact as follows:

SECTION 1. The title to the act cited in the title hereof is hereby amended to read as follows:

Title amended

An act prohibiting the issuance as payment for wages any evidence of indebtedness unless the same is negotiable and payable upon demand in cash without discount, providing that such evidence of indebtedness must be issued against sufficient funds or credit to cover same and providing penalties for violation of the provisions thereof.

SEC. 2. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1929, p 973

Section 1. No person, firm, association or corporation, or agent or officer thereof, shall issue, in payment of or as an evidence of indebtedness for wages due an employee, any

Wage checks to be negotiable and payable on demand.

order, check, draft, note, memorandum, or other acknowledgment of indebtedness, unless the same is negotiable, and is payable upon demand without discount in cash at some bank or other established place of business in the State; and the name and address of the drawee shall appear upon the face of the order, check, draft, note, memorandum, or other acknowledgment of indebtedness. At the time of the issuance of same the maker or drawer shall have sufficient funds in, or credit with, the bank or other drawee for the payment of same. Where such order, check, draft, note, memorandum, or other acknowledgment of indebtedness is protested or dishonored, on the ground of insufficiency of funds or credit, the notice or memorandum of protest or dishonor thereof shall be admissible as proof of presentation, nonpayment and protest and shall be presumptive evidence of knowledge of insufficiency of funds or credit with such drawee.

The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or other drawee for the payment of such order, check, draft, note, memorandum, or other acknowledgment of indebtedness.

No person, firm, association or corporation, or agent or officer thereof, shall issue in payment of wages due, or wages to become due an employee, or as an advance on wages to be earned by an employee, any scrip, coupons, cards or other thing redeemable in merchandise or purporting to be payable or redeemable otherwise than in money. But nothing herein contained shall be construed to prohibit an employer from guaranteeing the payment of bills incurred by an employee for the necessaries of life or for the tools and implements used by such employee in the performance of his duties. The provisions of this act shall not apply to counties, cities and counties, municipal corporations, quasi municipal corporations or school districts organized and existing under the laws of this State.

Stats. 1929, p. 974.

SEC. 3. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Offenses and penalties

Sec. 2. Any person, firm, association or corporation, or agent or officer thereof, who shall violate or omit to comply with any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. A prosecution under this act may be brought at either the place where the alleged illegal order, check, draft, note, memorandum or other acknowledgment of wage indebtedness was issued or at the place where same is made payable.

CHAPTER 787.

An act amending section 1428 of the Penal Code, relating to keeping of minutes.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1428 of the Penal Code is hereby amended to read as follows: 1872 Code.

1428. A docket must be kept by the municipal judge, justice of the peace or police justice, or by the clerk of the courts held by them, if there is one, in which must be entered each action and all the proceedings of the court therein, including the title of each case or proceeding and all orders and proceedings therein. Dockets.

CHAPTER 788.

An act amending section 1461a of the Penal Code, relating to municipal court procedure.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1461a of the Penal Code is hereby amended to read as follows: Stats. 1931, p. 1535

1461a. The procedure to be followed in misdemeanor cases filed in municipal courts, over which such courts have jurisdiction, shall be the same as that provided for in this chapter for proceedings in justices' and police courts, as specifically provided in sections number 1426 to number 1460, inclusive, (except sections 1431 and 1432), in so far as the same may be applicable to such municipal courts except where other provisions of law provide for different procedure in municipal courts in such cases, in which event such other provisions shall control. Municipal courts: Procedure.

CHAPTER 789.

An act to amend section 1428a of the Penal Code, relating to minute books of municipal courts.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1428a of the Penal Code is hereby amended to read as follows: Stats. 1931, p. 1535.

Municipal courts: Minute book.

1428a. In each municipal court there shall be kept a minute-book in which the clerk of the court shall enter the title of each case or proceeding relating to felonies, and all orders and proceedings therein.

CHAPTER 790.

Stats. 1931, p. 483, amended.

An act to amend the Building and Loan Association Act by adding a new section thereto to be numbered 6.01a, relating to withdrawal claims maturing in installments.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the act cited in the title hereof, to be numbered section 6.01a, and to read as follows:

Withdrawal claims maturing in installments.

Sec. 6.01a. Withdrawal claims maturing in installments. Notwithstanding anything to the contrary contained in this act, withdrawal claims on behalf of any one investor in an association or by two or more investors in an association, holding shares or investment certificates in common or in joint tenancy, shall mature in installments if such claims shall be for any sum greater than two hundred fifty dollars, the first of such installments being hereinafter referred to as the "initial installment" and the remaining installment or installments being hereinafter referred to as the "successive installments." Withdrawal claims maturing in installments shall be matured withdrawal claims, within the meaning of this act, only to the extent that such claims are matured as provided in this section, notwithstanding anything to the contrary contained in this act.

Initial installment

The initial installment shall mature: (1) in the case of withdrawal claims filed pursuant to section 3.05 and 6.01 of this act, when the notice of intention of withdrawal shall have matured; (2) in the case of withdrawal of definite term investment certificates (excepting solely in the case where pursuant to section 6.01 of this act a notice of intention to withdraw may be filed with respect thereto prior to the express date of its maturity), upon the express date of maturity of such certificates; (3) in the case of notices of modification given pursuant to section 5.07 of this act, upon the date of the expiration of the period of such notices of modification; and (4) in the case of maturity of shares pursuant to section 3.03 of this act, upon the declaration of such maturity by the board of directors of the association. The first successive installment shall mature sixty days after the payment of the initial installment, and the other successive installments shall mature respectively sixty days after the payment of the next preceding successive installment.

In the case of withdrawal claims representing investment certificates or shares having a value in excess of two hundred fifty dollars but not greater than one thousand dollars, each installment shall be two hundred fifty dollars, or the portion of the claim remaining unpaid at the time such installment matures, whichever is lesser; in the case of withdrawal claims representing investment certificates or shares having a value in excess of one thousand dollars but not greater than twenty thousand dollars, each installment shall be one quarter of such value at the time the initial installment matures or the portion of such claim remaining unpaid at the time such installment falls due, whichever is lesser; and in the case of claims representing investment certificates or shares having a value greater than twenty thousand dollars, each installment shall be five thousand dollars, or the portion of the claim remaining unpaid at the time such installment matures, whichever is lesser.

Scope of section.

The provisions of this section shall govern the withdrawal and other rights of the holders of all shares and investment certificates whether heretofore or hereafter issued, and whether or not withdrawal claims shall have heretofore been filed unless such previously filed claims shall have heretofore matured.

CHAPTER 791.

An act to amend the Building and Loan Association Act by adding a new section thereto to be numbered 8.11, relating to evidence of investment in building and loan associations.

Stats. 1931, p. 483, amended.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section.

SECTION 1. A new section is hereby added to the act cited in the title hereof, to be numbered section 8.11 and to read as follows:

Shares and investment certificates.

Sec. 8.11. Issuance of Shares and Investment Certificates Without Provision for Definite Return Thereon. From and after the date this section takes effect no association may issue shares or investment certificates with provision for a definite rate of return thereon; provided, however, that nothing contained in this section shall be deemed to forbid any association from (a) issuing shares or investment certificates with provision for a definite rate of return thereon in lieu of shares or certificates theretofore outstanding and providing for a definite rate of return; (b) receiving additional funds upon installment shares, accumulative shares, installment investment certificates or accumulative investment certificates, outstanding at the date this section takes effect, or upon shares or certificates issued in lieu thereof; (c) issuing shares or certificates providing that the return thereon shall not exceed a maximum

figure specified therein; nor (d) issuing installment shares or installment certificates providing for an additional rate of return for the investor in excess of the rate of return paid by such association to its shareholders or certificate holders generally, and conditioned upon the faithful performance of such installment contract by the shareholder or certificate holder. The rate or rates of return on shares or investment certificates, or both, issued pursuant to the provisions of this section without a definite rate of return stated therein shall be fixed and determined in the manner provided in section 8.10 of this act.

CHAPTER 792.

Stats. 1931, p. 483, amended.

An act to amend the Building and Loan Association Act by adding section 9.07a thereto, relating to restrictions as to lending territory.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the act cited in the title hereof, to be numbered section 9.07a and to read as follows:

Restrictions as to lending territory.

Sec. 9.07a. Restrictions as to lending territory. The commissioner may forbid any association from making any further loans within any geographical area as specified in such order of the commissioner, when in the opinion of the commissioner the making of further loans within such specified geographical area would constitute unsound business practice.

CHAPTER 793.

Stats. 1931, p. 483, amended

An act to amend the Building and Loan Association Act by amending section 9.15 thereof, relating to limitation on single loans.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1114.

SECTION 1. Section 9.15 of the act cited in the title hereof, is hereby amended to read as follows:

Limitation on single loans.

Sec. 9.15. Limitation on Single Loans. Except with the consent of the commissioner no association shall hereafter make any one loan in an amount exceeding one per cent of the book value of its assets; but the provisions of this section shall not apply to any loans which do not exceed ten thousand dollars principal each.

CHAPTER 794.

An act to amend the Building and Loan Association Act by adding section 6.01b thereto, relating to period of notice of intention to withdraw. Stats. 1931, p. 483, amended.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the act cited in the title hereof to be numbered 6.01b and to read as follows: New section

Sec. 6.01b. Period of notice of intention to withdraw. The period of notice of intention to withdraw to be prescribed by each association pursuant to section 6.01 of this act, shall be six months in the case of all shares or investment certificates issued after the effective date of this section; provided that nothing contained in this section shall be deemed to forbid an association from (a) issuing shares or investment certificates prescribing the same period of notice of intention to withdraw as prescribed in shares or certificates theretofore outstanding, if such new shares or investment certificates are issued in lieu of such shares or certificates theretofore outstanding; nor (b) receiving additional funds upon installment shares, accumulative shares, installment investment certificates or accumulative investment certificates outstanding at the date this section takes effect, or upon shares or certificates issued in lieu thereof. Period of notice of intention to withdraw.

CHAPTER 795.

An act to amend section 493.5 of the Fish and Game Code, and to add thereto section 741.5, relating to fish. Stats. 1933, p. 394.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 493.5 of the Fish and Game Code is hereby amended to read as follows Stats. 1933, p. 442

493.5. It is unlawful to chum with live bait in district 20. Chumming.

SEC. 2. Section 741.5 is hereby added to the Fish and Game Code, to read as follows: New section

741.5. Marlin may be taken with hook and line. Broad bill swordfish may be taken with hook and line and harpoon. Marlin and broad bill swordfish

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CHAPTER 796.

An act to amend the County Water District Act, approved June 10, 1913, as amended, by adding to said act, as Stats. 1913, p. 1049, amended.

amended, a new section, to be numbered 4a, providing for the election of directors by divisions, instead of at large, if authorized by election.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the act cited in the title hereof, to be numbered 4a, and to read as follows:

Election of directors by divisions

Sec. 4a. The board of directors may, if it deems it to be for the best interest of the district, by resolution submit to the qualified electors at a special or general water district election the question whether the directors of the district shall be elected by divisions. If such question is so submitted, the notice of election and the ballot shall contain a statement of the question and the election shall be conducted as nearly as practicable as required at other district elections.

If at such election the majority of the electors voting upon said question shall approve the election of directors by divisions, then:

(a) The board of directors shall promptly after such election by resolution divide the district into five divisions, as nearly equal in acreage as may be practicable, and assign a number to each division; and said board may thereafter, at any time, but not less than sixty days before a general water district election, by resolution change the boundaries of the divisions, so as to keep them as nearly equal in size as may be practicable; and

(b) Said board shall, not less than sixty days prior to the next succeeding general water district election, by resolution designate which divisions shall elect directors at such election to succeed the directors whose terms then expire and the remaining divisions shall elect directors at the next general water district election following such election; and

(c) Directors shall be residents of the divisions by which they are elected.

CHAPTER 797.

An act amending section 4076 of the Political Code, relating to county government.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1927, p. 628.

SECTION 1. Section 4076 of the Political Code is hereby amended to read as follows:

Filing of claims.

4076. No account shall be passed upon by the board, unless made out as prescribed in this and the preceding section and filed with the clerk, or with the auditor as prescribed in the

preceding sections, three days prior to the time of the meeting of the board at which it is asked to be allowed. Such demand shall be made in form substantially as follows:

Form of claim.

Clerk's memoranda, No. _____ _____fund.
Demand of _____, dated _____, in the sum of $_____ for _____.
Allowed by the board of supervisors, _____, 19___ in the sum of $_____.
Attest. _____
Clerk of the board.

Demand of _____.
No. _____. Fund _____.
Demand on the treasury of the county of _____, State of California, for the sum of _____ dollars, being for _____

Date	Items	Dollars	Cents
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
		$_____	_____

Expenditures authorized and approved by me.

_____

State of California, }
County of _____ } ss.

The undersigned, being duly sworn, says: That the above claim and the items as therein set out are true and correct; that no part thereof has been heretofore paid, and that the amount therein is justly due this claimant, and that the same is presented within one year after the last item thereof has accrued.

_____

Subscribed and sworn to before me this_____day of_____

_____
County clerk.

Allowed by the board of supervisors, _____, 19___, in the sum of $_____, payable out of _____ fund.
Attest:

_____
Clerk of board of supervisors.

Countersigned:

_____
Chairman board of supervisors.

Warrant No._____.
Approved, _____, 19___.

_____
County auditor.

No._____ Registered_____, 19___.

_____
County treasurer.

Approval

Said demand shall be approved before filing by the officer who directed such expenditure. If said demand be allowed by the board, the clerk of the board shall detach and file the memorandum, and shall indorse on such demand "allowed by the board of supervisors," together with the date of such allowance, the amount of such allowance, and from what fund; shall attest the same with his signature, and, when countersigned by the chairman, shall transmit the same to the auditor, who shall, in case he approves said demand, indorse upon it "approved," date, and number of the warrant, and shall, in attestation thereof, affix his signature thereto and deliver the same to the claimant; and said demand, when so approved and signed by the auditor, shall constitute the warrant on the treasury within the meaning of this chapter, except as hereinafter provided; provided, however, that whenever a county causes its accounts to be reorganized in a manner which will enable said county to determine by its accounts the correctness of claims presented for payment, the board of supervisors of said county may modify the form hereinabove prescribed for the submission of claims by eliminating therefrom the affidavit of claimant and may dispense with the necessity of such or any affidavit; provided, further, that the board of supervisors of any county may in their discretion adopt such other form or forms for the submission and payment of claims and may prescribe and adopt warrant forms separate from demand forms, to the end that the approved demands may be permanently retained in the auditor's office as vouchers supporting the warrants issued, and may prescribe such other procedure for the allowance and payment of claims as may better meet the needs of the particular county, but in such form of claim so adopted shall provide:

Modification of form

Other forms and procedure

Provisions to be included

First—For the approval of the officer directing the expenditure, provided that in counties having a system under which expenditures may be initiated by requisition the approval may be omitted from claims initiated by requisition.

Second—For the approval of the purchasing agent or other officer issuing the purchase order under which the charge was incurred, or having charge of contracts or schedules of salaries under which the claim arose.

Third—For the approval of at least one member of the board of supervisors: provided, that in lieu of the supervisor's approval on each claim there may be substituted duplicate lists of claims allowed, showing, as to each claim, the name of the claimant, the amount allowed, the date of allowance, and the fund on which allowed. Such lists shall have been certified to the board by the clerk of the board or other competent officer or employee designated by the said board for such purpose, as being a true list of claims properly and regularly coming before the board. Upon allowance of claims each of said lists, after amendment if necessary, shall be certified to as correct by one member of the board of supervisors and by the clerk of the board and filed, one in the office of the clerk

of the board of supervisors and one in the office of the auditor, and when so filed the lists shall constitute respectively the "allowance book" and the "warrant book" described by section 4039 of this code.

Fourth—For the certificate of the clerk of the board of supervisors as to the date and amount of allowance of such claim by the board, provided that if the duplicate lists of claims allowed referred to in the foregoing subdivision are filed then the said certificate may be omitted, but in its stead there shall appear on each claim a reference by date or number or otherwise to the list on which said claim appears listed as allowed.

Fifth—For the certificate of the clerk of the board of supervisors or of the county auditor as to the correctness of the computations.

Sixth—For the county auditor's approval.

CHAPTER 798.

An act to amend an act entitled "An act to authorize the counties of the State of California to establish retirement systems for their employees," approved May 20, 1919 (Statutes 1919, page 782), by amending sections 1 and 6 thereof, relating to county employee retirement systems. Stats 1919, p. 782, amended.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows: Stats 1919, p. 782.

Section 1. In this act, unless the context otherwise requires: Definitions

(a) The words "retirement system" mean the arrangements provided in this act for the payment of annuities, or the payment of total sums in lieu of annuities.

(b) The word "annuity" means the payments for life derived from money deposited by the employees and contributed by the county.

(c) The words "regular interest" mean interest calculated on March thirty-first, June thirtieth, September thirtieth and December thirty-first on payments received during the preceding quarter from the last of that quarter at a rate, depending upon the interest earnings on investments, to be fixed by the board of retirement, with the approval of the board of supervisors, but not greater than four per cent per annum compounded annually on the last day of December.

(d) The word "employees" includes both appointive officers and employees of the county.

(e) The words "in continuous service" mean uninterrupted employment, except that a temporary lay-off on account of illness or for purposes of economy, a leave of absence, sus-

pension or dismissal followed by reinstatement within one year shall not be considered as breaking the continuity of service; provided, further, that in case of reinstatement of any member who at the time of his separation from the service receives a refund under section 6 of this act, he shall be deemed to be a new entrant to the service and the monthly deductions from his salary shall be computed from the date of such reinstatement unless he shall, within ninety days from such reinstatement, return to the members' deposit reserve the amount refunded to him.

(f) The word "county" shall mean "county" or "city and county."

(g) The term "salary fund" shall mean in any city and county the fund from which salaries are ordinarily paid.

Stats. 1919, p 788.

SEC. 2. Section 6 of said act is hereby amended to read as follows:

Distribution of funds.

Sec. 6. The county treasurer shall administer the funds of the retirement system in accordance with the following plan:

1. The cost of operation of the retirement system shall be borne by the county from funds provided under section 5, (1), and the liabilities incurred in connection therewith paid as other county charges are paid. These expenses are hereby made county charges.

2. Deposit, contribution, and annuity funds:

A. Refunds.

Refunds.

(1) Should a member separate from the service of the county for any cause except permanent disability before retirement, there shall be paid to him or, in case of death, to a beneficiary or beneficiaries designated by such member, without letters of administration or probate of will, or if no beneficiary has been so designated, then to his legal representatives, all the money that shall have been paid in by him under section 5, (2), (a), with regular interest on such deposits.

(2) The amount contributed by the county for such member with regular interest shall be transferred from the county contribution reserve to the surplus and deficit account.

B. Annuities from Employees' Deposits and Contributions by the County.

Annuities.

(1) Any member who reaches the age of sixty years and has been in the continuous service of the county for ten years immediately preceding and then or thereafter retires or is retired, any member who retires or is retired at the age of seventy years, or thereafter, and any member who retires or is retired for the good of the service or for permanent disability under the provisions of section 3, (4) and (5), shall receive a life annuity to which the sum of his deposits under section 5, (2), (a), with regular interest and contributions by the county with regular interest under section 5, (2), (b), and (c), shall entitle him according to the annuity

tables adopted by the board of retirement in one of the following forms at his option:

(a) A life annuity, payable quarterly.

(b) A life annuity payable quarterly with the provision that in the event of the death of the annuitant before receiving payments equal to the sum at the date of his retirement of his deposits under section 5, (2), (a), with regular interest, the difference shall be paid to a beneficiary or beneficiaries designated by such member, without letters of administration or probate of will, or if no beneficiary has been so designated, then to his legal representatives.

Annuities for permanent disability.

(2) Annuities for Permanent Disability. Any member who has been retired for permanent disability as provided under section 3, (5) shall receive an annuity based upon the sum of his deposits and of the county's contributions with regular interest. Except that any member who receives compensation from the county under any workmen's compensation act or by virtue of any judgment obtained against the county for permanent disability, shall in lieu of such annuity receive a refund of all the money that has been paid in by him under section 5, (2), (a), with regular interest on such deposits. The annuities paid hereunder shall cease whenever, upon investigation, the board of retirement shall find that such disability has been removed, but if the member has not received a sum equal to the amount he deposited with regular interest the difference shall be refunded to him.

(3) If the sum of the deposits made by an employee entitled to an annuity and the contributions by the county with regular interest do not amount to more than five hundred dollars, such amount shall be paid to the retiring employee in one lump sum in lieu of an annuity.

Annuities based on prior service

(4) Annuities Based on Prior Service. Any member in the service of the county at the time this law becomes operative shall, upon being retired receive an annuity based upon an annuity reserve of such sum as the county's contributions at regular interest would have produced for the period of years, not exceeding twenty-five, that he shall have been in the actual service of the county at the date of retirement, plus the amount of the reserve created by his own deposits with regular interest. In all such cases that portion of the annuity not produced by the member's deposits and similar contributions by the county shall be paid from the prior service annuity reserve. Nothing herein contained shall prohibit any employee from paying into the retirement system any sums in excess of the regular monthly contributions; provided, however, the board of retirement, with the approval of the board of supervisors, may limit the amount of excess contributions which will be accepted. Any payment so made shall be made in accordance with rules adopted by the board of retirement, be credited to a separate and special account of the employee so making the payment, held for his sole use and benefit, and increased with regular interest as provided by this act. When a member

who has made an extra deposit retires or separates from the service of the county, the amount of such extra deposit with regular interest shall be returned to him in a lump sum, or used to increase his annuity reserve and annuity, as the circumstances of each particular case may require.

(5) The amount of the surplus as of December thirty-first of each year, if there be a surplus, shall be paid into the salary fund of the county. The deficit, if there be a deficit, shall be made good by a transfer from the salary fund of the county, on order of the board of supervisors, to the fund of the retirement system.

(6) Refunds to the county shall go to the fund from which disbursements were originally made.

CHAPTER 799.

An act to amend the Political Code by adding a new section numbered 3819a, relating to the redemption of property from sale for nonpayment of taxes in counties of the first and second classes.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. The Political Code is hereby amended by adding thereto a new section to be numbered 3819a and to read as follows:

Duties of tax collector in counties of first and second classes

3819a. In counties of the first and second classes, the tax collector shall have the power and shall perform the duties otherwise conferred upon and required of the auditor and the treasurer, relating to the redemption of property from sales to the State for nonpayment of taxes.

In said counties:

The statements or copies of certificates provided for in section 3678 of the Political Code shall be transmitted to the assessor by the tax collector;

The certification of facts required by section 3681a of said code to be made to the board of supervisors shall be made by the tax collector;

Section 3739 of said code shall have no application;

The payments provided, by section 3788 of said code, to be made to the county treasurer shall be made to the tax collector and the estimates of the amounts of such payments and the receipts therefor shall be made by the tax collector;

The certified copy mentioned in section 3789 of said code shall be made by the tax collector;

After the settlement required by section 3799 of said code, the assessment book and the delinquent list must remain in the custody of the tax collector;

The tax receipt and the certificate mentioned in section 3804b of said code shall be made by the tax collector;

The certified copy of assessment mentioned in section 3809 of said code, together with the affidavit, shall be made by the tax collector;

The payments required, by section 3817 of said code, to be made to the county treasurer shall be made to the tax collector and the estimates of the amounts of such payments and the receipted certificates therefor shall be made by the tax collector. One copy of such receipted certificate shall be delivered to the redemptioner, one shall remain on file in the office of the tax collector and one shall be delivered to the county auditor, who shall make a record thereof and shall transmit such certificate to the State Controller, who, when requested by the tax collector, shall issue his receipt as provided in said section 3817;

Payments required, by sections 3817c, 3817c2 and 3817i or any other section or sections of said code relating to payment of delinquent taxes in installments, to be made to the treasurer shall be made to the tax collector and payments authorized, by section 3817h of said code, to be credited on redemptions shall include payments made to the tax collector under said sections 3817c, 3817c2, 3817i and any other section or sections of said code relating to payment of delinquent taxes in installments;

The tax collector shall perform the duties required, by section 3818 of said code, to be performed by the auditor

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CHAPTER 800.

An act to amend sections 117d and 117q of the Code of Civil Procedure, relating to small claims courts.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 117d of the Code of Civil Procedure is hereby amended to read as follows: Stats. 1935 Ch. 303

117d. The date for the appearance of the defendant as provided in the order endorsed on the affidavit shall not be more than fifteen days nor less than three days from the date of the said order. When the justice or clerk has fixed the date for the appearance of the defendant he shall inform the plaintiff of said date and at the same time order the plaintiff to appear on said date and to have with him his books, papers and witnesses necessary to prove his claim. If the order is not served upon the defendant within the time specified in this code for the service of such order the plaintiff may apply to the justice or clerk or deputy clerk for a new Time for appearance

order setting a new date for the appearance of the defendant which shall not be more than fifteen days nor less than three days from the date of the issuance of the new order.

Stats. 1933, p. 1823

SEC. 2. Section 117q of the Code of Civil Procedure is hereby amended to read as follows:

Costs

117q. The prevailing party in any action in the small claims court is entitled to costs of the action and also the costs of execution upon a judgment rendered therein. Such costs shall include costs of service of the order for the appearance of the defendant.

CHAPTER 801.

Stats 1933, p 394

An act to amend section 1065 of the Fish and Game Code, relating to sardines.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p 485

SECTION 1. Section 1065 of the Fish and Game Code is hereby amended to read as follows:

Sardines

1065. Sardines may be taken for use in a reduction plant, or by a packer, only in accordance with the provisions of this article, as follows: In districts 4, 4¾, 18, 19, 20A, and 21 between November 1 and March 31; elsewhere in the State, except in district 20, between August 1 and February 15. This section does not prohibit the taking of sardines for the purpose of salting, curing, smoking or drying or for the purpose of packing in cans commonly known as quarter-pound or square cans less than ten ounces in net weight; provided, that in a ten ounce can, fish of a size of not less than eight fish to the can may be used. Sardines may be packed in their own natural oil.

CHAPTER 802.

An act to amend section 484 of the Penal Code, relating to thefts and fraud.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1927, p. 1046.

SECTION 1. Section 484 of the Penal Code is hereby amended to read as follows:

Theft defined.

484. Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud

any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft. In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false and fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employee or employees without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet shall be prima facie evidence of intent to defraud.

CHAPTER 803.

An act to amend section 4295 of the Political Code, relating to official services without fees.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4295 of the Political Code is hereby amended to read as follows: Stats. 1927, p. 359.

4295. State, county and township officers shall not perform any official services unless upon the prepayment of such fees as are prescribed by law for the performance of such services, except in proceedings upon habeas corpus, and in the following cases: Official services without fees.

(1) Except where otherwise specifically provided neither the State nor any county, city and county, city, district, or other political subdivision, nor any public officer, or board or body, acting in his or its official capacity on behalf of the State, or any county, city and county, city, district, or other political subdivision, shall be required to pay or deposit any fee for the filing of any document or paper, or for the performance of any official service; Filing of documents by public officer

(2) Neither the State nor any county, city and county, city, nor any public officer, board or body acting in his or its official capacity on behalf of the State, or any county, city and county, city, including notaries public, shall collect, demand or receive any fee or compensation for recording or indexing any discharge of a soldier, sailor, or marine, of the United States Army, Navy or Marine Corps, or of a nurse who served Recording of discharges for soldiers, sailors and nurses

in the American Red Cross or in the Army or Navy nursing corps, or for issuing certified copies thereof, or for any service whatever rendered in the matter of a pension claim, application, affidavit, voucher, or in the matter of any claim to be presented to the bureau of war risk insurance, under and by virtue of an act of Congress of the United States entitled "An act to amend an act entitled 'An act to authorize the establishment of a bureau of war risk insurance in the treasury department'," approved October 6, 1917, and acts amendatory thereof, or furnishing a verified copy of the public record of a marriage, death, birth or divorce, deed of trust, mortgage, or property assessment, or making the search for the same, when the same is to be used in a claim for pension, or a claim for allotment, allowance, compensation, insurance, automatic insurance, or otherwise, under the said act establishing the said bureau of war risk insurance. Said services shall be rendered on the request of a United States official, a claimant, his or her guardian, or attorney, and for every failure or refusal so to do, such officer shall be liable on his official bond;

Verified copies of public records

Affidavits to recover public funds

(3) Whenever the oath of an affiant, or the affidavit of a person is necessary in order that the State or any political subdivision thereof may recover funds or property due the State or political subdivision, no fee shall be charged for the taking of such oath;

Affidavits to obtain aid

(4) Whenever the oath of an affiant or the affidavit of a person is necessary in order that a person may obtain charity or relief from any agency or department of the United States government, the State of California, or any political subdivision thereof, no fee shall be charged for the taking of such oath.

Recording of abstracts of judgments in favor of United States.

(5) No county or city and county or any public officer, board or body acting in his or its official capacity on behalf of any such county or city and county shall collect, demand or receive any fee or compensation for the recording or filing of any abstract or transcript of judgment rendered in any case in which relief is granted to or in favor of the United States of America.

Failure to perform services

Upon the payment by any person of the fees required by law, the officer must perform the services required, and for every failure or refusal so to do, such officer shall be liable upon his official bond.

CHAPTER 804.

An act to add section 2289a to and amend sections 2283 and 2290 of the Political Code, relating to State aid to children.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1921, p 1687

SECTION 1. Section 2283 of the Political Code is amended to read as follows:

2283. There is hereby appropriated out of any money in the State treasury not otherwise appropriated to each and every institution in this State conducted for the support and maintenance of needy minor orphans, half-orphans, abandoned children, or the child or children of a father who is incapacitated for gainful work by permanent physical disability, or is suffering from tuberculosis in such a stage that he can not pursue a gainful occupation, and to each and every county, city and county, city, or town maintaining such orphans, half-orphans, abandoned children, or the child or children of a father who is incapacitated for gainful work by permanent physical disability, or is suffering from tuberculosis in such a stage that he can not pursue a gainful occupation, or any or all of such classes of persons, aid not in excess of the sum of one hundred twenty dollars per annum for each such orphan, half-orphan, abandoned child, or child of a father who is incapacitated for gainful work by permanent physical disability, or is suffering from tuberculosis in such a stage that he can not pursue a gainful occupation, supported and maintained in such institution or by such county, city and county, city, or town; but each abandoned child maintained by an institution must have been an inmate thereof for one year prior to such institution receiving aid therefor, as provided in this chapter; provided, however, that upon receiving such aid such institution shall also be entitled to reimbursement from the State for said year in a sum not in excess of one hundred twenty dollars per annum for each such abandoned child where proof of abandonment sufficient to demonstrate the genuineness of the claim is presented to the State Board of Control; provided further, that in addition to the amount paid by the State for each orphan, half-orphan, abandoned child, or child of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he can not pursue a gainful occupation, maintained in a private home or in an institution, the county, city and county, city, or town may pay for the support of such orphan, half-orphan, abandoned child, or child of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he can not pursue a gainful occupation, an amount equal to the sum paid by the State; provided, however, if, when and during such time as grants in aid are provided by the United States Government for such aid in this State and accepted by this State, the State shall reimburse the counties, or city and county, in the manner provided in sections 2284, 2285, 2287 and 2288 of the Political Code, their proportionate share of the Federal aid, prorated according to the proportion which the county, or city and county, aid bears to the total amount of aid granted each eligible child or children; and provided further, that in any case where any such orphan, half-orphan, abandoned child, or child of a father who is incapacitated for gainful work by permanent physical disability or is suffering

Appropriation for aid to children

Grants in aid by Federal government

from tuberculosis in such a stage that he can not pursue a gainful occupation, is denied aid by the county or city and county, upon a petition setting forth the facts in full as to the necessity of aid, verified by five reputable citizens of the county, city and county, city, or town, the applicant in any such case shall have the right of appeal direct to the State Board of Control for aid for such child and should this appeal be sustained by said board, payment must be made for the child as above provided.

New section.

SEC. 2. Section 2289a, of the Political Code, is added, to read as follows:

Required residence for child aid

2289a. Notwithstanding the provision in section 2289, relative to length of residence, if, when and during such time as grants in aid are provided by the United States Government for such aid in this State and accepted by this State, aid may be granted under this act to any child, otherwise eligible, who resides in the State of California and has so resided continuously for at least one year immediately preceding the date of application, or if such child was born in this State.

Stats. 1931, p. 2023

SEC. 3. Section 2290 of the Political Code is amended to read as follows:

State aid for dependent children.

2290. The provisions herein made for the support of orphans, half-orphans, abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability, or is suffering from tuberculosis in such a stage that he can not pursue a gainful occupation, shall be held to include children of a parent who has been deprived of civil rights by reason of commitment to a State or Federal hospital or to any prison, whether of this or any other State or of the United States, and foundlings and other dependent illegitimate infants who may have been or shall become dependent upon any regularly established foundling asylum or county, without regard to the time in which such infants have been dependent on such institution or county; provided, however, if, when and during such time as grants in aid are provided by the United States Government for such aid in this State and accepted by the State, the provisions herein made for the support of orphans, half-orphans, abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability, or is suffering from tuberculosis in such a stage that he can not pursue a gainful occupation, shall be further held to include children, otherwise eligible, who have been deprived of parental support or care by reason of continued absence from the home, or mental incapacity of the parent, and who are living with their father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt, in a place of residence maintained by one or more of such relatives, as his or their own home; and the relief herein provided shall be given for any fraction of a year, pro rata; and provided further, that for each abandoned or dependent illegitimate infant, who now is or shall become dependent upon such foundling asylum or

Dependent children defined

county there shall be paid by the State the sum of fifteen dollars per month from the time it becomes dependent upon such institution or county until such infant's decease, or until it is adopted or reaches the age of two years, after which age such institution or county shall receive the same sum for such infants as for full orphans.

CHAPTER 805.

An act to amend section 1626 of the Streets and Highways Code, relating to relief to special assessment districts.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 29.

CHAPTER 806.

An act to add a new section to be numbered 4c to "An act to provide for the government of irrigation districts having an area of more than five hundred thousand acres and for elections and the qualification of electors therein and to enable such irrigation districts to construct levees and to protect the lands within such districts from damage resulting from floods and the overflow of rivers and for that purpose to provide additional powers for boards of directors within such irrigation districts," approved January 21, 1915, relating to irrigation districts.

Stats. 1915, p. 1, amended

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4c is hereby added to the act cited in the title hereof to read as follows:

New section

Sec. 4c. No agreement or contract of any kind having for its purpose the sale, leasing, rental or disposal of electric power or energy, now or to be hereafter generated in any power plant constructed or to be constructed, or operated within or without the boundaries or area of any such irrigation district, except for electric power or energy distributed direct by any such irrigation district to the inhabitants thereof over its own transmission lines, shall be effective for any purpose until ninety days after the execution of any such agreement or contract and until ninety days after spreading on the minutes of the board of directors of such irrigation district of a copy of said agreement or contract, and until ninety days after the date of the first publication of a notice to the electors of such irrigation district to be published in each daily newspaper of the county in which such irrigation district is

Time contract for sale, etc., of electric power takes effect

Notice and publication

included, said publication to be made in five successive issues of each such newspaper, the date of the first publication thereof to be within two days after the date of the spreading on the minutes of the board of directors of said district of said contract or agreement. Said notice shall give in substance the nature of the agreement or contract, the consideration therefor, the date to become effective and a brief summary of the contents of the same. If within said ninety days' period a petition signed by qualified electors of such irrigation district, equal in number to twenty per cent of the highest number of votes cast for treasurer or assessor-collector, whichever shall be the highest of the said two offices, of said irrigation district at the last preceding general irrigation district election at which a treasurer or assessor-collector was elected, asking that any such contract or agreement be submitted to the electors of such irrigation district for their approval or rejection, shall be presented to and filed with the secretary of such irrigation district, the said board of directors shall submit to the electors for their approval or rejection, any such contract or agreement, at the next succeeding general election to be held in said irrigation district occurring at any time subsequent to thirty days after the filing of said petition, or at any special election which may be called by the board of directors of any such irrigation district, in the discretion of said board of directors, prior to such regular election, and no such contract or agreement or part thereof shall go into effect or be of any force whatsoever until and unless approved by a majority of the qualified electors voting thereon.

CHAPTER 807.

Stats 1933, p 394 *An act to repeal sections 327, 330, 331, 332, 333, 334 and 335 of the Fish and Game Code, relating to game refuges.*

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Repeals

SECTION 1. Section 327 of the Fish and Game Code is hereby repealed.

SEC. 2. Section 330 of the Fish and Game Code is hereby repealed.

SEC. 3. Section 331 of the Fish and Game Code is hereby repealed.

SEC. 4. Section 332 of the Fish and Game Code is hereby repealed.

SEC. 5. Section 333 of the Fish and Game Code is hereby repealed.

SEC. 6. Section 334 of the Fish and Game Code is hereby repealed.

SEC. 7. Section 335 of the Fish and Game Code is hereby repealed.

SEC. 8. Any moneys heretofore set aside under the provisions of section 327 of the Fish and Game Code, shall be returned to the fish and game preservation fund. Disposition of funds.

CHAPTER 808.

An act to add section 428.5 to the Vehicle Code, relating to the sale of vehicles by a lienholder.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 809.

An act to amend sections 630 and 631 of the Probate Code, relating to estates under one thousand dollars. Stats. 1931, p. 587, amended

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 630 of the Probate Code is hereby amended to read as follows: Stats. 1931, p. 2473

630. When a decedent leaves no real property in this State, and no personal property in the State other than money in bank, property in boxes and vaults of banks and safe deposit companies, shares of the capital stock of corporations, money due from building and loan associations in this State, including money invested in or represented by shares of stock, membership shares, investment certificates, promissory notes and other evidences of indebtedness standing in his name on the books and records of such associations at the time of his death, money due the decedent as wages, money due the decedent as an heir or legatee of a person whose estate is in probate, money due his estate under the terms of any insurance policy, disability benefits, household furniture and furnishings and personal clothing and personal effects, and the total value of the decedent's property in this State does not exceed one thousand dollars, the surviving spouse, the children, the parent, the brother or sister of the decedent, or the guardian of the estate of any minor or insane or incompetent person bearing such relationship to the decedent, if such person has a right to succeed to the property of the decedent, or is the sole beneficiary under the last will and Summary probate proceedings

testament of the decedent, may, without procuring letters of administration, or awaiting the probate of the will, collect such money and receive such property from such bank or the receiver, liquidator or trustee thereof, or from such company, corporation, association, employer, insurance company, or the executor or administrator of the estate in probate, and have such capital stock transferred to him by such corporation, upon furnishing such bank, receiver, liquidator or trustee thereof, company, corporation, association, employer, insurance company, or executor, or administrator, with an affidavit showing the right of the affiant or affiants to receive such money or property or to have such capital stock transferred.

Stats 1931, p. 2300.

SEC. 2. Section 631 of the Probate Code is hereby amended to read as follows:

Discharge of estate's debtors.

631. The receipt of such affiant or affiants shall constitute sufficient acquittance therefor and shall fully discharge such bank, receiver, liquidator, trustee, company, corporation, association, employer or personal representative from any further liability with reference thereto, without the necessity of inquiring into the truth of any of the facts stated in the affidavit, except that such personal representative of an estate in probate shall first present said affidavit to the judge of the superior court in which the estate is being probated and the judge shall direct him to pay to said affiant or affiants, upon distribution, the sum to which such deceased heir or legatee is entitled under the will or the laws of succession. But such payment or transfer shall not preclude administration when necessary to enforce payment of the decedent's debts.

CHAPTER 810.

An act to amend section 170 of the Civil Code, relating to husband and wife.

[Approved by the Governor July 20, 1935. In effect September 16, 1935.]

The people of the State of California do enact as follows:

1872 Code

SECTION 1. Section 170 of the Civil Code is hereby amended to read as follows:

Husband's liability for premarriage debts of wife

170. Neither the separate property of the husband nor his earnings after marriage is liable for the debts of the wife contracted before the marriage.

CHAPTER 811.

An act to add section 3462a to the Political Code, authorizing trustees of reclamation districts to make refunds where wrongful assessments have been made.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 3462a is hereby added to the Political Code, to read as follows: New section

3462a. Any assessment erroneously made by reason of inadvertence or clerical mistake may be refunded at any time after payment thereof upon the order of the board of trustees of the district. Refund of erroneous assessment

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CHAPTER 812.

An act validating the formation, organization, existence or proceedings of Municipal Utility Districts.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Where the board of supervisors of any county in this State have purported to form or organize municipal utility districts under the provisions of an act of the Legislature of the State of California entitled "An act to provide for the organization, incorporation, and government of municipal utility districts, authorizing such districts to incur bonded indebtedness for the acquisition and construction of works and property, and to levy and collect taxes to pay the principal and interest thereon," approved May 23, 1921, and such purported formation, organization, existence or proceedings have been completed prior to the taking effect of this act, and such municipal utility districts have acted or functioned as municipal utility districts previous to the taking effect of this act, all acts including the formation, organization, existence or proceedings are hereby legalized, validated and declared to be sufficient, and such municipal utility districts are each hereby declared to be duly formed and organized under its appropriate name as of the time of its purported formation, and shall have all the rights and privileges, and be subject to all the duties and obligations of any other duly formed or organized municipal utility district. Municipal utility districts validated. Stats. 1921, p. 245.

CHAPTER 813.

An act to amend sections 1, 1a, 1b, 1c, 3, 4, 6, 7, 10c, 11 and 15 of, and to add sections 11.5, 11.6 and 18 to, "An act to Stats. 1929, p. 380, amended.

regulate the sale, possession, distribution and use of habit-forming, narcotic and other dangerous drugs and substances, and providing penalties for the violation thereof," approved May 4, 1929, relating to habit-forming, narcotic and other dangerous drugs and substances

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 781.

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Narcotic drugs: Sale, possession or disposition.

Section 1. It shall be unlawful for any person, firm or corporation to transport, sell, furnish, administer, or give away, or offer to transport, sell, furnish, administer, or give away, or to attempt to transport, or to have in possession any cocaine, opium, morphine, codeine, heroin, alpha eucaine, beta eucaine, flowering tops or leaves of hemp or loco weed (cannabis sativa), Indian hemp, extracts, tinctures, or other preparations of hemp or loco weed (cannabis sativa) or Indian hemp, or chloralhydrate, or any of the salts, derivatives or compounds of the foregoing substances or any preparation or compound containing any of the foregoing substances or their salts, derivatives or compounds except upon the written order or prescription of a physician and surgeon, dentist or veterinary surgeon, licensed to practice in this State, which shall be wholly written, signed and dated by the person writing said order or prescription as of the date on which it is written, and shall contain the name and address of the person for whom prescribed. If prescribed by a veterinary surgeon it shall state the kind of animal for which ordered and the name of the owner, or person having custody, of said animal. No physician and surgeon, dentist or veterinary surgeon shall antedate or postdate any prescription for any of the drugs enumerated in this act, nor issue any prescription which is false or fictitious in any manner. No person shall obtain or have in his possession any such antedated or postdated prescription nor any prescription not bearing the correct name and address of the person for whom such prescription was written nor any prescription which is false or fictitious in any manner or which has been altered by any person other than the person writing such prescription nor any of the drugs mentioned herein obtained by any such antedated, postdated, false, fictitious or altered prescription, or obtained by any prescription not bearing the correct name and address of the person for whom said prescription was written. No person, other than a physician and surgeon, dentist or veterinary surgeon, licensed to practice in this State, shall write any prescription for any of the drugs mentioned in this section and no such physician and surgeon, dentist or veterinary surgeon shall write or issue any such prescription which does not conform to all of the regulations in this act contained. Such order or prescription shall be retained on file by the person, firm or corporation who

Prescription.

Antedating or post-dating prescriptions

Record of prescriptions.

compounds or dispenses the articles ordered or prescribed and shall be preserved for at least three years from the date of filing thereof; and such prescription shall not be again compounded or dispensed. No copy or duplicate of such written order or prescription shall be made or delivered to any person other than an inspector of the Board of Pharmacy or the chief or inspector of the State Division of Narcotic Enforcement but the original shall be at all times open to inspection by the prescriber, and properly authorized officers of the law, including all inspectors of the Division of Narcotic Enforcement and of the State Board of Pharmacy.

Copy or duplicate.

The above provisions shall not apply to sales at wholesale by jobbers, wholesalers and manufacturers to pharmacies, as defined in section 1 of an act entitled "An act to regulate the practice of pharmacy in the State of California and to provide a penalty for the violation thereof; and for the appointment of a board to be known as the California State Board of Pharmacy," approved March 20, 1905, and acts amendatory thereof; nor to sales to physicians and surgeons, dentists or veterinary surgeons, nor by such persons to each other, nor to the sale at retail in pharmacies by pharmacists to physicians and surgeons, dentists or veterinary surgeons licensed to practice in this State. All such wholesale jobbers, wholesalers and manufacturers, in this section mentioned, shall keep in a manner readily accessible, the written orders or blank forms required to be preserved under the provisions of section 2 of the act of Congress, approved December 17, 1914, relating to the production, importation, manufacture, compounding, sale, dispensing or giving away of opium or coca leaves and salts, derivatives or preparations, which shall always be open for inspection by any peace officer or any inspector or member of the Board of Pharmacy or the chief or any inspector of the Division of Narcotic Enforcement, and all such written orders or blank forms shall be preserved for at least three years after the date of the last entry therein.

Exemptions.

Stats 1905, p. 535.

Wholesaler's record.

Inspection.

SEC. 2. Section 1a of said act is hereby amended to read as follows:

Stats 1933, p 783.

Sec. 1a. The taking of any order, or making of any contract or agreement, by any traveling representative, or any employee, of any person, firm or corporation, for future delivery in this State, of any of the articles or drugs mentioned in section 1 of this act shall be deemed a sale of said articles or drugs by said traveling representative, or employee, within the meaning of the provisions of this act.

Taking of order deemed sale.

A true and correct copy of all orders, contracts or agreements, taken for narcotic drugs specified in section 1 of this act shall be forwarded by registered mail to the Division of Narcotic Enforcement within twenty-four hours after the taking of such order, contract or agreement, unless such order, contract or agreement is recorded as required under the provisions of section 2 of an act of Congress, approved December 17, 1914, relating to the production, importation, manu-

Copy of order to board.

facture, compounding, sale, dispensing or giving away of opium or coca leaves, their salts, derivatives or preparations by some wholesale jobber, wholesaler, or manufacturer permanently located in this State, as provided for in said section.

Within twenty-four hours after any purchaser in this State gives any order to, or makes any contract or agreement for purchases from or sales by, an out-of-state wholesaler or manufacturer of any narcotic drugs specified in section 1 of this act for delivery in this State, such purchaser shall forward to the State Division of Narcotic Enforcement by registered mail, a true and correct copy of the order, contract or agreement.

Stats. 1933, p. 783.

SEC. 3. Section 1b of said act is hereby amended to read as follows:

Unlawful to furnish narcotics to habitual user

Sec. 1b. It shall be unlawful for any practitioner of medicine, dentistry or veterinary medicine or any other person to administer to himself as a user or administer to or furnish to or prescribe for the use of any other habitual user of the same, or of anyone representing himself as such, any cocaine, opium, morphine, codeine, heroin, flowering tops or leaves of hemp or loco weed (cannabis sativa), Indian hemp, or chloralhydrate, or any salt, derivative or compound of the foregoing substances or their salts, derivatives or compounds; and it shall be unlawful for any practitioner of medicine, osteopathy or dentistry to prescribe, administer to or furnish any of the foregoing substances for himself or any person not in the regular practice of his profession under his treatment for a pathology or condition other than narcotic addiction, except as hereinafter provided, or for any veterinary surgeon to prescribe, administer to or furnish any of the foregoing substances for the use of himself or any other human beings.

Stats. 1933, p. 783.

SEC. 4. Section 1c of said act is hereby amended to read as follows:

Prescription of narcotics in good faith.

Sec. 1c. The provisions of this act shall not be construed to prevent any physician and surgeon licensed as such in the State of California, from administering, furnishing or prescribing in good faith to any user of narcotics who is under the professional care of such physician and surgeon for a disease, ailment, or injury, other than narcotic addiction, or for the infirmities attendant upon old age, such substances as such physician may reasonably deem necessary for the treatment of such disease, ailment, injury, or infirmities, when such substances are furnished or prescribed in good faith in the course of treatment for such disease, ailment, injury, or infirmities, and are not so furnished or prescribed in order to satisfy the narcotic addiction of a user of narcotics.

Reports of treatments of users.

Every such licensed physician and surgeon shall report in writing, over his signature, by registered mail, to the office of the Division of Narcotic Enforcement within five days after the first treatment every user of narcotics under the professional care of such physician and surgeon stating the date, name and address of the patient, and the name and quantity of the narcotics prescribed in such treatment, and the physician

and surgeon shall upon request in writing from the Division of Narcotic Enforcement furnish any additional reports upon the treatment of such user as said narcotic division may in writing request. The above provisions shall not apply to preparations of the United States Pharmacopoeia and national formulary or other recognized or established formula or to remedies or prescriptions sold or prescribed in good faith for medicinal purposes only and not for the purpose of satisfying the addiction of a user of narcotics, containing not more than two grains of opium, or one-fourth grain of morphine, or one grain of codeine, or one-sixteenth grain of heroin, or ten grains of chloralhydrate, or two grains of Indian hemp or loco weed in one fluid ounce, or, if a solid preparation, in one ounce avoirdupois, except tincture opii camphorata (commonly known as paregoric) which may be sold only upon the prescription of a physician and surgeon licensed to practice in this State and said prescription shall not be again refilled or dispensed. No physician and surgeon, osteopath, dentist or veterinary surgeon, or other person shall prescribe, administer or furnish any of the substances or drugs mentioned in section 1 of this act except under the conditions and in the manner in this act prescribed.

Exempt formulae

SEC. 5. Section 3 of said act is hereby amended to read as follows:

Stats 1931, p. 1500

Sec. 3. It is a felony for any person to open or maintain, to be resorted to by other persons, any place on which any narcotic drugs mentioned in section 1 of this act are unlawfully sold, given away or smoked.

Unlawful to maintain premises for narcotic sales.

It is a misdemeanor for any person to have in his possession a pipe or pipes or other apparatus used, or intended to be used, for smoking opium, or extracts, tinctures or other narcotic preparations of hemp, or loco weed, their preparations or compounds containing more than two grains to each fluid or avoirdupois ounce (except corn remedies containing not more than fifteen grains of the extract or fluid extract of hemp to the ounce mixed with not less than five times it weight of salicylic acid combined with collodion).

SEC. 5a. Section 4 of said act is hereby amended to read as follows:

Stats 1929, p 384.

Sec. 4. It is a misdemeanor for any person to visit, or be in any room or place where any narcotics mentioned in section 1 of this act are being or have recently been smoked.

Unlawful to visit premises.

SEC. 5b. Section 6 of said act is hereby amended to read as follows:

Stats 1929, p. 385

Sec. 6. Any person convicted under this act for transporting, selling, furnishing, or giving away, or offering to transport, sell, furnish, or give away, any of the drugs or substances or their derivatives mentioned in section 1 of this act, shall upon conviction be punished by imprisonment in the county jail or in the State prison for not less than six months nor more than six years; provided, however, that any such person convicted under this act for transporting, selling, furnishing,

Punishments Sale or disposition.

or giving away, or offering to transport, sell, furnish or give away any of the drugs or substances or their derivatives mentioned in section 1 of this act, shall be imprisoned in the State prison for not less than one year nor more than ten years if such person has also been previously convicted of a felony under the laws of the United States or of the State of California, or of any other State, and such previous conviction of a felony is charged in the indictment or information and is found to be true by the jury, upon a jury trial, or is found to be true by the court, upon a court trial, or is admitted by the defendant.

Stats 1929, p. 385

SEC. 5c. Section 7 of said act is hereby amended to read as follows:

Possession

Sec. 7. Any person convicted under this act for having in possession any of the drugs or substances mentioned in section 1 of this act, or their salts, derivatives, or any preparation thereof, or of violating the provisions of section 3 hereof, shall upon conviction be punished by imprisonment in the county jail or in the State prison for not more than six years; provided, however, that any such person convicted under this act for having in possession any of the drugs or substances mentioned in section 1 of this act, or their salts, derivatives, or any preparation thereof, or of violating the provisions of section 3 hereof, shall be imprisoned in the State prison for not less than six months nor more than ten years if such person has been previously convicted of a felony under the laws of the United States or of the State of California, or of any other State, and such previous conviction of a felony is charged in the indictment or information and found to be true by the jury, upon a jury trial, or found to be true by the court, upon a court trial, or is admitted by the defendant.

Stats 1933, p 785

SEC. 6. Section 10c of said act is hereby amended to read as follows:

Lieu fines and imprisonments

Sec. 10c. Whenever an imprisonment has been imposed for a violation of this act, and before the termination of the sentence thereof, the defendant is released by the vacation of the sentence of imprisonment and the imposition of a fine or forfeiture in lieu thereof, said lieu fine or forfeiture shall be recorded and accounted for in the same manner as though it had been imposed in the first instance.

Whenever a fine has been imposed for violation of this act, and before the full payment of said fine a sentence of imprisonment is imposed in lieu thereof, such lieu imprisonment shall be recorded and accounted for to the county clerk of the particular county, and it shall be the duty of the county clerk to keep a record of such lieu imprisonment.

Stats. 1933, p 786

SEC. 7. Section 11 of said act is hereby amended to read as follows:

Seizure and destruction of narcotics and appliances

Sec. 11. All drugs and substances specified in section 1 and also all pipes used for smoking opium (commonly known as opium pipes) or the usual attachments thereto, flowering tops or leaves, or extracts, tinctures, or other preparations,

of hemp, or loco weed, their preparations or compounds containing more than two grains of Indian hemp or loco weed to each fluid or avoirdupois ounce (except corn remedies containing not more than fifteen grains of the extract or fluid extract of hemp to the ounce, mixed with not less than five times its weight of salicylic acid combined with collodion), may be seized by any peace officer, and in aid of such seizure a search warrant or search warrants may be issued in the manner and form prescribed in Chapter III of Title XII of Part II of the Penal Code.

All such pipes, used for smoking opium (commonly known as opium pipes), and the usual attachments thereto, seized under the provisions of this act shall, upon conviction of the owner or defendant, be ordered destroyed by the judge of the court in which final conviction was had. The order of destruction shall contain the name of the party charged with the duty of destruction as herein required, but the judge shall turn all such evidence over to the Division of Narcotic Enforcement of the State of California for such destruction.

All drugs and substances, specified in section 1 of this act, which have been seized under this act shall, by order of the court upon the conviction of the owner or defendant, immediately be turned over to the State Division of Narcotic Enforcement for destruction, or for disposition as provided in this section.

Any drugs specified in section 1 hereof, opium pipes and the usual attachments thereto, or smoking opium, seized under the provisions of this act, now in the possession of any city or county official or officials, or the State Board of Pharmacy, or said narcotic division, or which may hereafter come into their or its possession, in which no trial was had, shall be delivered to the Division of Narcotic Enforcement for destruction or for disposition as provided in this section; provided, however, that none of the drugs specified in section 1, opium pipes and the usual attachments thereto, or smoking opium coming into the possession of said division as above described, shall be destroyed within a period of six months from the date of such seizure.

Gifts for medical purposes

The Division of Narcotic Enforcement may dispose of all narcotics now on hand or hereafter coming into its possession (other than heroin or smoking opium), by gift to the medical superintendents of California State prisons or State hospitals for medical purposes.

New section

SEC. 8. Section 11.5 is hereby added to said act, to read as follows:

Keeping of seized drugs of fugitive owners

SEC. 11.5. Whenever any drugs specified in section 1 of this act or any pipes for smoking opium or smoking paraphernalia have been seized, pursuant to the provisions of this act, and the defendant or owner has escaped from custody and is a fugitive from justice, such drugs, pipes and smoking paraphernalia shall, upon demand of the State Division of Narcotic Enforcement, be turned over to said division for safekeeping until

such time as the owner or defendant is apprehended and prosecuted for violation of this act.

New section

SEC. 9. Section 11.6 is hereby added to said act, to read as follows:

Disposal of drugs and appliances

Sec. 11.6. Whenever such drugs or pipes or smoking paraphernalia have been seized, pursuant to the provisions of this act, and the case has been disposed of by way of dismissal or otherwise than by way of conviction, such drugs, pipes or smoking paraphernalia shall, by order of the court, be immediately turned over to the State Division of Narcotic Enforcement, unless the court finds that the narcotics were lawfully possessed by the defendant.

Stats 1933, p 788

SEC. 10. Section 15 of said act is hereby amended to read as follows:

Seizure of vehicles

Sec. 15. Any automobile or other vehicle used or intended to be used to conceal, convey, carry, or transport any of the drugs mentioned in section 1 of this act, and any automobile or vehicle in which any of the drugs mentioned in section 1 of this act are unlawfully possessed by an occupant thereof, shall be forfeited to the State of California as in this section provided:

(a) Any peace officer of this State, upon making, or attempting to make, an arrest for the unlawful possession, transportation, selling, furnishing, or giving away, or offering to transport, sell, furnish or give away, of any of the drugs mentioned in section 1 of this act, shall seize the automobile or other vehicle used to conceal, convey, carry or transport any of the drugs mentioned in section 1 of this act, or to transport an occupant who unlawfully possesses said drugs, and shall hold the same as evidence until a forfeiture has been declared or a release ordered as in this section further provided.

Notice of seizure

(b) Notice of seizure and intended forfeiture proceeding shall be filed with the county clerk and shall be served on all persons, firms or corporations having any right, title or interest in the automobile or other vehicle seized, hereinafter referred to as the "owners," in the following manner:

Upon each owner whose right, title or interest is of record in the Department of Motor Vehicles and upon each owner whose name and address is known, by mailing a copy of such notice by registered mail to the address as given upon the records of the Department of Motor Vehicles or to any other last known address of such owner; and upon all other owners, whose addresses are unknown, but who are believed to have an interest in said automobile or other vehicle, by one publication in a newspaper of general circulation in the county where such seizure was made;

Answer

Within twenty days after the date of the mailing of the notice by registered mail, or within twenty days after the date of the publication, the owner or owners of the automobile or other vehicle so seized may make a verified answer to the fact of the use of the automobile or other vehicle alleged in the notice of seizure and of the intended forfeiture proceeding.

No extensions of time shall be granted for the purpose of making the verified answer above required.

(c) If at the end of twenty days after the notice has been mailed or published there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use and shall, upon motion, order the automobile or other vehicle forfeited to the State of California.

Hearing

(d) If a verified answer has been filed, then the forfeiture proceeding shall be set for hearing on a day not less than thirty days therefrom, and such proceeding shall have priority over other civil cases; and notice of this proceeding shall be given in the same manner as notice of seizure was given as hereinbefore provided.

(e) At the time set for the hearing, any of the owners who have verified answers on file may show by competent evidence that the automobile or other vehicle was not in fact used or intended to be used to conceal, convey, carry or transport any of the drugs mentioned in section 1 of this act, or that said drugs were not unlawfully possessed by an occupant of said automobile or other vehicle. However, the claimant of any right, title or interest in said automobile or other vehicle may prove his lien, mortgage, or conditional sales contract to be bona fide and that such right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the purchaser and without any knowledge that the automobile or other vehicle was being, or was to be, used for the purpose charged, but no person claiming a lien pursuant to Chapter 1 of Division VIII of the Vehicle Code need prove that his right, title, or interest was created after any investigation of the moral responsibility, character and reputation of the owner, purchaser, or person in possession of the vehicle when it was brought to the claimant.

Release of vehicle

(f) In the event of such proof, the court shall order said automobile or other vehicle released to such bona fide or innocent owner, lien holder, mortgagee or vendor if the amount due to such person shall be equal to, or in excess of, the value of the automobile or other vehicle as of the date of seizure, it being the intention of this section to forfeit only the right, title or interest of the purchaser; provided, that if the amount due to such person shall be less than the value of said automobile or other vehicle, then said automobile or other vehicle shall be sold at public auction by the State Department of Finance after publishing notice of such sale at auction by one insertion in a newspaper published and circulated in the city, community or locality where the sale is to take place. The remainder of the proceeds of such sale, after payment of the balance due on the purchase price, mortgage, or lien, shall be deposited in the State treasury.

Payment of balance

In any case the State Department of Finance shall have the right, within thirty days after judgment, to pay the balance due to such bona fide or innocent purchaser, lien holder, mortgagee or vendor and to purchase the vehicle for the State.

Should the fact be determined that the automobile or other vehicle was not in fact used or intended to be used to conceal, convey, carry or transport any of the drugs mentioned in section 1 of this act, or that any of said drugs were not unlawfully possessed by an occupant thereof, the court shall order the automobile or other vehicle released to the owner or owners in such manner as their right, title or interest appears of record in the Department of Motor Vehicles as of the date of the seizure.

Forfeited vehicles

(g) Whenever an automobile or other vehicle has been ordered forfeited to the State of California, it shall be turned over to the State Department of Finance, which shall deliver to the State Division of Narcotic Enforcement such automobiles or other vehicles as may be needed by the said Narcotic Division to enforce the provisions of this act.

Exemptions

(h) Nothing contained in this act shall apply to common carriers or to an employee acting within the scope of his employment in the enforcement of this act.

New section

SEC. 11. Section 18 is hereby added to said act, to read as follows:

Short title.

Sec. 18. This act shall be known and may be cited as the State Narcotic Act.

CHAPTER 814.

An act relating to the adoption of codes of fair competition for certain trades and industries within this State.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Declaration of emergency

SECTION 1. The existence of a State and National emergency productive of widespread unemployment and disorganization of trade and industry which burdens commerce and affects the public welfare of the people of this State is hereby recognized. Among the trades and industries particularly affected are those in which service is rendered to the public without necessarily involving the sale, manufacture, or transportation of merchandise or commodities. In such intrastate trades and industries there is widespread unemployment and economic distress and for the purpose of ameliorating such conditions it is necessary and desirable to authorize the adoption of codes of fair competition applicable to such trades and industries in the various cities, cities and counties, and counties of the State as provided in this act.

Application of act.

SEC. 2. This act applies only to those intrastate trades and industries herein enumerated as follows: barber shop, beauty shop, cleaning and dyeing, rug cleaning and hat renovating industries, and does not apply to the business of or to the operating forces of hotels, office or loft buildings, or apartment houses or the newspaper publishing business.

The term "service trade" or "service industry" as used herein means barber shops, beauty shops, cleaning and dyeing, rug cleaning and hat renovating industies. "Service trade" and "service industry" defined.

SEC. 3. The owners, operators, or managers of not less than eighty per cent of the business establishments in such service trade in any city, city and county, or county may apply to the governing body of such city, city and county, or county for the establishment of a code of fair competition under the provisions of this act for such trade within such city, city and county, or county as the case may be. Application for code of fair competition.

SEC. 4. The application for a code of fair competition shall state the number of business establishments in the city, city and county, or county engaged in the industry petitioning for such code, and the signature of only one person signing on behalf of a business establishment shall be counted in determining the percentage of establishments making application. The application shall set forth the provisions of the requested code, and shall contain such fair trade practice provisions as conditions in the industry require. Contents of application

SEC. 5. The governing body of a city, city and county, or county may approve or reject the application for a code. The rejection of an application shall not prejudice the filing of a new application for a code. If approved the governing body by proper ordinance shall enact the provisions of such code and the provisions thereof shall become the standards of fair competition for such trade or industry within such city, city and county, or county as the case may be, and the violation of such standards shall be deemed to be an unfair method of competition and a violation of this act. Enactment of code by ordinance

SEC. 6. The violation of any provision of any code adopted under the provisions of this act shall constitute a misdemeanor. Each and every day's continuance of such violation shall constitute a separate offence. Violations

SEC. 7. All provisions of the laws of California or of the United States governing labor conditions in service trades shall be deemed to be incorporated in the provisions of any code adopted under the provisions of this act. Labor laws included in codes.

SEC. 8. The provisions of any National or State code approved pursuant to any act of Congress or the Legislature of California shall be deemed to be incorporated in the provisions of any code adopted under the provisions of this act. Nothing in this act shall prohibit the formulation and approval of State codes for service trades. Nothing in this act shall be deemed to apply to funeral directors or cemeteries.

SEC. 9. This act is designed to meet the emergency referred to in section 1 hereof, and if any of this act or the application thereof to any person or circumstance is held invalid, the remainder of this act, and the application of such provisions to other persons or circumstances, shall not be affected thereby. Severability

SEC. 10. This act shall cease to be in effect on and after September 1, 1937. Termination of act.

Constitutionality

SEC. 11. If any section, sentence, clause, or part of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, sentence, clause, or part hereof, irrespective of the fact that one or more sections sentences, clauses, or parts may be declared unconstitutional

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CHAPTER 815.

Stats 1871-2, p. 118, amended

An act to amend sections 5 and 6 of an act entitled "An act prescribing certain duties to be performed by the State Controller, State Treasurer and State Board of Examiners," approved February 20, 1872, relating to warrants.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1871-2, p 119

SECTION 1. Section 5 of the act cited in the title hereof is hereby amended to read as follows:

Cancellation of unpaid warrants

SEC. 5. Whenever any warrant issued by the State Controller shall have remained unpaid for the period of four years after such warrant has become payable, it shall be the duty of the Controller to cancel the same. The amount of all warrants canceled under the provisions of this act shall revert to the fund in the State treasury against which said warrants were drawn, and shall be entered upon the books of the Controller to the credit of such fund in the same manner as other moneys paid into the State treasury. Warrants canceled under the provisions of this act shall be null and void. The Controller and Treasurer shall each keep a register of warrants canceled under this section, in which shall be entered the number, date, and amount of the warrant, the name of the person in whose favor it was drawn, the fund out of which it was payable, and the date of cancellation.

Stats 1871-2, p 120

SEC. 2. Section 6 of said act is hereby amended to read as follows:

Cancellation of warrants at request of State department

SEC. 6. Whenever a registered warrant is or has been issued for the purpose of making an interdepartmental payment or in error the State department or agency having legal ownership of the warrant may present such registered warrant to the Controller for cancellation and credit to the fund from which drawn. The warrant shall be accompanied by a report in writing requesting the cancellation, explaining the reason for the request and specifying the proper appropriation to be credited with the amount of the warrant. It shall thereupon be the duty of the Controller, after verification of the proper appropriation to be credited, to cancel such warrant and enter the amount upon his books to the credit of the fund from which drawn and the appropriation to which it is prop-

erly to be credited in the same manner as other moneys paid into the State treasury. Whenever a registered warrant is canceled under the provisions of this section the Controller shall notify the Treasurer in writing of such cancellation, specifying the number, date, amount, to whom drawn, fund from which drawn and date of cancellation. The Controller and Treasurer shall each enter such cancellation in the register of canceled warrants as provided in section 5 of this act.

CHAPTER 816.

An act to amend sections 1, 2, 3, 4, 6 and 9a of, and to add section 3½ to "An act providing for the registration of contractors, and defining the term contractor; providing the method of obtaining licenses to engage in the business of contracting, and fixing the fees for such licenses; providing the method of suspension and cancellation of such licenses; and prescribing the punishment for violation of the provisions of this act," approved June 13, 1929, as amended, relating to contractors.

Stats 1929, p 1591, amended

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1933, p 1483

Section 1. It shall be unlawful for any person, firm, copartnership, corporation, association or other organization, or any combination of any thereof, to engage in the business or act in the capacity of a contractor within this State without having a license therefor as herein provided, unless such person, firm, copartnership, corporation, association or other organization, or any combination of any thereof is particularly exempted as provided in this act.

Unlawful to contract without a license

It shall be unlawful for any two or more persons, firms, copartnerships, corporations, associations or other organizations, to each of whom has been issued a license to engage in the business or act in the capacity of a contractor within this State in accordance with the provisions of this act, to jointly submit a bid or otherwise act in the capacity of a contractor as herein defined within this State without first having secured an additional license for acting in the capacity of such a joint venture or combination in the manner and in accordance with the provisions of this act as provided for an individual, firm or corporation.

Additional license for joint ventures

SEC. 2. Section 2 of said act is hereby amended to read as follows:

Stats 1933, p 1483

Sec. 2. This act shall not apply to:

(a) An authorized representative or representatives of the United States government, the State of California, or any

Exemption from operation of act

incorporated town, city, county, city and county, irrigation district, reclamation district or other municipal or political corporation or subdivision of this State;

(b) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, or to farming, dairying, agriculture, viticulture, horticulture, or stock or poultry raising, or clearing or other work upon land in rural districts for fire prevention purposes;

(c) Officers of a court, providing they are acting within the scope of their office;

(d) Public utilities operating under the regulation of the State Railroad Commission on construction work incidental to their own business; or any construction, repair or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning, or other operation of any petroleum or gas well, when performed by an owner or lessee; or the drilling of water wells or any operations incidental thereto;

(e) Owners of property, building thereon dwellings intended for the use and occupancy of such owners and their families, and not intended for sale;

(f) Any work or operation connected with the sale or installation of any finished products, materials, or articles of merchandise, which although affixed to the building or structure by the use of hardware, liquid cement, or other substantial means is not actually fabricated into and does not become a permanent fixed part of the structure;

(g) Any construction, alteration, improvement or repair of personal property.

(h) Any construction, alteration, improvement or repair, carried on within the limits and boundaries of any site or reservation, the title of which rests in the Federal government.

Stats. 1933, p. 1484.

SEC. 3. Section 3 of said act is hereby amended to read as follows:

Contractor defined

Sec. 3 A contractor within the meaning of this act is a person, firm, copartnership, corporation, association, or other organization, or any combination of any thereof, who in any capacity other than as the employee of another with wages as the sole compensation, undertakes or offers to undertake or purports to have the capacity to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation or other structure, projects, development, or improvement, or to do any part therof, including the erection of scaffolding or other structures or works in connection therewith, including the eradication of or the processing against infestation by pests structurally injurious to building or structures; provided, that the term contractor, as used in this act, shall include subcontractor, but shall not include anyone who merely furnishes materials or supplies without fabricating the

same into, or consuming the same in the performance of, the work of the contractor as herein defined.

SEC. 4. Section 3½ is hereby added to said act, to read as follows: New section

Sec. 3½. The term "contracting business" shall be defined as embracing either of the following branches: general engineering contracting, general building contracting and specialty contracting. "Contracting business" defined

(a) A "general engineering contractor" within the meaning of this act is a person, firm, copartnership, corporation, association or other organization, or any combination of any thereof, excepting State licensed architects or civil engineers acting solely in their professional capacity, as set forth in section 1 hereof, who in any capacity as his principal line of business as hereinafter defined, undertakes or offers to undertake or purports to have the capacity to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, wreck or demolish any structure or project in connection with fixed works for any or all of the following divisions or subjects: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, municipal improvements, railroads, highways, tunnels, airports and airways, sewerage and bridges. "General engineering contractor"

(b) A "general building contractor" within the meaning of this act is a person, firm, copartnership, corporation, association or other organization, or any combination of any thereof, excepting State licensed architects or civil engineers acting solely in their professional capacity, as set forth in section 1 hereof, who in any capacity as his principal line of business as hereinafter defined. undertakes or offers to undertake or purports to have the capacity to undertake or submits a bid to contruct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any structure built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, requiring in its construction the use of more than two building trades or crafts, or to do or superintend the whole or any part thereof but shall not include anyone who merely furnishes materials or supplies, as defined in section 2(f) of this act, without fabricating the same into, or consuming the same in the performance of the work of the general building contractor. "General building contractor"

(c) A "specialty contractor" within the meaning of this act is a person, firm, copartnership, corporation, association or other organization, or any combination of any thereof, excepting State licensed architects or civil engineers acting solely in their professional capacity, as set forth in section 1 hereof, who in any capacity undertakes or offers to undertake or purports to have the capacity to undertake or submits a bid to perform a portion of construction work, including the eradication of or the processing against infestation by pests structurally injurious to building or structures, requiring special "Specialty contractor"

skill and not involving the use of more than two building trades or crafts.

Exceptions

(d) The terms "contractor" and "contracting business" as used in this act, shall not include any work or operation on one undertaking or project by contract or contracts the aggregate contract price for which, for labor, materials, and all other items, is less than two hundred dollars, such work or operations being considered as of casual, minor, or inconsequential nature; provided, however, that the exception shall not apply in any case wherein the work of construction is only a part of a larger or major operation, whether undertaken by the same or different contractor, or in which a division of the operation is made in contracts of amounts less than two hundred dollars for the purpose of evasion of this act, or otherwise.

Stats 1933, p 1485.

SEC. 5. Section 4 of said act is hereby amended to read as follows:

Contractors' State License Board created

Sec. 4 (a) There is hereby created a Contractors' State License Board, hereinafter called and referred to as the board. Except as provided in Article IIn of Chapter III of Title I of Part III of the Political Code, the board shall succeed to and take over all of the functions and duties of the Director of the Department of Professional and Vocational Standards as they relate to the administration of this act. The Contractor's License Bureau as now established in said department shall be continued in full force and effect, and pending organization of the Contractors' State License Board shall remain under the direction of the Director of the Department of Professional and Vocational Standards, as provided in the act approved June 13, 1929, as amended.

The director of the department shall designate a sum not to exceed ten per cent of the total income of the Contractors' License Bureau for each fiscal year to be transferred to the professional and vocational standards fund as the bureau's share of the cost of administration of the Department of Professional and Vocational Standards.

Membership of board

The board shall be composed of seven (7) members, all of whom shall be contractors actively engaged in the contracting business and have been so engaged for a period of not less than five (5) years preceding the date of their appointment, and who shall so continue in the contracting business during the term of their office. One member of said board shall be a general engineering contractor, three members shall be general building contractors, and three members shall be specialty contractors. Each member of the board shall be of recognized standing in his branch of the contracting business, shall be at least thirty (30) years of age, and of good character. Each member of the board shall have been a citizen and resident of the State of California for at least five (5) years next preceding his appointment. The members of the board shall be appointed by the Governor within thirty (30) days after the effective date of this act, and shall

be appointed with terms of office to expire as follows: one general building contractor and one specialty contractor, January 15, 1936; one general building contractor and one specialty contractor, January 15, 1937; one general building contractor and one specialty contractor, January 15, 1938; the general engineering contractor, January 15, 1939. The Governor shall appoint to fill the vacancy caused by the expiration of the term of office, a member or members from the same branch of the contracting business for a term of four (4) years. Each member shall hold office after the expiration of his term until his successor shall have been duly appointed and qualified. If vacancies shall occur in the board for any cause, the same shall be filled by appointment of the Governor for the balance of the unexpired term. The Governor may remove any member of the board for misconduct, incompetency or neglect of duty.

(b) Each member of the board shall receive a certificate of appointment from the Governor, and before entering upon the discharge of the duties of his office, shall file with the Secretary of State, the constitutional oath of office. No one shall be eligible for appointment on the board who does not at the time hold an unexpired license to operate as a contractor under this act.

(c) The board shall, within thirty (30) days after its appointment by the Governor, meet in the city of Sacramento at a time and place to be designated by the Governor, and organize by electing a chairman, and a vice chairman, each to serve until the close of the fiscal year. Said board shall have power to appoint such committees and to make such by-laws, rules and regulations as it shall deem necessary to carry out the provisions of this act. The board shall adopt a seal for its own use. The seal shall have the words "Contractors' State License Board, State of California," and the care and custody thereof shall be in the hands of the registrar, hereinafter created.

Rules and regulations

(d) Under such rules and regulations as it may adopt the board shall have the power and authority to examine, classify and qualify applicants for contractors licenses under the provisions of this act. Any member or committee of the board may administer oaths and may take testimony and proofs concerning all matters within the jurisdiction of the board.

Powers

(e) The board shall hold not less than four (4) regular meetings each fiscal year, once in July, once in October, once in January and once in April, for the purpose of transacting such business as may properly come before it. At the July meeting of each year the board shall elect officers. Special meetings of the board may be held at such times as the board may provide in its by-laws. Four (4) members shall constitute a quorum at a board meeting. Four (4) members of the board may call a special meeting at any time. Due notice of each meeting and the time and place thereof shall be given each member in such manner as the by-laws may provide. Each

Meetings

member shall be reimbursed for his traveling expenses necessarily incurred in the performance of his duties hereunder.

Registrar of Contractors.

(f) The board shall have the power to procure such equipment and records as may be necessary to carry out the provisions of this act. The board by and with the approval of the Director of the Department of Professional and Vocational Standards shall appoint a Registrar of Contractors, and fix his compensation, who shall be the executive secretary of the board and shall carry out all of the administrative duties as in this act provided and as delegated to him by the board. For the purpose of administration of this act there may be appointed a deputy registrar, a chief reviewing and hearing officer and such other assistants and subordinates as may be necessary, such appointments to be made in accordance with the provisions of civil service laws.

(g) The board shall have the power in its discretion to review and sustain or reverse by a majority vote any action or decision of the registrar with reference to the suspension, cancellation or revocation of any license issued under the provisions of this act.

Division of Code Coordination

(h) There may be created and established within the Contractors' License Bureau a separate division for the purpose of cooperating in the administration and enforcement of the National codes for the construction industry as approved under the provisions of the National Industrial Recovery Act, said division to be known as the Division of Code Coordination. Such division, if created, shall be under the charge of a "Code Coordinator," which position is hereby created, who shall be under the supervision of the registrar. Through the Division of Code Coordination, the registrar may render such assistance as to him seems proper to any officer, authority, or organization charged with the enforcement of a Federal code or codes of fair competition for the construction industry or any subdivision thereof, provided that such officer, authority or organization shall have been appointed in accordance with the provisions of such code or codes, and further provided that, in the sound opinion of the registrar, such assistance shall not be inconsistent with the protection of the public and shall be in the interest of best serving the public safety and welfare

Roster of contractors

(i) The registrar shall keep a complete record of all applications for licenses as prescribed in this act and the board's action thereon and shall prepare annually a roster showing the names, places of business and residence of all persons conducting a contracting business in this State, a copy of such roster to be filed with the Secretary of State, a copy of such roster to be filed with the clerk of each county in the State, and a copy to be furnished to all construction industry associations. Copies of such roster shall be available on application to the registrar at such price per copy as may be fixed by the board. The board, in addition to the usual periodic reports, shall within thirty (30) days prior to the meeting of the regular session of the Legislature submit to the Governor

a full and true report of its transactions during the preceding biennium including a complete statement of the receipts and expenditures of the board during the period. A copy of said report shall be filed with the Secretary of State. All records shall be public records.

SEC. 6. Section 6 of said act is hereby amended to read as follows: Stats 1933, p. 1486

Sec. 6. Upon receipt of said application and of said fee, if no valid reason exists for further investigation of said applicant, it shall be the duty of the registrar forthwith and within ten days to issue a license to the applicant permitting him to engage in business as a contractor under the terms of this act for the balance of the fiscal year following the application, provided the applicant has furnished such complete information and in such manner as may be required by the registrar in accordance with section 5 of this act. If the information brought to the attention of the registrar concerning the applicant is such that, in the registrar's discretion, it would be proper to deny the application, the registrar shall forthwith notify the applicant by registered mail, or by personal service, to show cause within such time, not less than five days nor more than thirty days, why the application should not be denied. The license issued under this act shall be signed by the licensee, shall be nontransferable, and shall be displayed in his main office or chief place of business, and satisfactory evidence of the possession thereof, and the current annual renewal thereof shall be exhibited by him upon demand.

Issuance of licenses

Denial of application

It shall be unlawful for any person, firm, copartnership, corporation, or any combination thereof to act in the capacity of a contractor under any license issued hereunder except in the exact name and in accordance with the personnel of the licensee as set forth in the application for such license, or as later changed as in this act provided, and to do otherwise shall be a fraud and misrepresentation and upon determination by the registrar that there has in fact been such fraud and misrepresentation shall ipso facto act as the cancellation of any such license so issued.

A surviving member or members of a licensed copartnership shall be entitled to continue in business under such license until the expiration date of such license; provided due application therefor is made to the board and same is approved by the board in accordance with such rules and regulations as it may adopt.

SEC. 7. Section 9a of said act is hereby amended to read as follows: Stats 1933, p. 1488.

Sec. 9a. Upon the filing with the registrar of a verified complaint charging a licensee with the commission within two years prior to the date of filing of such complaint of any act which is cause for suspension or revocation of license, the registrar must forthwith issue a citation directing the licensee, within ten days after service of the citation upon him, to appear by filing with the registrar his verified answer to the

Procedure for revocation. Complaint

complaint, showing cause, if any he has, why his license should not be suspended or revoked; provided, however, that the appearance of the licensee by the filing of an answer may be waived by the complainant with the approval of the registrar, in which case the registrar shall proceed to a hearing as hereinafter provided. Service of the citation upon the licensee shall be fully effected by mailing a true copy thereof, together with a true copy of the complaint, by United States registered mail in a sealed envelope with postage fully prepaid thereon addressed to the licensee at his latest address of record in the registrar's office. Service of said citation shall be complete at the time of said deposit subject to the provisions of section 1013 of the Code of Civil Procedure of this State. Failure of the licensee to answer may be deemed an admission by him of the commission of the act or acts charged in the complaint and his license shall thereupon be suspended forthwith pending any hearing of the cause which the registrar in his discretion may order; provided that the registrar shall have power, in the event of such failure to answer, to suspend or revoke the license without further evidence than the verified complaint in the case.

Notice.

Answer.

Upon the filing of the answer, the registrar shall fix a time and place for the hearing and give the licensee and the complainant not less than five days' notice thereof. The notice may be served by depositing by registered mail in the United States mail a true copy of the notice inclosed in a sealed envelope with postage thereon fully prepaid and addressed to the licensee and to the complainant, respectively, at his last known address. With the notice to the complainant there shall be attached or inclosed a copy of the answer. If either party has appeared by counsel, the notice shall be given, in like manner, to counsel instead of to the party.

Hearing

Upon the hearing, the registrar shall hear all relevant and competent evidence material to the issues and shall have power to continue the hearing from time to time as in his judgment may be necessary or proper. After the hearing is concluded and the matter submitted, the registrar shall, within twenty days after such submission, render his decision in writing, suspending or revoking the license or dismissing the complaint, with a brief statement of his reasons therefor. He shall give to the complainant and the licensee, or their respective attorneys, notice of the decision, by mail, in the same manner as prescribed herein for the giving of notice of hearing. Such decision may provide for the immediate complete suspension by the licensee of all operations as a contractor during the period fixed by the decision. The decision may however contain a provision permitting the licensee to complete any or all contracts shown by competent evidence taken at said hearing to be then uncompleted. The decision may also contain a provision imposing upon the licensee compliance with such specific conditions as may be just in connection with his operations as a contractor as disclosed at said hearing and may

Decision

further provide that until such conditions are complied with no application for restoration of the license so suspended or revoked shall be accepted by the registrar. The decision of the registrar suspending or revoking a license shall take effect immediately upon the service of such notice of decision; provided that the registrar shall have the power to grant a stay of execution of such decision suspending or revoking a license, pending the filing by the licensee of a petition to the superior court for a writ of review or to the registrar for a rehearing as hereinafter provided.

Court review

The licensee may within twenty days after service upon him of notice of the rendition of such decision, petition the superior court in and for the county where such licensee resides for a writ of review, under the provisions of Chapter I, Title I, Part III of the Code of Civil Procedure, to review the decision of the registrar, or may within twenty days after such service of notice of the decision of the registrar suspending or revoking a license, apply for a rehearing by filing with the registrar his petition in writing therefor. Within five days after such filing, the registrar shall cause notice thereof to be served upon the complainant by mailing a copy of the petition for rehearing to the complainant in the same manner as herein prescribed for the giving of notice of hearing. Within twenty days after the service of the last mentioned notice the registrar shall either grant or deny said petition and if said petition is not granted within said period of twenty days it shall be deemed to be denied.

Rehearing

Order on rehearing

In his order granting or denying a rehearing, the registrar shall set forth a statement of the particular grounds and reasons for his action on the petition and shall forthwith mail a copy of the order to the parties who have appeared in support of or in opposition to the petition for rehearing. If a rehearing is granted, the registrar shall vacate the decision theretofore rendered suspending or revoking the license and shall set the matter for further hearing on due notice to the parties, given in the same manner as prescribed herein for the giving of notice of an original hearing.

Decision on rehearing

After submission of the matter upon rehearing, the registrar shall promptly render his decision in writing and give notice thereof in the same manner as of a decision rendered upon an original hearing.

Service of process

Any citation, notice, or other process or any paper or document provided by this section to be served on any party may be personally served as provided in section 1011 of the Code of Civil Procedure with the same effect as if served by mail as in this act provided.

Amendment of complaint

At any time before a case is finally submitted for decision to the registrar, whether upon an original hearing, or upon a rehearing, a complaint or answer may, upon the motion of either party and with the consent of the registrar, or upon the registrar's own motion, be amended; provided that if new charges are alleged in an amended complaint the defendant

may upon request be allowed a reasonable time to prepare his defense to such new charges. Ten days shall be deemed a reasonable time in such case.

Review.

Any decision of the registrar, whether upon an original hearing or after a rehearing as herein provided, shall be subject to review by the superior court under the provisions of Chapter I, Title I, Part III, of the Code of Civil Procedure. The party desiring such review of the decision of the registrar shall file his petition therefor in the superior court within twenty days after service upon him of the registrar's decision, or, in case a rehearing has been applied for, within twenty days after service upon him of the order denying such application therefor, or within twenty days after service upon him of the registrar's decision upon rehearing, and, in any proceeding for review, the court may in its discretion, upon the filing of a proper bond by the licensee in an amount to be fixed by the court, but not less than one thousand dollars guaranteeing the compliance by the licensee with such specific conditions as may have been imposed upon him by the registrar's decision, permit the licensee to continue to do business as a contractor pending entry of judgment by the court in the case. The person desiring such review shall pay to the registrar the sum of twenty cents for each one hundred words of the transcript of the record and proceedings certified to the reviewing court.

The suspension or revocation of license as in this act provided may also be embraced in any action otherwise proper in any court involving the licensee's performance of his legal obligation as a contractor.

CHAPTER 817.

An act to amend sections 2955, 2956, 2957, 2963, 2965 and 2966; and to repeal section 2959 of the Civil Code; and to add to said code new sections numbered 2959a, 2974, 2975, 2976, 2977 and 2978, relating to mortgages of personal property, and including provisions for the continuity of the liens thereof, the securing of additional advances and obligations thereunder, mortgaging of natural increase of live stock and other animate chattels, and of after acquired and consumable property, and providing for the recording of fictitious mortgages and the inclusion of the provisions thereof in other mortgages by reference, and constructive notice of such mortgages by the recording thereof.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1909, p. 34.

SECTION 1. Section 2955 of the Civil Code is hereby amended to read as follows:

2955. Mortgages may be made upon all growing crops, including grapes and fruit, and upon any and all kinds of personal property, except the following: Personal property which may be mortgaged.

1. Personal property not capable of manual delivery;
2. Articles of wearing apparel and personal adornment;
3. The stock in trade of a merchant.

Provided, however, that any nonprofit cooperative association with or without capital stock is not to be deemed a merchant within the meaning of this section.

SEC. 2. Section 2956 of the Civil Code is hereby amended to read as follows: 1872 Code

2956. A mortgage of personal property or crops shall be clearly entitled on the face thereof, apart from and preceding all other terms of the mortgage, to be a mortgage of crops and chattels, or either, and such mortgage may otherwise be made in substantially the following form: Form of personal property mortgage.

This mortgage, made the ------ day of ------, in the year ------, by A B, of ------, by occupation a ------, mortgagor, to C D, of ------, by occupation a ------, mortgagee, witnesseth:

That the mortgagor mortgages to the mortgagee (here describe the property), as security for the payment to him of ------ dollars, on (or before) the ------ day of ------, in the year ------, with interest thereon (or, as security for the payment of a note or obligation, describing it, etc.) A B.

No mortgage of personal property shall be invalid for any purpose by reason of the omission to state therein the due date or due dates of the obligation or obligations secured thereby. 1872 Code.

SEC. 3. Section 2957 of the Civil Code is hereby amended to read as follows:

2957. A mortgage of personal property or crops is void as against creditors of the mortgagor and subsequent purchasers and encumbrancers of the property in good faith and for value, after a lapse of four years from the last recording or re-recording thereof, and unless: Void as to third persons.

1. It is acknowledged, or proved and certified, in like manner as grants of real property;
2. The mortgage, if of animate personal property other than crops growing or to be grown, is recorded in the office of the recorder of the county where the mortgagor resides at the time the mortgage is executed, or in case the mortgagor is a nonresident of this State, in the office of the recorder of the county where the property mortgaged is located at the time the mortgage is executed;
3. The mortgage, if of crops growing or to be grown, is recorded in the office of the recorder of the county where the land is located upon which such crops are growing or to be grown;
4. The mortgage, if of personal property other than crops growing or to be grown or animate personal property, is recorded in the office of the recorder of the county where the mortgagor resides at the time the mortgage is executed, and

also in the county where the property mortgaged is located, at the time the mortgage is executed, and to which such property is thereafter removed; and

5. Each such mortgage is clearly entitled on the face thereof, apart from and preceding all other terms of the mortgage, to be a mortgage of crops and chattels, or either.

New section

SEC. 4. The Civil Code is hereby amended by adding thereto section 2959a to read as follows:

Recording of corporate or partnership mortgage

2959a. Where the mortgagor of personal property or crops is a corporation or a partnership the county of residence thereof for the purpose of recording such mortgage shall be deemed to be the county wherein such corporation or partnership has its principal place of business within this State.

1872 Code

SEC. 5. Section 2963 of the Civil Code is hereby amended to read as follows:

Recording of personal property mortgage

2963. Except as it is otherwise in this article provided, mortgages of personal property or crops may be acknowledged or proved and certified, and recorded, and when recorded as provided in this article, shall have like effect as the recording of conveyances of real property. Provided, however, that a mortgage of personal property or crops may be recorded and constructive notice of the same and the contents thereof given in the following manner:

Fictitious mortgages

Any person may record in the office of the county recorder of any county fictitious mortgages of personal property or crops. Such fictitious mortgages need not be acknowledged, or proved or certified, to be recorded or entitled to record Such mortgages shall have noted upon the face thereof that they are fictitious. The county recorder shall index and record such fictitious mortgages in the same manner as other mortgages of personal property or crops are recorded, and shall note on all indices and records of the same that they are fictitious. Thereafter, any of the provisions of any such fictitious recorded mortgage may be included for any and all purposes in any mortgage of personal property or crops by reference therein to any such provisions, without setting the same forth in full; provided, such fictitious mortgage is of record in the county in which the mortgage adopting or including by reference any of the provisions thereof is recorded. Such reference shall contain a statement, as to each county in which the mortgage containing such reference is recorded, of the date such fictitious mortgage was recorded, the county recorder's office wherein it is recorded, and the book or volume and page or pages of the records in the recorder's office wherein and at which any such fictitious mortgage was recorded, and a statement by paragraph numbers or any other method that will definitely identify the same, of the specific provisions of any such fictitious mortgage that are being so adopted and included therein. The recording of any such mortgage of personal property or crops which has included therein any such provisions by reference as aforesaid shall operate as constructive notice of the whole thereof

Constructive notice

including the terms, as a part of the written contents of any such mortgage, of any such provisions so included by reference as though the same were written in full therein. The parties bound or to be bound by provisions so adopted and included by reference shall be bound thereby in the same manner and with like effect for all purposes as though such provisions had been and were set forth in full in writing in any such mortgage.

SEC. 6. Section 2965 of the Civil Code is hereby amended to read as follows: Stats 1923, p. 139.

2965. When personal property mortgaged (other than animate personal property mortgaged by a resident of this State, and motor vehicles and other vehicles defined in and the mortgaging of which are regulated by the California Vehicle Act), is removed from the county in which it is situated, the lien of the mortgage shall not be affected thereby for thirty days, after such removal; but, after the expiration of such thirty days, said property mortgaged, is exempted from the operation of the mortgage, except as between the parties thereto, until either: Effect of removal of property

1. The mortgagee causes the mortgage to be recorded in the county to which the property has been removed; or

2. The mortgagee takes possession of the property as prescribed in the next section.

SEC. 7. Section 2966 of the Civil Code is hereby amended to read as follows: Stats 1923, p 140

2966. If the mortgagor voluntarily removes or permits the removal of the mortgaged property, save in the case of animate chattels mortgaged by a resident of this State, from the county in which it was situated at the time it was mortgaged, the mortgagee may take possession and dispose of the property as a pledge for the payment of the debt, though the debt is not due. Sale of property as pledge.

SEC. 8. The Civil Code is hereby amended by adding thereto section 2974 to read as follows: New section

2974. Where a mortgage of live stock, or other animate chattels, or crops is taken to secure mainly, or among other things, funds that may be advanced thereafter from the mortgagee or assigns at the option of either to the mortgagor, mortgagors or any of them, which funds to be advanced shall be for the purpose of financing the mortgagor, mortgagors or any of them during any regular production period or periods involving the property or any part thereof encumbered by or described in said mortgage, and during which period or periods the mortgagor, mortgagors or any of them, may need and request such financing, such mortgage shall be and continue to be (subject to the provisions of sections 2911, 2968, 2969 and 2972 of the Civil Code), until formally released or discharged in the recorder's office, a lien and encumbrance upon the property described therein, of status, effect, rank and standing equal to that established initially and thereafter obtained by such mortgage, as security for the repayment of Mortgages of live stock and animate chattels securing future advances

all sums that may be or become due under such mortgage, and all obligations secured thereby, even though during such period or periods of financing the debt or debts, obligation or obligations secured by such mortgage, as they exist at any particular time, may have been repaid in full to the mortgagee or assigns, from proceeds of sale of the mortgaged property, or otherwise by the mortgagor, mortgagors, or any of them. Each such mortgage shall contain a statement that it is given for such purpose. All such mortgages shall be discharged on demand of the mortgagor, in conformity with the provisions of section 2941 of the Civil Code, whenever no sums are owing to the mortgagee, or assigns, thereunder.

New section

SEC. 9. The Civil Code is hereby amended by adding thereto section 2975 to read as follows:

Mortgages securing future advances.

2975. A mortgage of personal property or crops may be given to secure the repayment of sums that may be advanced, expenditures that may be made, or indebtednesses or obligations that may be incurred, subsequent to the execution of such mortgage. If the maximum amount the repayment of which is proposed to be secured by such mortgage, is expressed therein (whether the creation of debts in such amount or any part thereof be optional with, or obligatory upon the mortgagee or assigns), such mortgage (subject to the provisions of sections 2911, 2941, 2968, 2969 and 2972 of the Civil Code) shall be and constitute a lien or encumbrance of rank, effect, status and standing equal to that established thereby initially and as it may thereafter obtain, as security for the repayment of any sums, expenditures, indebtednesses and obligations, owing or due or becoming owing or due thereunder, up to and including such expressed maximum amount which shall be considered only as a limit of the debts, sums, expenditures, indebtednesses and obligations that may be secured thereby at any one time, and not to include such as may have existed and been repaid or discharged thereunder. A mortgage of personal property or crops shall also constitute a lien or encumbrance of rank, effect, status and standing equal to that established initially or thereafter obtained thereby, as security for the repayment of all sums or amounts that are necessarily advanced or expended by the mortgagee or assigns, for the maintenance or preservation of the property, or any part thereof, described in such mortgage.

New section.

SEC. 10. The Civil Code is hereby amended by adding thereto section 2976 to read as follows:

Mortgages upon natural increase

2976. A mortgage of live stock, or other animate chattels, may be given to include and constitute a lien or encumbrance of effect, rank, status and standing equal to that of such mortgage, upon all the natural increase and products of any live stock, or other animate chattels that shall at any time be subject to the lien thereof, by including in any such mortgage an expression in general terms to this effect, and when so provided in such mortgage, and the same is executed and filed or

recorded as required by law, shall constitute notice thereof to all parties.

SEC. 11. The Civil Code is hereby amended by adding thereto section 2977 to read as follows: New section.

2977. A mortgage may be given of live stock, or other animate chattels, title to which is acquired by the mortgagor subsequent to the execution of the mortgage, through the use of funds loaned or to be loaned, or otherwise, the repayment of which is secured or to be secured in whole or in part by such mortgage, and it shall be a sufficient description of such live stock, or other animate chattels, if the number thereof as nearly as may be reasonably ascertained at the time the mortgage is executed, the place where the same will be ordinarily located while owned by the mortgagor, the marks and brands that are or shall be placed upon the same, if any, and, as nearly as may be ascertained at the time the mortgage is executed, the general kind or class of the same, are stated in such mortgage. Any such mortgage, when duly executed and filed or recorded as required by law, shall constitute notice thereof to all parties Mortgages on after-acquired property

SEC. 12 The Civil Code is hereby amended by adding thereto section 2978 to read as follows: New section

2978. No mortgage of live stock, or other animate chattels, and hay, grain or other feed materials shall be invalid or deemed fraudulent in any particular because provision is contained therein or otherwise, or because the mortgagee, or assignee, consents, that the mortgagor may use or permit the use or consumption of such feed, forage and fodder crops or materials in caring for, preserving or preparing for market or sale the live stock, or other animate chattels, covered thereby. Use of material for care of mortgaged chattels

SEC. 13. Section 2959 together with all amendments thereof, of the Civil Code is hereby repealed Repeal, Stats 1923, p 139

CHAPTER 818.

An act to amend section 2934 of the Civil Code, relating to mortgages in general and providing for the recording of certain subordination agreements and waivers relating to mortgages of, liens upon and interests in personal property.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 2934 of the Civil Code is hereby amended to read as follows: Stats 1931, p 101.

2934. Any assignment of a mortgage and any assignment of the beneficial interest under a deed of trust may be recorded, and from the time the same is filed for record operates as constructive notice of the contents thereof to all persons; and any instrument by which any mortgage or deed Recording of assignment of mortgage or beneficial interest of deed of trust etc.

of trust of, lien upon or interest in real property, (or by which any mortgage of, lien upon or interest in personal property a document evidencing or creating which is required or permitted by law to be recorded), is subordinated or waived as to priority may be recorded, and from the time the same is filed for record operates as constructive notice of the contents thereof, to all persons.

CHAPTER 819.

An act to amend section 2980 of the Civil Code, and to provide for the recording of conditional sales contracts and leases of live stock, animate chattels, mining equipment and machinery, and bailment or feeder agreements relating to live stock and other animate chattels, and prescribing rights and remedies in connection therewith.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1933, p. 863.

SECTION 1. Section 2980 of the Civil Code is hereby amended to read as follows:

Recording of conditional sales, etc., of chattels

2980. Every conditional sales contract, lease, and bailment or feeder agreement covering live stock and other animate chattels and every conditional sales contract of equipment and machinery used or to be used for mining purposes, must be acknowledged, or proved and certified, and must be recorded within twenty (20) days after its execution in the office of the recorder of the county where the buyer, the party feeding, the lessee or the bailee, respectively, resides at the time he executes such contract, lease, feeder or bailment agreement, or in case the buyer, the party feeding, the lessee or the bailee is a nonresident of this State, in the office of the recorder of the county or counties where the property involved is located at the time the contract, lease, feeder or bailment agreement is executed by the buyer, lessee, or bailee or feeder, and a contract of conditional sale of equipment and machinery used or to be used for mining purposes shall also be recorded in every case in the county where the property is situated otherwise, it shall be void as to the lien or interest of the seller, the lessor, bailor or owner against bona fide purchasers, encumbrancers and those having no actual knowledge of the contract, lease, feeder or bailment agreement who become creditors of the buyer, the party feeding, the lessee or the bailee, while said property is in the possession of any of the last mentioned parties.

A conditional sales contract, lease or bailment or feeder agreement covering live stock or other animate chattels shall also be void as to the lien or interest of the seller, lessor, bailor or owner against bona fide purchasers, encumbrancers, and

those having no actual knowledge of the contract, lease, feeder or bailment agreement who become creditors of the buyer, the party feeding, the lessee or the bailee, while the property is in the possession of any of the last mentioned parties after a lapse of four years from the last recording or re-recording thereof.

Sections 2959a and 2965 of the Civil Code are hereby made applicable to the instruments required to be recorded by this section in the same manner as to mortgages of personal property.

CHAPTER 820.

An act to add three new sections to the School Code to be numbered 3.106-1, 3.339 and 3.402, relating to the attendance of pupils upon the public schools of California.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the School Code to be numbered 3.106-1 and to read as follows: New section

3.106-1. Notwithstanding any provision of this article to the contrary, a pupil, residing in a junior college district or residing in a high school district maintaining junior college courses, may not attend junior college in a junior college district or high school district maintaining junior college courses other than the district in which he resides, except with the consent of the governing board of the district in which he resides and the governing board of the district in which he desires to attend. The governing board of the district in which such pupil desires to attend may, before permitting such pupil to attend therein, require the governing board of the district in which such pupil resides to enter into an agreement providing for the payment by the governing board of the district in which such pupil resides of such tuition as may be agreed upon for the attendance of such pupil, but such contract shall not be effective unless approved by the county superintendent of schools having jurisdiction over the district in which such pupil desires to attend. Attendance outside district of residence (See Sec. 4.)

SEC. 2. A new section is hereby added to the School Code to be numbered 3.339 and to read as follows:

3.339. The governing board of any school district of any type or class may, with the approval of the county superintendent of schools, admit to the schools thereof pupils living in an adjoining State which is contiguous to such school district; provided that an agreement shall be entered into between such governing board and the governing board or authority of the school district in which such pupils reside providing for the payment by the latter of such tuition as shall be agreed upon Attendance of pupils residing in adjoining State

The amount of such tuition per unit of average daily attendance of pupils from such adjoining State shall not exceed the average current expenditure, exclusive of all transportation expenditures, per unit of average daily attendance in the district of attendance, plus the actual expenditure, not to exceed ten dollars per pupil per month for the transportation of such pupils.

New section.

SEC. 3. A new section is hereby added to the School Code to be numbered 3.402 and to read as follows:

Junior college tuition fee

3.402. Notwithstanding any other provision in this code, the governing board of a junior college district shall not require any tuition fee of any student enrolled in any junior college of the district who is a resident of California or who has lived in California for one year.

Contingent effect of Sec. 1, A. B. 1343, pocket vetoed by Governor July 20, 1935.

SEC. 4. Section 1 of this act shall not take effect in the event an act entitled "An act to repeal sections 2.21, 3.174, 3.301, 3.302, 3.306, 3.308, 3.309, 3.415 and 3.416 of the School Code, to amend sections 3.304 and 3.305 of said code, to add to Part I of Division III of the said code a new chapter to be known as Chapter VIII, and to add to said code a new section to be numbered 3.306, all relating to the attendance of pupils upon the public schools," as passed by the fifty-first session of the Legislature, does not take effect.

CHAPTER 821.

An act to amend section 373j of the Political Code, relating to the Department of Natural Resources.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats. 1931, p. 2208

SECTION 1. Section 373j of the Political Code is hereby amended to read as follows:

Dissemination of information by Department of Natural Resources

373j. For the purpose of disseminating information relating to the activities, powers, duties, or functions possessed or exercised by the Department of Natural Resources, said department, with the approval of the Department of Finance, may issue publications, construct and maintain exhibits, and perform such acts and carry on such functions as in the opinion of the Director of Natural Resources will best tend to disseminate such information.

Fund created

All moneys received by the Department of Natural Resources from the sale of publications, exclusive of moneys received by any separate division of said department from the sale of publications, shall be paid into the State treasury to the credit of the Department of Natural Resources printing revolving fund, which fund is hereby created. Said fund shall be used

and is hereby appropriated for the use of said department, in addition to such other funds as may be from time to time appropriated by the Legislature, for the printing and distribution of any publication pertaining to the activities of said department.

CHAPTER 822.

An act to amend sections 804, 814, 815, 1010, 1018, 1020 and 1261 of, and to add section 395.5 to the Military and Veterans Code, relating to military and veterans' affairs.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 389.

CHAPTER 823.

An act to regulate the practice of structural pest control; to create the Structural Pest Control Board; to provide for the registration and licensing of persons engaged in such practice, and for the protection of the public in the practice of structural pest control.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. As used in this act "structural pest control" includes the use of insecticides, fumigants, or allied chemicals for the purpose of eliminating, exterminating, or preventing infestation of vermin, rodents, parasites, fungi, insects, and any other pests which infest or damage households or other structures. Definitions

"Board" means the Structural Pest Control Board.

"Registrar" means the registrar of structural pest control operators.

"Person" includes person, firm, corporation, association, copartnership, individual, or any combination of any thereof.

SEC. 2. This act shall not apply to: Application of act.

(a) Public utilities operating under the regulations of the State Railroad Commission;

(b) Persons engaged only in agricultural pest control work licensed by the State Department of Agriculture or county commissioner of agriculture;

(c) Pest control operations conducted by persons upon their own property.

(d) Governmental agencies, State or Federal officials or authorized representatives of any educational or State agency engaged in research or study of pest control.

(e) Licensed architects or licensed civil or structural engineers, acting solely within their professional capacity.

Structural Pest Control Board created

SEC. 3. A Structural Pest Control Board is hereby created in the Department of Professional and Vocational Standards, which board shall, subject to such jurisdiction as is conferred upon the director of said department by an act creating the Department of Professional and Vocational Standards, administer the affairs of said board.

Membership.

SEC. 4. The board shall be composed of five members, three of whom shall be, and shall have been for a period of not less than five years preceding the date of their appointment, actively engaged in the business of structural pest control; one member shall be a licensed contractor; and one member shall be a licensed structural engineer.

Appointment of board

SEC. 5. Within thirty days after this act becomes effective, the members of the State board shall be appointed by and to serve at the pleasure of the Governor. One member shall be appointed for a term which will expire on January 15, 1936; one member whose term will expire on January 15, 1937; two members whose terms will expire on January 15, 1938, and one member whose term will expire on January 15, 1939. Thereafter, appointments shall be for a term of four years, subject to removal by the Governor. Vacancies shall be filled by the Governor for the unexpired term from the class in which said vacancy occurs.

Each member of the board shall serve without compensation, and shall be reimbursed for his necessary traveling and other expenses incurred in the performance of his duties.

Meetings

SEC. 7. Within thirty days after the appointment of the first members, the board shall meet and organize and elect a president who shall serve for one year. Thereafter, the board shall meet annually during the month of July. The said board shall have power to adopt and enforce reasonable rules and regulations relating to the practice of structural pest control and to the administration of this act.

Special meetings

SEC. 8. Special meetings may be called at any time by the president or by any three members of the board, upon notice for such time and in such manner as the board may provide.

Appointment of registrar

SEC. 9. The board, by and with the approval of the Director of the Department of Professional and Vocational Standards, shall appoint a registrar of structural pest control operators, and fix his compensation and prescribe his duties. The registrar shall be the executive officer and secretary of the board.

Assistants

SEC. 10. The registrar, with the approval of the board, and subject to the provisions of law relating to civil service, may appoint and fix the compensation of such other assistants as may be necessary.

SEC. 11. The registrar shall keep a complete record of all applications for licenses and the board's action thereon and shall annually prepare a roster of all persons conducting a structural pest control business in the State, one copy of which shall be filed with the Secretary of State, one with the clerk of each county, and one each to all city building and health departments. Record of license applications

SEC. 12. It is unlawful for any person to engage in or to offer to engage or to hold one's self out as engaging in the practice of structural pest control or to solicit structural pest control business or to advertise that he practices structural pest control, without having obtained a license from the board. Necessity of license

SEC. 13. Upon the application of any person who is a resident of the State, the board shall determine by examination the qualifications of the applicant. If the applicant proves to be sufficiently versed in the vocation of structural pest control, both as to theory and practice, or in the particular branch of the vocation in which he desires to qualify, there shall be issued to him a certificate permitting him to practice structural pest control. Such certificate shall be nontransferable and shall be the property of the State. Examinations

SEC. 14. Each application for a license shall be accompanied by a fee of ten dollars. Every structural pest control operator engaged in or conducting the business of structural pest control or any classes, branches or divisions thereof, in this State, at a fixed place or establishment on the effective date of this act shall register as such with the said board prior to the first day of October, 1935, and shall thereupon be entitled to and receive a license to continue said business without further examination. Such licenses shall be renewed annually on or before July first, in the same manner as all other licenses issued under section 15 hereof. Upon failure to comply with this requirement by October 1, 1935, such structural pest control operator must obtain a license in the manner and upon the conditions prescribed in section 13 of this act. License fees

SEC. 15. Every licensed structural pest control operator shall pay, annually, a fee for the renewal of his or its license in the amount of ten dollars. The board shall mail on or before the first day of June of each year to each such licensed structural pest control operator, addressed to him at his last known address, a notice that his renewal fee is due and payable and that if such fee is not paid by the thirtieth day of June, a penalty of ten dollars will be added to the renewal fee, and in no case shall said penalty or additional fee upon account of such delinquency be waived. Upon the receipt of such fees, the board shall cause the renewal certificate to be issued. If such delinquency extends beyond six months after June thirtieth of any year, the license may not be reinstated, but such structural pest control operator may be required to obtain a new license in accordance with the provisions of section 13 of this act. Renewal fees

Revocation of licenses. Grounds for

SEC. 16. The board may upon its own motion, and shall upon the verified complaint in writing of any person, investigate the actions of any structural pest control operator within this State and shall have power in the manner hereinafter provided, and after hearing, to temporarily suspend or permanently revoke a license issued under the provisions of this act if the holder, while a licensee or applicant hereunder, is guilty of or commits any one or more of the following acts or omissions:

(1) Wilful departure from, or disregard of, plans or specifications in any material respect, and prejudicial to another without consent of the owner or his duly authorized representative, and without the consent of the person entitled to have the particular construction project or operation completed in accordance with such plans and specifications;

(2) Wilful and deliberate disregard and violation of the building laws of the State, or of any political subdivision thereof, or of the safety laws or labor laws of the State;

(3) Misrepresentation of a material fact by applicant in obtaining a license;

(4) Failure in a material respect on the part of a licensee to complete any operation or construction repairs for the price stated in the contract for such operation or construction repairs or in any modification of such contract;

(5) Aiding or abetting an unlicensed person to evade the provisions of this act or knowingly combining or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner or associate, or otherwise, of an unlicensed person with the intent to evade the provisions of this act. The word person as used herein shall be deemed to apply to an individual, firm, partnership, copartnership, corporation, association or other organization or any combination of any thereof;

(6) Failure in any material respect to comply with the provisions of this act;

(7) The doing of any wilful or fraudulent act by the licensee as a structural pest control operator in consequence of which another is substantially injured;

(8) The wilful or negligent handling or use of any poisonous exterminating agent without due respect to public safety;

(9) Wilful fraud and misrepresentation, after inspection, by any person engaged in structural pest control work of any type of infestation found in property or structures;

(10) Fraudulent impersonation of any State, county or city inspector or official;

(11) Wilful and deliberate disregard and violation of fumigation or extermination laws of the State or of any political subdivision thereof.

(12) Failure to comply in the sale or use of insecticides or fungicides with the provisions of Article 3, Chapter 7, Division V of the Agricultural Code.

SEC. 17. Proceedings for the suspension or revocation of a license shall begin by filing with the board written charges against the accused; such charges shall be in detail, and sworn to under oath by the complainant. Upon the filing with the board of a verified complaint charging a licensee with the commission within two years prior to the date of filing of such complaint, of any act which is cause for suspension or revocation of license, the board or its secretary must forthwith issue a citation directing the licensee, within ten days after service of the citation upon him, to appear by filing with the board his verified answer to the complaint, showing cause, if any he has, why his license should not be suspended or revoked. Service of the citation upon the licensee shall be fully effected by mailing a true copy thereof, together with a true copy of the complaint, by United States registered mail in a sealed envelope with postage fully prepaid thereon, addressed to the licensee at his latest address of record in the board's office. Service of said citation shall be complete at the time of said deposit subject to the provisions of section 1013 of the Code of Civil Procedure of the State. Failure of the licensee to answer may be deemed an admission by him of the commission of the act or acts charged in the complaint and his license shall thereupon be suspended forthwith pending any hearing of the cause which the board at its discretion may order; provided that the board shall have power, in the event of such failure to answer, to suspend or revoke the license without further evidence than the verified complaint in the case.

Complaint

Notice

Failure to answer

Upon the filing of the answer, the board shall fix a time and place for the hearing and give the licensee and the complainant not less than five days' notice thereof. The notice may be served by depositing by registered mail in the United States mail a true copy of the notice enclosed in a sealed envelope with postage thereon fully prepaid, and addressed to the licensee and to the complainant respectively, at his last known address. With the notice to the complainant there shall be attached or enclosed a copy of the answer. The licensee shall have the right to appear personally or by counsel, to cross-examine witnesses or to produce witnesses in his defense. The board shall have the power to compel the attendance of witnesses, and the production of necessary papers and documents.

Hearing

Upon the hearing, the board shall hear all relevant and competent evidence material to the issues and shall have power to continue the hearing from time to time as in its judgment may be necessary or proper. After the hearing is concluded and the matter submitted, the board shall, within twenty days after such submission, render its decision in writing, suspending or revoking the license or dismissing the complaint, with a brief statement of its reasons therefor. It shall give to the complainant and the licensee, or their respective attorneys, notice of the decision, by mail, in the same manner as prescribed herein for the giving of notice of hearing.

Decision

Any citation, notice, or other process or any paper or document provided by this section to be served on any party may be personally served as provided in section 1011 of the Code of Civil Procedure with the same effect as if served by mail as in this act provided.

Fund created

SEC. 18. The Department of Professional and Vocational Standards shall receive and account for all moneys collected under this act at the end of each month, and shall pay the same into the treasury to the credit of the "Structural pest control fund," which fund is hereby created. The money in this fund shall be expended for the pro rata cost of administration of the department and for the purpose of carrying out the provisions of this act.

The Director of the Department of Professional and Vocational Standards shall, within thirty days prior to each regular session of the Legislature, submit to the Governor a full and true report of the operations of the board during the preceding biennium, including a complete statement of receipts and expenditures.

Punishment for violation of act

SEC. 19. Any person who violates any provision of this act is guilty of a misdemeanor and punishable by a fine of not less than fifty nor more than five hundred dollars or by imprisonment in the county jail for not more than six months, or by both.

Constitutionality

SEC. 20. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

CHAPTER 824.

Yacht and Ship Brokers Act

An act to be known and cited as the Yacht and Ship Brokers Act, to define yacht and ship brokers and salesmen; to provide for the regulation, supervision and licensing thereof; to create the office of Yacht and Ship Brokers Commissioner within the Department of Professional and Vocational Standards; and to provide for the enforcement of said act and penalties for the violation thereof.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Short title

SECTION 1. This act may be known and cited as the Yacht and Ship Brokers Act.

Licenses

SEC. 2. It shall be unlawful for any person, copartnership, or corporation to engage in the business, or act in the

capacity of a yacht and ship broker or salesman without first obtaining a license therefor.

SEC. 3. Unless the context otherwise requires, as herein used: Definitions

(a) "Broker" means a person, copartnership, or corporation who, as a whole or partial vocation, for others, and for a compensation, sells or offers for sale, buys or offers to buy, lists, solicits prospective purchasers of, negotiates the purchase or sale or exchange of, charters, offers to charter, negotiates the charter of, leases, rents, places for lease or rent, or negotiates loans on yachts or ships.

(b) "Salesman" means a person who, as a whole or partial vocation, for compensation, is employed by a licensed broker to do any or all things that such broker may do under this act.

(c) "Commission" means the Yacht and Ship Brokers Commission.

(d) "Commissioner" means the Yacht and Ship Brokers Commissioner.

(e) "Yacht" and "ship" mean any vessel for navigating in the water which is self-propelled or is propelled by sail, oars, paddle, or other mechanical means.

(f) "Fund" means the yacht and ship brokers fund.

(g) One act, whether the sole or a principal or incidental object of the particular transaction, by a person, copartnership, or corporation which would classify such person, copartnership, or corporation as a broker or salesman under this act is sufficient to render applicable the provisions of this act.

SEC. 4. There is hereby created in the Department of Professional and Vocational Standards a Yacht and Ship Brokers Commission. For the purpose of administering the provisions of this act, the director of the department shall, with the approval of the Governor, appoint a Yacht and Ship Brokers Commissioner. No person shall be appointed as such commissioner who shall not have been for five years a yacht and ship broker actively engaged as such in California. The director shall fix the salary of the commissioner, which, in no case, shall exceed three thousand six hundred dollars per annum. Within fifteen days from the time he is notified of his appointment, the commissioner shall take his oath of office and file a bond in such penal sum as the director may determine. Yacht and Ship Brokers Commission created; Commissioner

SEC. 5. The commissioner with the approval of the director shall have full power to regulate and control the issuance and revocation, both temporary and permanent, of the licenses to be issued under the provisions of this act to prescribe rules and regulations to carry into effect the provisions hereof, and to perform all other acts and duties necessary for the proper enforcement of this act. He shall publish or cause to be published on or before July first of each year a directory or list of licensed brokers and salesmen and may publish such additional information as he deems expedient. He may also issue a periodical bulletin concerning affairs Powers of commissioner

arising under the administration of this act. He may employ such deputies, clerks, and assistants as may be necessary to properly administer this act.

SEC. 6. Neither the commissioner nor any deputy, clerk or assistant shall be interested in any company or brokerage firm as director, stockholder, officer, member, agent or employee nor act as a broker or salesman or have any interest with any broker or salesman.

SEC. 7. The commissioner shall prescribe the duties of all deputies, clerks, and assistants and shall fix their compensation.

Office of commissioner

SEC. 8. The principal office of the commissioner shall be in Sacramento, California; and the commissioner may establish branch offices in San Francisco and Los Angeles and such other cities as may be necessary for the proper administration of this act.

Fund created

SEC. 9. All fees charged and collected under this act shall be paid by the commissioner at least once a month, accompanied by a detailed statement thereof, into the State treasury to the credit of the yacht and ship brokers fund, which fund is hereby created. All moneys paid into the State treasury and credited to this fund are hereby appropriated to carry out the provisions of this act and shall be paid in the manner provided by law. The commissioner may establish a revolving fund in such an amount as he may determine, subject to the approval of the director of the department.

Transfer to general fund

SEC. 10. All moneys in excess of twenty-five thousand dollars in the State treasury to the credit of the fund at noon on the thirty-first day of December of each year shall on or before the fifteenth day of the succeeding month be transferred to the general fund.

Seal.

SEC. 11. The commissioner shall adopt a seal with the words "Yacht and Ship Brokers Commissioner—State of California" and such other device as he may desire thereon, by which he shall authenticate all papers and documents under his control. Copies of all records and papers in the commissioner's office shall be received in evidence in all cases, when certified under the hand and seal of the commissioner, equally and with like effect as the originals thereof.

Attorney General as attorney

SEC. 12. The Attorney General shall act as the attorney for the commission in all actions and proceedings and shall render to the commissioner opinions upon all questions of law arising under this act or its administration.

License

SEC. 13. A license issued under the provisions of this act shall authorize only the person, copartnership, or corporation to whom it is issued to perform or offer to perform any act subject to the provisions of this act. If any officer of a corporation other than its president is to be subject to the provisions of this act, such officer must secure a separate license therefor. Any member of a copartnership who desires to act as a broker or salesman under this act on his own behalf shall procure a license therefor.

SEC. 14. All applications for licenses shall be made in writing and every application shall be accompanied by the recommendation of two yacht and ship or real estate brokers of the county in which the applicant resides or has his place of business, which recommendations must certify that the applicant is honest, truthful and of good reputation. If the applicant has not resided or engaged in business in the county for at least one year, the yacht and ship or real estate brokers of any county in which he formerly resided or had his place of business may make such recommendations. Application.

SEC. 15. Every broker maintaining more than one place of business within the State must procure an additional license for every branch office maintained by him. Additional licenses.

SEC. 16. The commissioner shall charge and collect the following fees: Fees.

1. One hundred dollars for an original broker's license, together with an examination fee of fifteen dollars.

2. Twenty-five dollars for every annual renewal of a broker's license.

3. Ten dollars for an original saleman's license, together with an examination fee of five dollars.

4. Five dollars for every annual renewal of a salesman's license.

5. Ten dollars for every license obtained by a broker for a branch office.

6. One dollar for changing the name or address of a licensee on the records of the department.

7. One dollar for every transfer of a salesman's license for every change of employment.

8. One dollar for a duplicate license.

All license fees shall be paid in advance of issuing the license and taking of examinations, such fee as is paid for the license to be returned to the applicant should he fail to pass the examination.

Every license issued under the provisions of this act shall expire on December 31st of each year after its original issuance. Every person, firm, copartnership or corporation licensed under the provisions of this act shall renew his or its license on or before the first day of January of each year, and if each such license is not renewed by February 1st of each year a penalty equal to one hundred per cent of the annual renewal fee, hereinbefore set forth, shall be added to said renewal fee and paid to the commissioner before said license shall be renewed. Failure to renew said license by February 1st of each year shall ipso facto work a forfeiture of said license, and same shall be restored only upon the filing of an application and the payment of all accrued fees and penalties. Renewal of license

The commissioner shall, within thirty days prior to each regular session of the Legislature, submit to the Governor a full and true report of transactions under this act during the

current biennium, including a complete statement of receipts and expenditures during that period.

SEC. 17. Every license issued to a corporation shall entitle the president of such corporation to act as the licensee under such license and every license issued to a copartnership shall entitle one member thereof to act as the licensee under such license.

Display of license.

SEC. 18. Every license must be prominently displayed in the office of the broker in which the business of the broker or salesman is transacted. Every salesman's license shall remain in the possession of the broker by whom he is employed until canceled or until he shall leave the employment of such broker. Immediately upon the salesman's withdrawal from the employment of the broker, the broker shall return the salesman's license to the commissioner for cancellation.

Broker's place of business

SEC. 19. Every broker shall maintain a definite place of business in the State of California as his principal office and may establish other branch offices throughout the State.

Suspension and revocation of licenses.

SEC. 20. The commissioner may upon his own motion and shall upon the verified written complaint of any person, investigate the actions of any broker or salesman whether or not licensed. The commissioner may temporarily suspend or permanently revoke the license of a broker or salesman found to be guilty of:

1. Making any substantial misrepresentation.

2. Making any false promise of a character likely to influence, persuade or induce any person with whom business is transacted under the provisions of this act.

3. A continued and flagrant course of misrepresentation or making of false promises.

4. Acting for more than one party in a transaction without the knowledge and consent of all parties thereto.

5. Commingling the money or other property of his principal with his own.

6. Any other conduct constituting fraud or dishonest dealings.

SEC. 21. The commissioner may suspend or revoke the license of any licensee who within three years immediately preceding has:

1. Procured a license under this act for himself or any other by fraud, misrepresentation or deceit.

2. Been convicted of a felony, knowledge of which the commissioner did not have at the time of last issuing a license to such licensee.

3. Knowingly authorized, directed, connived or aided in the publication, advertisement, distribution or circulation of any material false statement or misrepresentation concerning his business or any transaction under the provisions of this act.

4. Wilfully disregarded or violated any of the provisions of this act.

5. Wilfully used the term "yacht and ship broker" or "yacht and ship salesman" without legal right so to do.

Notice

SEC. 22. Before suspending or revoking any license the commissioner shall notify in writing the licensee of the charges against him and shall afford such licensee an opportunity to be heard in person or by counsel in reference thereto. Service of any notice upon the licensee may be made by registered mail in a sealed envelope with postage thereon fully paid, which envelope shall be addressed to the licensee at the last address as shown on the records of the department.

Review.

The decision of the commissioner in denying, suspending or revoking any license shall be subject to review in accordance with the provisions of Chapter I of Title I of Part III of the Code of Civil Procedure.

Process and oaths

SEC. 23. The commissioner and his deputies or assistants shall have power to administer oaths, certify to all official acts and to issue subpoenas for the attendance of witnesses and the production of books and papers. Process issued by the commissioner shall extend to all parts of the State and may be served by any person authorized to serve civil process. In aid of the issuance of any subpoena the commissioner may invoke the assistance of the superior court.

Discharge of salesmen

SEC. 24. When any salesman is discharged by an employer for any violation of the provisions of this act, a verified written statement of the facts in reference thereto shall be forthwith filed with the commissioner by the employer.

SEC. 25. In addition to his own action the commissioner may assist any district attorney in the prosecution of any case arising out of violations of this act which constitute a criminal cause of action.

Violations

SEC. 26. Every violation of this act is a misdemeanor

Application of act

SEC. 27. No provision of this act shall apply to any person engaged in any transaction affecting his own property; nor shall any provision of this act apply to any person holding a duly executed power of attorney from the owner, to any attorney at law performing his duties as such attorney at law, nor to any receiver, trustee in bankruptcy or other person acting under the order of any court.

Constitutionality.

SEC. 28. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

CHAPTER 825.

Stats. 1931, p. 2434 amended.

An act to add a new section to be numbered 30.5 to the General Cemetery Act, relating to reincorporation of cemetery associations, and prescribing the procedure therefor.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section to be numbered 30.5 is hereby added to the act cited in the title hereof, to read as follows:

Reincorporation of cemetery associations.

Sec. 30.5 (a) When the corporate existence of a cemetery association expires or has expired, and the directors, trustees or persons in control of the association cause it to continue to exercise the functions of such association, if such cemetery association was a nonstock corporation, it may reincorporate by filing articles of reincorporation and a certificate of intention to reincorporate pursuant to this section.

(b) If the Secretary of State finds that the articles of reincorporation and certificate comply with the provisions of this section, he shall forthwith file them in his office and endorse the date of filing thereon. The corporate existence under the articles of reincorporation shall begin at the time of the filing of such articles and shall continue perpetually unless otherwise provided by law.

(c) Upon such reincorporation all of the assets and real and personal property of the cemetery association whose corporate existence has expired shall vest, by operation of law, in the reincorporated cemetery association; the reincorporated association shall succeed to all rights and obligations of the former association; and all members or certificate holders in the former association shall be members or certificate holders in the reincorporated cemetery association.

(d) A certified copy of the articles of reincorporation shall be filed with the county clerk of the county in which the principal office of the association is located, and in every county in which the association owns real property.

(e) The articles of reincorporation shall state:

1. The name of the reincorporating cemetery association.

2. The purposes for which it is formed.

3. The county in this State in which the principal office for the transaction of the business of the association is to be located.

4. The stock, certificate or membership structure.

5. The names and addresses of all the persons, not less than three, who are appointed to act as first directors or trustees of the reincorporated association.

6. The name of the former association which is being reincorporated.

7. Any provisions allowed by law to be stated in articles of incorporation.

(f) The certificate of intention to reincorporate shall contain or have annexed thereto by exhibit:

1. A statement showing the period said association has acted in a de facto capacity.

2. A statement of the names, number, length of service in that capacity, and compensation of directors, trustees or persons in control of said association.

3. A statement of the number of membership certificates issued during the de facto period, and the amount paid therefor.

4. A copy of the resolution of intention to reincorporate with a certificate of the person acting as secretary, showing that it was adopted by a majority of the acting directors, trustees or persons in control at the time of reincorporation.

5. A statement that the association failed to reincorporate prior to expiration of the period of corporate existence under the last articles filed by it.

CHAPTER 826.

An act to add section 2181c to the Political Code, relating to moneys of insane or feeble-minded persons committed to State hospitals and homes for feeble-minded.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Political Code, to be numbered section 2181c and to read as follows:

New section.

2181c. If the total amount of any sums due to any insane or feeble-minded person committed to any State hospital or home for feeble-minded, which person has no guardian appointed and which sums are due from any person, firm, association or corporation, including moneys in banks or building and loan associations, money due to such insane or feeble-minded person under any policy of insurance or from any fraternal benefit society, moneys due as wages or moneys due such insane or feeble-minded person as an heir or a legatee of a person whose estate is in probate, does not exceed the sum of two hundred dollars, the medical superintendent of the State hospital or home for feeble-minded to which the insane or feeble-minded person is committed, may file with such person, firm, association or corporation in possession of any such sums, an affidavit signed and acknowledged by the medical superintendent of the State hospital or home for feeble-minded to which such person is committed and the secretary of the State Department of Institutions. The affidavit shall contain the name of the State hospital or home for feeble-minded to which the insane or feeble-minded person is committed, and the statement that the total amount of such sums due to the

Moneys due insane or feeble-minded in State hospitals

Affidavit.

insane or feeble-minded person as herein provided do not exceed the sum of two hundred dollars. Upon the filing of such affidavit, such sum or sums shall be delivered to the medical superintendent of the State hospital or home for feeble-minded to which the insane or feeble-minded person is committed, and shall be deposited by him in the patient's personal deposit fund as provided in section 2172 of this code.

Annual accounts

The medical superintendent of each State hospital or home for feeble-minded shall annually on the thirtieth day of June of each year render an account to the secretary of the State Department of Institutions, which account shall, in addition to such other matters as may be required by the secretary of the State Department of Institutions, contain a full, true and accurate account, under oath of all moneys received by him in accordance with the provisions of this section, of all disbursements thereof, and showing the balance at the date of the rendering thereof.

CHAPTER 827.

An act to provide for reduction of salaries of officers and employees of the State in the State civil service which are in excess of the maximum salary limits of the respective positions.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Salaries reduced to maximum limit

SECTION 1. Upon the effective date of this act the salary of every officer and employee of the State in the State civil service, is hereby reduced to the maximum salary limit for the position held by such officer, agent or employee, as established and in effect upon April 1, 1935. This act shall not affect the power of the State Personnel Board to classify positions and to establish minimum and maximum salary limits, or the authority of the Director of Finance to approve salaries.

CHAPTER 828.

An act accepting a retrocession of jurisdiction over the rights of way of the Golden Gate Bridge and Highway District through the Presidio of San Francisco military reservation and Fort Baker military reservation in Marin County.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Retrocession of jurisdiction accepted

SECTION 1. There is hereby accepted on behalf of the State of California a retrocession of jurisdiction over the rights of way covered by a certain grant from the Secretary of War

to the Golden Gate Bridge and Highway District of California dated February 13, 1931, to extend, maintain and operate State roads across the Presidio of San Francisco military reservation and the Fort Baker military reservation in the county of Marin, as heretofore or hereafter amended by the Secretary of War, subject to all of the terms and conditions contained in said permit as so granted and any amendments thereof as aforesaid. The land and premises over which said retrocession of jurisdiction is hereby granted shall be the whole of the rights of way so granted by said permit and any amendments thereof through their entire length and width and for the entire distance granted therein, together with the land crossed by any toll bridge that may be erected by such Golden Gate Bridge and Highway District to connect the Presidio of San Francisco military reservation with the Fort Baker military reservation, and embracing the said toll bridge with its approach roads over the rights of way so granted by said permit and any amendments thereof. Lands affected

SEC. 2. Should the United States assume exclusive control and management of said bridge and roads as provided in said permit, and any amendments thereof, the retrocession of jurisdiction herein accepted shall be suspended and revest in the United States for the duration of such control and management. Whenever the State of California shall cease to occupy said rights of way and land for the purposes authorized in said permit and any amendments thereof, then the same, including all jurisdiction thereover, shall revert to the United States. Suspension.

SEC. 3. The acceptance of jurisdiction herein provided shall take effect upon the retrocession of such jurisdiction to the State of California by the United States. Time of acceptance

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CHAPTER 829.

An act to amend section 612 of the Fish and Game Code, relating to steelhead trout. Stats 1933, p 394

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 612 of the Fish and Game Code is hereby amended to read as follows: Stats 1933, p 451

612. In the Russian, Napa and Navarro rivers and in those portions of Eel River in districts 2 and 2¾, and in tidewater in districts 2, 3, 4 in the Santa Ynez River as far as the Buellton Bridge, and 15, steelhead trout may be taken from May 1 to February 28. The bag limit is three fish per day, irrespective of size, between November 1 and February 28. Steelhead trout

CHAPTER 830.

Stats. 1933, p. 60. *An act to add section 1156 to the Agricultural Code, relating to the marketing of agricultural products.*

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section. SECTION 1. Section 1156 is hereby added to the Agricultural Code, to read as follows:

Void contracts 1156. Any contract made for the purpose of injuring competitors and destroying competition under which the seller of any agricultural product agrees to pay or allow any brokerage charge, rebate, discount, or other credit, other than an allowance for variation in quality, condition, or quantity, or any other form of compensation or credit by a seller to a buyer, or to an agent, employee, subsidiary or affiliate of a buyer who buys to sell at retail and which is not paid, given or allowed in like circumstances to all other buyers or to the agents, employees, subsidiaries or affiliates of other buyers, whether the same is paid or allowed directly or indirectly, is hereby declared to be against public policy and void; provided, that advertising allotments or discounts by a seller to a buyer for bona fide advertising expenditures are not included. It is a misdemeanor for any person to take any part in such a transaction whether as seller, buyer, buyer's agent, employee or subsidiary.

CHAPTER 831.

Stats. 1931, p. 587, amended *An act to add to the Probate Code a new section, to be numbered 201.5, and amending sections 201 and 220 of the Probate Code, all relating to the laws of succession.*

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

New section SECTION 1. A new section is hereby added to the Probate Code, to be numbered 201.5, to read as follows:

Succession: Personal property 201.5. Upon the death of either husband or wife one-half of all personal property, wherever situated, heretofore or hereafter acquired after marriage by either husband or wife, or both, while domiciled elsewhere, which would not have been the separate property of either if acquired while domiciled in this State, shall belong to the surviving spouse; the other one-half is subject to the testamentary disposition of the decedent, and in the absence thereof goes to the surviving spouse, subject to the debts of the decedent and to administration and disposal under the provisions of Division III of this code.

SEC. 2. Section 201 of the Probate Code is hereby amended to read as follows: Stats. 1931, p. 595.

201. Upon the death of either husband or wife, one-half of the community property belongs to the surviving spouse; the other half is subject to the testamentary disposition of the decedent, and in the absence thereof goes to the surviving spouse, subject to the provisions of sections 202 and 203 of this code. Succession. Community property

SEC. 3. Section 220 of the Probate Code is hereby amended to read as follows: Stats 1931, p. 596

220. The separate property of a person who dies without disposing of it by will is succeeded to and must be distributed as hereinafter provided, subject to the limitation of any marriage or other contract, and to the provisions of section 201.5 and Division III of this code. Succession Subject to contract and code

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CHAPTER 832.

An act for the relief of purchasers of swamp and overflowed lands, declaring the urgency thereof and that this act shall take effect immediately.

[Approved by the Governor July 20, 1935. In effect immediately.]

The people of the State of California do enact as follows:

SECTION 1. When application has been made to purchase swamp and overflowed lands from this State and payment of the full purchase price or twenty per cent thereof has been made to the treasurer of the proper county for the same and a certificate of purchase was issued on or after January 1, 1930, to the applicant therefor and such applicant has failed to pay the interest on the unpaid balance of the purchase price of such land, said certificate shall be in full force and effect; provided, all interest due on the balance of the purchase price together with all penalties due thereon is paid to the proper county treasurer on or before December 31, 1935; provided, that none of the provisions of this act shall apply to nor be construed as affecting any application to purchase filed with the Division of State Lands subsequent to January 1, 1935, or any of the lands therein described, against which a contest has been initiated and which has been referred to any superior court of this State for determination by said Division of State Lands, and all such applications shall be proceeded with by such superior court and the Division of State Lands as though this act had not been adopted. Purchase of swamp and overflowed lands. Interest payable by December 1, 1935

SEC. 2. This act is hereby declared to be an urgency measure within the meaning of section 1 of Article IV of the Constitution, necessary for the immediate preservation of the public peace, health and safety and as such shall take effect immediately. Urgency

The following is a statement of facts constituting such necessity:

Due to the period of economic depression many applicants for the purchase of swamp and overflowed lands were unable to meet the payments thereon and the lands were forfeited to the State. In order to give such applicants an immediate opportunity to restore their interests in the lands so forfeited, it is necessary that this act take effect immediately.

CHAPTER 833.

An act relating to the liability of irrigation districts, their officers and employees.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Liability of irrigation district directors

SECTION 1. No member of any board of directors of any irrigation district shall be liable for the negligent act or omission of any appointee or employee appointed or employed by him in his official capacity, whether such appointment or employment was made singly or in conjunction with other members of such board, and no officer or agent of any irrigation district shall be liable for the negligent act or omission of any agent or employee appointed or hired by him, except when the member or members of such board making such appointment or employment, or excepting when such agent or employee appoints or hires said subemployee or subagent, knew or had actual notice that the person appointed or employed was inefficient or incompetent to perform or render the service for which he was appointed or employed or shall retain such inefficient or incompetent person after actual knowledge or notice of such inefficiency or incompetency.

Filing of claims.

SEC. 2. Whenever it is claimed that any person or property has been injured or damaged as a result of any dangerous or defective condition of any property owned or operated and under the control of any irrigation district or its officers or employees and/or the negligence or carelessness of any officer or employee of an irrigation district, a verified claim for damages shall be presented in writing and filed with such officer or employee and the secretary of said board within ninety days after such accident or injury has occurred. Such claim shall specify the name and address of the claimant, the date and place of the accident or injury or damage and the nature and extent of the injury or damages claimed. The foregoing shall be a condition precedent to the filing or maintaining of any action for said injury or damages.

Payment of judgment

SEC. 3. In any case where an officer of an irrigation district shall be held liable for any act or omission done or omitted in his official capacity and any judgment shall be rendered

thereon, the district shall pay such judgment without obligation for repayment thereof by such officer.

SEC. 4. Nothing herein contained shall be construed as creating any liability or responsibility except as provided in section 3 hereof unless the same would have existed without the passage of this act. Creation of liability

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CHAPTER 834.

An act to amend section 3627a of the Political Code, relating to the taxation of securities and solvent credits.

[Approved by the Governor July 19, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 3627a of the Political Code is hereby amended to read as follows: Stats. 1931, p. 2479

3627a. Notes, debentures, shares of capital stock, bonds, deeds of trust, mortgages, and any legal or equitable interest therein, of the classes taxable to the owner thereof under the provisions of section 14 of Article XIII of the Constitution of this State, are hereby taxed upon their actual value at the rate of two-tenths of one per cent. Solvent credits, of the class taxable to the owner thereof, under the provisions of section 14 of Article XIII of said Constitution are hereby taxed upon their actual value at the rate of one-tenth of one per cent. The property aforesaid, except solvent credits, shall no longer be taxable under the provisions of this section if and when a net income tax shall be passed or adopted in this State. Upon the passage or adoption of such tax and from the time such income tax becomes effective such net income tax shall be in lieu of the tax herein provided for upon notes, debentures, shares of capital stock, bonds, deeds of trust, mortgages and any legal or equitable interest therein. Provided, however, that any and all taxes imposed herein on such property prior to the passage or adoption of such net income tax and the effective date thereof shall remain fully collectible and distributable hereunder. Taxation of securities and solvent credits. Effect of income tax

Property taxable under the provisions of this section shall be taxed to the owner or possessor of the fee simple estate or life estate therein, if such estate has its situs within this State. If any property taxable under the provisions of this section is held in trust by any person, association, or corporation domiciled or the principal place of business of which is located in this State, such property shall be taxable solely to the trustee thereof. Such tax to the possessor of such property or owner of the fee simple estate or life estate therein, or trustee, shall be deemed to include the entire tax upon all legal or equitable interest in such property. If the property taxed at its situs in this State is a legal or equitable interest Situs for taxation

in property in which the fee simple estate or the major portion thereof has its situs outside the State, but taxable if within this State, such legal or equitable interest shall be taxed to the owner or possessor or trustee thereof at the actual value of such interest. In determining the actual value of an equitable or legal interest in such property there shall be considered as determining the value of said equitable or legal interest only that property which would be taxable if it had its situs within this State.

Mode of collection

The tax hereby imposed upon said property shall be assessed, equalized, levied and collected in the same manner as are other county and city and county taxes, except as hereinafter otherwise provided, and shall be in lieu of all other property taxes thereon.

Distribution of tax moneys

The proceeds of said tax shall be paid into the treasury of the county or city and county in which it is collected and shall be distributed therefrom by the county or city and county auditor to the county or city and county and to the city and school districts within which said property has its situs as follows:

If the property has its situs within a city and a school district or school districts, the proceeds shall be distributed one-third to the city, one-third to the school district or school districts, and one-third to the county in which said city is located; and if the property has its situs outside of a city, but within a school district or school districts, the proceeds shall be distributed one-half to the school district or school districts and one-half to the county in which the property is situated. In the event that such property has its situs within the boundaries of an elementary school district or districts and a high school district or districts, then the same shall be divided equally between the said elementary school district or districts and the high school district or districts, it being the purpose of this section to divide the proceeds alloted to the support of schools hereby equally between districts supporting elementary schools and districts supporting high schools excluding from revenue derived therefrom all other educational districts of any kind or description.

The details of the method of such distribution shall be supplied by the county or city and county auditor, shall be approved by the board of supervisors of such county or city and county, and shall fairly carry out the purpose of this section.

Returns.

Any person, partnership, corporation, association or other organization owning, controlling, or in possession of any such notes, debentures, shares of capital stock, bonds, solvent credits, deeds of trust, mortgages, or any legal or equitable interest therein taxable to him or it hereunder shall return the same in the manner provided for the return of other property to the assessor of each county or city and county between the first Monday in March and the first Monday in July of each year.

In the event of the failure or neglect of any person to return such taxable property between the said dates, it shall, upon the discovery of the escape, be assessed and levied upon, and entry thereof immediately made upon the assessment roll, such entry to be followed by the words "penalty for failure to file return within the time required by law." Thereupon, a penalty shall attach to the tax so levied and entered in an amount equal to two times the tax. Penalties for failure to file return

The tax imposed herein shall become due and payable at noon on the first Monday in March, 1929, and on the first Monday in March annually thereafter, unless the same be made a lien upon real estate under other provisions of this code, all of which are made applicable to the tax levied under the provisions of this section. When tax due.

The authority herein granted to the assessors to place any tax or penalty upon property which has escaped taxation upon the assessment or tax roll of the year for which said property should have been assessed or taxed shall be limited to a period of not more than three years from the date upon which the lien attaches for the current assessment roll. Limitation period on penalty.

Nothing herein contained shall require the county or city and county assessor as a condition precedent to placing such penalty upon the assessment roll, or the county or city and county in collecting such tax and penalty, to establish any intention on the part of the taxpayer to defraud, deceive or evade the assessing or taxing officials. No showing of intention required

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CHAPTER 835.

An act to amend section 4260 of the Political Code, relating to compensation of county and township officers in counties of the thirty-first class.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 4260 of the Political Code is hereby amended to read as follows: Stats. 1931, p. 1193

4260. In counties of the thirty-first class the county officers shall receive as compensation for the services required of them by law or by virtue of their offices the following salaries, fees and expenses, to wit: Placer County Salaries

1. The county clerk, three thousand two hundred fifty dollars per annum; and also such compensation as is now or may hereafter be allowed by law; and in each year in which a new and complete registration of voters is required by law he shall receive such an amount as shall be necessary to pay deputy registration clerks for taking affidavits of registration outside of the office at the rate of ten cents each, and such an amount as shall be necessary to pay deputies in the office for enrolling Clerk

the registrations upon the great register at the rate of four cents each, the claims for which shall be presented and allowed by the board of supervisors as other claims are presented and allowed; he may also appoint a deputy clerk, which office of deputy clerk is hereby created, whose salary shall be one thousand eight hundred dollars per annum and a deputy clerk which office of deputy clerk is hereby created, whose salary shall be one thousand two hundred dollars per annum, said salaries payable as the salaries of county officers are paid.

Sheriff. 2. The sheriff, six thousand dollars per annum.

Recorder. 3. The recorder, two thousand seven hundred dollars per annum; provided, that such recorder shall collect and pay into the county treasury for the use and benefit of the county the fees required by law to be so collected; and provided, that in counties of this class the recorder may appoint two deputy recorders for service in his office, which offices of deputies for the county recorder are hereby created, one of said deputies shall receive as compensation for his services the sum of one thousand two hundred dollars per annum; and one of said deputies shall receive as compensation for his services the sum of one thousand eighty dollars per annum to be paid out of the county treasury in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the recorder is paid.

The provisions of this subsection relating to the salaries of the deputies of the county recorder do not increase the salaries of county officers and shall take effect immediately.

Auditor 4. The auditor, two thousand seven hundred dollars per annum; provided, that in counties of this class the auditor may appoint two deputy auditors for service in his office, which office of deputies for the county auditor are hereby created, one of said deputies shall receive as compensation for his services the sum of one thousand two hundred dollars per annum; and one of said deputies shall receive as compensatnon for his services the sum of one thousand eighty dollars per annum to be paid out of the county treasury in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the auditor is paid.

The provisions of this subsection relating to deputies for the county auditor do not increase the compensation of a county officer and shall take effect immediately.

Treasurer 5. The treasurer, three thousand dollars per annum.

Tax collector 6. The tax collector, two thousand dollars per annum; provided, that said tax collector shall perform the duties and collect and pay into the county treasury, the fees provided by law for the license tax collector. In counties of this class the tax collector may appoint one deputy, which office is hereby created, at a salary of one thousand two hundred dollars per annum.

Assessor 7. The assessor, four thousand two hundred dollars per annum; provided, that said assessor shall perform all the duties of said office and shall collect and pay into the county

treasury for the use and benefit of the county the fees provided by law for the collection of personal property tax, and all other fees and commissions received or collected by him; provided, that in counties of this class the assessor may appoint one deputy for service in his office which office of deputy for the county assessor is hereby created; said deputy shall receive, as compensation for his services, the sum of one thousand eight hundred dollars per annum, to be paid out of the county treasury in equal monthly installments at the same time, in the same manner and out of the same fund as the salaries of other county officers are paid. The assessor may appoint two field deputies and one special deputy which offices of field deputies and special deputy are hereby created. Said special deputy shall receive as full compensation for all services performed, and all expenses incurred, the sum of one thousand two hundred dollars per annum; said field deputies shall each receive as full compensation for all services performed, and all expenses incurred, the sum of six dollars per diem for each day actually and necessarily employed as such, to be paid out of the county treasury at the same time, in the same manner, and out of the same fund as the salaries of other county officers are paid; provided, however, that the total compensation paid to all such field deputy assessors shall not exceed the sum of six hundred dollars during any one calendar year; provided, also, that every field deputy, when so employed, shall file with the auditor a statement, verified by the oath of such field deputy and approved by the assessor, showing the number of days actually and necessarily employed in field work in the performance of duties of such employment during the period covered by such statement before any warrant for the payment of such compensation shall be drawn by the auditor.

The provisions of this subsection shall take effect at noon, on the first Monday of January, 1931.

8. The district attorney, two thousand four hundred dollars per annum; he may also appoint a deputy, which office of deputy district attorney is hereby created, whose salary shall be one thousand dollars per annum, payable as the salaries of other county officers are paid. District attorney.

In counties of this class the district attorney is allowed and may appoint one clerk which office is hereby created. The salary of said clerk is fixed at one thousand two hundred dollars per annum payable at the same time, in the same manner and out of the same fund as the salaries of the county officers are paid. The provisions of this subsection relating to the appointment of one clerk by the district attorney do not increase the compensation of a county officer and shall take effect ninety-one days after the final adjournment of the 1927 session of the Legislature.

9. The coroner, such fees as are now or may hereafter be allowed by law. Coroner

10. The public administrator, such fees as are now or may hereafter be allowed by law. Public administrator.

Superintendent of schools.

11. The superintendent of schools, two thousand four hundred dollars per annum, including services on the board of education. He shall be allowed his actual traveling expenses not to exceed five hundred dollars per annum; he shall also be allowed one deputy whose salary shall be eighty-five dollars per month, payable the same as the salary of county officers are paid.

Surveyor

12. The surveyor shall receive a per diem of twelve dollars and fifty cents for al work performed for the county, in addition thereto all necessary expenses and transportation on work performed in the field.

Township classification

13. For the purpose of fixing the compensation of justices of the peace according to their duties. townships of this class of counties are hereby classified according to population. The population shall be determined by the board of supervisors upon the enactment of this act, and also at the time of the formation of any new township or townships.

Townships having a population of over four thousand five hundred shall belong to and be known as townships of the first class; townships having a population of three thousand and less than four thousand five hundred shall belong to and be known as townships of the second class; townships having a population of one thousand five hundred and less than three thousand shall belong to and be known as townships of the third class; townships having a population of less than one thousand five hundred shall belong to and be known as townships of the fourth class;

Justices of the peace

Justices of the peace shall receive the following salaries: In townships of the first class, the sum of one thousand two hundred dollars per annum; in townships of the second class, the sum of nine hundred dollars per annum; in townships of the third class, six hundred sixty dollars per annum; in townships of the fourth class, four hundred dollars per annum.

Such salaries shall be paid in the same manner and out of the same fund as the salaries of county officers are paid and shall be compensation in full for all services rendered.

All fees received by justices of the peace shall be paid into the county treasury every month.

Constables

14. The constable shall receive the following fees, to wit: For serving summons and complaint, for each defendant served, one dollar; for each copy of summons for service when made by him, twenty-five cents; for levying writ of attachment or execution or executing order of arrest or for the delivery of personal property, one dollar; for keeping personal property, such sum as the court may order, but no more than two dollars per day shall be allowed for a keeper when necessarily employed; for taking bond or undertaking, fifty cents; for copies of writs and other papers, except summons, complaints and subpoenas, per folio ten cents; provided, that when correct copies are furnished him for use, no charge shall be made for copies; for serving any writ, notice or order, except summons, complaint or subpoenas, for each person

served, fifty cents; for writing and posting each notice of sale of property, twenty-five cents; for serving subpoenas, each witness, including copy, twenty-five cents; for collecting money on execution, two and one-half per cent, to be charged against the defendant named in the execution; for executing and delivering a certificate of sale, one dollar; for executing and delivering constable's deeds, two dollars; for every mile necessarily traveled in his township, in going only, to serve any civil or criminal process or paper, or to take a prisoner before a magistrate or to a prison, twenty-five cents, outside of his township, but within his county, twenty cents; but when two or more persons are served or summoned in the same suit and at the same time, mileage shall be charged only for the more distant if they live in the same direction; for each mile traveling outside his county in making criminal arrests, both going and returning from the place of arrest, ten cents; in transporting prisoners to the county jail, or before a magistrate either upon arrest or for trial or examination or after conviction, he shall receive in addition to the above mileage his actual and necessary expenses for himself and prisoners; provided, that if two or more prisoners are transported at the same time, no more than one mileage shall be allowed; for making each arrest in criminal cases, one dollar and fifty cents; for sales of estrays, the same fees as for sales on execution; for summoning a jury, two dollars, including mileage; for all other services, the same fees that are allowed sheriffs for like services; provided further, that no more than sixty dollars shall be allowed to any constable in counties of this class in any one month for fees and mileage in criminal matters.

15. Each supervisor, one thousand eight hundred dollars per annum; which shall be in full for all services and expenses both as supervisor and road commissioner. Supervisors

16. The county traffic officer, two thousand two hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the county traffic officer one deputy, which office is hereby created. Said deputy shall be appointed by said county traffic officer and shall receive a salary of two thousand two hundred dollars per annum which shall be paid by said county in monthly installments at the same time, in the same manner and out of the same fund as the salary of the county traffic officer is paid. Said traffic officer and his deputy shall provide their own motorcycles or other vehicles and shall pay all of the expense of the upkeep of such machines and the said county shall provide gasoline and oil for the purpose of propelling the same; and provided further, that there shall be and there is allowed to the county traffic officer a sum not to exceed one thousand two hundred dollars in any one year to be used in carrying out the duties of his office. All the provisions of this paragraph are to apply to the office of county traffic officer and his deputy whenever said office of county traffic officer is created by law. Traffic officer.

Jurors

17. In counties of this class grand jurors and jurors in the superior court shall receive for each day's attendance the sum of three dollars, and for each mile actually and necessarily traveled from residence to county seat the sum of twenty-five cents; such mileage to be allowed but once during each session such jurors are required to attend.

Effect.

SEC. 2. The provisions of this act, so far as they are substantially the same as existing statutes governing counties of this class, must be construed as continuations thereof and not as new enactments; and nothing in this act contained shall be deemed to shorten or extend the term of office or employment of any person holding office or employment under the provisions of such statutes.

CHAPTER 836.

An act to amend section 737aaa of the Political Code, relating to the salary of the superior judge, in and for Trinity County.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1927, p 564

SECTION 1. Section 737aaa of the Political Code is hereby amended to read as follows:

Superior judge Trinity County

737aaa. The annual salary of the judge of the superior court in and for the county of Trinity is five thousand dollars.

CHAPTER 837.

An act repealing section 365e½ of the Political Code and section 133 of the Streets and Highways Code, relating to high-type paving.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Repeals. Stats 1933, p 1770, Stats 1935, Ch 29

SECTION 1. Section 365e½ of the Political Code and section 133 of the Streets and Highways Code are hereby repealed.

CHAPTER 838.

An act to lease adequate facilities for the establishment and operation of a telephone-typewriter system of communication between certain cities, and to make an appropriation therefor.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Facilities and equipment shall be leased to maintain and operate a telephone-typewriter system of communication between the cities of Martinez, Merced, Modesto, Redding, Riverside, San Jose, Visalia and other cities of this State in which such facilities and equipment are now maintained and operated, to be centered in and operated under the direction and control of the Bureau of Criminal Identification and Investigation in Sacramento, California. State teletype system

SEC. 2. For the purposes specified in the preceding section, the sum of twenty-nine thousand seven hundred eighty-seven dollars is hereby appropriated from any moneys in the motor vehicle fund and prior to the allocation of any such moneys for any other purpose subsequent to the effective date of the Vehicle Code. Appropriation

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CHAPTER 839.

An act to amend section 1426a of and to add sections 1426da, 1426db, 1426dc, and 1426ra to the Civil Code, relating to discovery locations and to discovery shafts on lode and placer mining locations.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1426a of the Civil Code is hereby amended to read as follows: Stats. 1909, p. 314

1426a. The locator or locators of any lode mining claim must define the boundaries of such claim so that they may be readily traced, but, in no case, shall the claim extend more than fifteen hundred feet along the course of the vein or lode, nor more than three hundred feet on either side thereof as measured from the center line of the vein at the surface. On all lode mining claims made after this act takes effect and within sixty days after the location of the claim, the locator or locators shall erect at each corner of the claim and at the center of each end line, or the nearest accessible points thereto, a post not less than four inches in diameter, or a stone monument at least eighteen inches high. Extent of mining claim; Erection of monuments

New section

SEC. 2. Section 1426da is hereby added to the Civil Code to read as follows:

Discovery shafts.

1426da. On every lode mining or place claim, located after this act takes effect, the locator or locators thereof shall, within ninety days after the date of location, sink a discovery shaft upon such claim at the point of discovery to a depth of at least ten feet from the lowest part of the rim of such shaft at the surface, exposing the deposit upon which discovery and location is based, or shall drive a tunnel, adit, or open cut upon such claim at the discovery point to at least ten feet below the surface, exposing the deposit upon which such discovery and location is based.

New section.

SEC. 3. Section 1426db is hereby added to the Civil Code to read as follows:

Expenditures per acre

1426db. On all placer mining locations containing more than twenty acres, located after this act takes effect, the locators thereof shall, within ninety days after the date of location, perform at least one dollar's worth of work for each acre included in such claim. This work may all be done at one place on the claim if so desired, and must be actual mining development work exclusive of cabins, buildings, or other surface structures Nothing in this section shall be construed as a modification of the requirements of section 1426da of this code.

New section

SEC. 4. Section 1426dc is hereby added to the Civil Code to read as follows:

Relocation.

1426dc. The relocation of any lode or placer mining location which is subject to relocation shall be made in the same way as an original location is herein required by law to be made, except that the relocator may either sink a new shaft upon the ground relocated at the discovery point to the depth of at least ten feet from the lowest part of the rim of such shaft at the surface, exposing the deposit upon which location is based, or drive a new tunnel, adit, or open cut upon such ground at the point of discovery to at least ten feet below the surface, exposing the deposit upon which location is based; or the relocator may sink the original discovery shaft ten feet deeper than it is at the time of relocation, or drive the original tunnel, adit, or open cut upon such claim ten feet further.

New section

SEC. 5. Section 1426ra is hereby added to the Civil Code to read as follows:

Failure to comply with requirements

1426ra. The failure or neglect of the locator or locators to comply with the requirements of sections 1426, 1426a, 1426da, 1426db, or 1426dc of this code shall render such location null and void, and no portion of the area within such location shall be subject to relocation by the same locator or locators within the period of three years from the date of such void location.

CHAPTER 840.

An act making an appropriation to reimburse the "Corporation Commission fund" for the excess moneys withdrawn and expended from that fund pursuant to Chapter 805, Statutes of 1929 and for necessary expenditures made pursuant to Chapter 1037, Statutes of 1933.

Stats 1929, p. 1683
Stats. 1933, p. 2632

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Special appropriation

SECTION 1. The sum of $185,066.49 is hereby appropriated out of any money in the State treasury, not otherwise appropriated, to be placed to the credit of the "Corporation Commission fund."

Purpose

SEC. 2. Said sum of $185,066.49 is needed by the "Corporation Commission fund" and constitutes the unreturned excess expenditure of $143,811.29 made for the construction and completion, equipment and furnishing of an addition to the State office building at San Francisco, California, for the housing of the San Francisco office of the Commissioner of Corporations made pursuant to Chapter 805, Statutes of 1929 and $41,255.20 for the necessary excess expenditures made pursuant to the supplement to the California Industrial Recovery Act, Chapter 1037, Statutes of 1933.

CHAPTER 841.

An act to amend sections 2 and 3 of an act entitled "An act creating an advisory pardon board; defining and prescribing the powers and duties thereof; and making an appropriation therefor," approved May 17, 1915, as amended, relating to the powers and duties of the board.

Stats 1915, p. 465, amended

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1915, p. 465

SECTION 1. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Secretary

SEC. 2. The board shall have power to appoint a secretary, who shall hold office during its pleasure and who shall receive a salary to be fixed by the chairman of the board with the approval of the Director of Finance. The secretary shall keep a record, in which shall be entered all applications referred to the board, the name of each applicant, the date and place of his conviction, his sentence, his offense, and such other data as the board may direct, and a memorandum of the action taken by the board on each application. The secretary shall perform also such other duties as the board may

Traveling expenses.

require of him The members of said board shall not receive any salary or compensation, but they and the secretary shall each be allowed all actual and necessary expenses incurred while traveling on the business of the board.

Stats 1915, p 465

SEC. 2. Section 3 of said act is hereby amended to read as follows:

Powers and duties of board

Sec. 3. The board shall meet at the State Capitol at least once in every two months and at such other times as proper exercise of its functions may require. Upon request of the Governor the board shall investigate and report on all applications for reprieves, pardons and commutations of sentence and shall make such recommendations to the Governor with reference thereto as to it may seem advisable. To that end the said board shall examine and consider all applications so referred and all transcripts of judicial proceedings and all affidavits or other documents submitted in connection therewith, and shall have power to employ assistants and take testimony and to examine witnesses under oath and to do any and all things necessary to make a full and complete investigation of and concerning all applications referred to it. Members of said board and its secretary are, and each of them is, hereby authorized to administer oaths.

CHAPTER 842.

An act to amend section 737bb of the Political Code, relating to the compensation of the judge of the superior court in and for the county of Napa.

[Approved by the Governor July 20, 1935 In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 1274.

SECTION 1. Section 737bb of the Political Code is hereby amended to read as follows:

Napa County: Superior judge

737bb. The annual salary of the judge of the superior court in and for the county of Napa is six thousand dollars.

CHAPTER 843.

An act to amend section 737ll of the Political Code, relating to salaries of the judges of the superior court of the City and County of San Francisco.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Stats 1933, p 1268

SECTION 1. Section 737*ll* of the Political Code is hereby amended to read as follows:

737ll. The annual salary of each of the judges of the superior court in and for the City and County of San Francisco is ten thousand dollars. San Francisco Superior judges.

CHAPTER 844.

An act to amend section 737m of the Political Code, relating to the salaries of the judges of the superior court in and for the county of Imperial.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 737m of the Political Code is hereby amended to read as follows: Stats. 1933, p. 2061.

737m. The annual salary of each of the judges of the superior court in and for the county of Imperial is six thousand dollars. Imperial County Superior judges.

CHAPTER 845.

An act to amend section 1 of an act entitled "An act making an appropriation to the State Board of Control to pay claims against the State of California" approved June 16, 1933, relating to claims against the State. Stats. 1933, p. 2490, amended.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1933, p. 2490.

Section 1. Out of the net receipts of the motor vehicle fund (as said term is used in section 778 of the Vehicle Code) there is hereby appropriated the sum of five hundred thousand (500,000) dollars, or so much thereof as may be necessary, to be disbursed by the State Board of Control upon claims against the State of California for the purpose of refunding to persons, firms, associations and/or corporations moneys paid by virtue of invalid demands of the State of California, pursuant to the provisions of section 15, Article XIII of the Constitution of California. The State Board of Control shall promulgate rules and regulations for the presentation, examination and allowance of any such claims; provided, however, no such claim shall be examined by the State Board of Control unless presented to said board within six (6) months on and after the effective date of this amended act, and no such claim shall be allowed for an amount exceeding seventy-five (75) per centum of the amount actually paid to the State by the claimant; and

Special appropriation Stats. 1935, Ch. 27.

Regulations.

Claims.

further provided, that the State Board of Control shall not examine any such claim or disburse any funds therefor from this appropriation unless the claimant has presented such claim to the State Board of Control or instituted a suit in a court of competent jurisdiction for the recovery of any such sum, within a period of five years after payment to the State; and further provided that no such claim shall be paid without first deducting any and all fees and taxes relating to motor vehicles or the use thereof then due and owing by the claimant to the State of California. The sum hereby appropriated shall be paid only from that portion of the said motor vehicle fund not otherwise appropriated for the support of the Department of Motor Vehicles, and shall be paid one-half out of the portion of said motor vehicle fund appropriated by section 779 of the Vehicle Code to the counties of this State and one-half out of the portion of said motor vehicle fund payable under section 781 of the Vehicle Code into the State highway fund, and the State Controller is hereby instructed to set up the appropriation hereby made accordingly for the purpose of apportioning the said net receipts. In the event the percentages of the said motor vehicle fund appropriated to the counties and to be paid into the State highway fund are changed, then the appropriation hereby made shall, nevertheless, be paid out of the balance of the said motor vehicle fund after the payment of any appropriations heretofore or hereafter made for the support of the Department of Motor Vehicles

Apportionment.

CHAPTER 846.

An act making an appropriation for the enforcement of standards, quality and identity, in the manufacture and sale of California wines and brandy

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

Appropriation: Wine and brandy standards.

SECTION 1. Out of any moneys in the State treasury not otherwise appropriated, the sum of fifty thousand dollars is hereby appropriated to be expended in accordance with law by the State Department of Public Health, for the enforcement of standards, quality and identity, in the manufacture and sale of California wines and brandy.

CHAPTER 847.

An act to add a new division to the Vehicle Code, to be numbered IXa, relating to vehicular crossings constructed or owned by the State, the control and policing thereof, and the regulation of traffic thereon.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

NOTE.—See Stats. 1935, Ch. 27.

CHAPTER 848.

An act to amend sections 1, 4, 5, 10, 12, 13 and 15 of an act entitled "An act to reserve all minerals in State lands; to provide for examination, classification and report on the mineral and other character of State lands; to provide for the granting of permits and leases to prospect for and take any such minerals; to provide for the rents and royalties to be paid, and granting certain preference rights; to provide for the making of rules, regulations and contracts necessary to carry out the purposes of this act; and repealing acts or parts of acts in conflict herewith; providing for an appropriation to defray the cost of administering this act," as approved May 25, 1921, as amended, relating to the issuance, transfer, terms of, and rights under prospecting permits, leases, and sales of State mineral lands.

Stats 1921, p. 404, amended

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1921, p. 404

Section 1. All coal, oil, oil shale, gas, phosphate, sodium, and other mineral deposits in lands belonging to the State, or which may become the property of the State, are hereby reserved to the State; provided, however, that nothing in this act shall apply to lands acquired by the State on a sale of delinquent taxes, except such land, the deed for which is required to be filed in the Surveyor General's office. Such deposits are reserved from sale except upon a rental and royalty basis, as herein provided for; and a purchaser of any lands belonging to the State, or which may become the property of the State, shall acquire no right, title or interest in, or to, such deposits except as hereinafter expressly provided; and the right of such purchaser shall be subject to the reservation of all coal, oil, oil shale, gas, phosphate, sodium, and other mineral deposits, and to the conditions and limitations prescribed by law providing for the State, and persons authorized by it pursuant to section 10 of this act or otherwise, to

Minerals in State lands reserved to State.

prospect for, mine, and remove such deposits, and to occupy and use so much of the surface of said land as may be required for all purposes reasonably extending to the mining and removal of such deposits therefrom.

Stats 1929, p. 12.

SEC. 2. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

Prospecting permits for oil and gas.

SEC. 4. The Surveyor General is hereby authorized, upon the payment to him of fifty cents per acre, for each acre in area embraced within the boundaries of the lands proposed to be prospected and under such rules and regulations as he may prescribe, to grant (a) to any person or association of persons, who are citizens of the United States or who have declared their intention of becoming such, or who are eligible to citizenship under the laws of the United States and are citizens of any country, dependency, colony or province, the laws, customs and regulations of which permit grant of similar or like privileges to citizens of the United States, or (b) to any corporation ninety per cent or more of the stock of which is owned by citizens of the United States or by citizens of any such country, dependency, colony or province whose citizens are eligible to citizenship under the laws of the United States, a prospecting permit, as hereinafter described; provided, however, that the Surveyor General is hereby authorized to issue such a prospecting permit to any alien person entitled thereto by virtue of any treaty between the United States and the nation or country of which such alien person is a citizen or subject. Such prospecting permit shall give the exclusive right, for a period not exceeding two years, to prospect for oil or gas, upon not exceeding six hundred forty acres of land wherein such deposits of oil or gas belong to the State and are not within any known geological structure of a producing oil or gas field, upon condition that the permittee shall begin drilling operations within six months from the date of the permit, and shall within one year from and after the date of the permit, drill one or more wells for oil or gas to a depth of not less than one thousand feet each, unless valuable deposits of oil or gas shall be sooner discovered, and shall, within two years from date of the permit, drill for oil or gas to an aggregate depth of not less than two thousand feet unless valuable deposits of oil and gas shall be sooner discovered. The Surveyor General may, if he shall find that the permittee has been unable with the exercise of diligence to test the land in the time granted by the permit, extend any such permit for such time, not exceeding two years, and upon such conditions as he shall prescribe. Whether the lands sought in any such application and permit are surveyed or unsurveyed the applicant shall, prior to filing his application for permit, locate such land in a reasonably compact form and according to the legal subdivisions of the public land surveys if the land be surveyed; and in an approximately square or rectangular tract, if the land be an unsurveyed tract, the length of which shall not exceed two and one-half times its

Extension of permit.

Survey or location of land.

width; the land to be surveyed by the Surveyor General at the expense of the applicant for the permit in such form as the Surveyor General shall deem to be to the best interest of the State; provided, however, that in case of prospecting permits and leases to river beds, lake beds, overflowed, tide and submerged lands, the width or length of the prospecting permit or lease along the shore line, measured on an east and west or north and south line, shall not exceed one-quarter mile.

Preferential right established by erection of monuments and posting of notices

If the applicant shall cause to be erected upon the land for which a permit is sought a monument not less than four feet high, at some conspicuous place thereon, and shall post a notice in writing on or near said monument, stating that an application for permit will be made within thirty days after the date of posting said notice, giving the name of the applicant, the date of the notice, and such a general description of the land to be covered by such permit by reference to courses and distances from such monument and such other natural objects and permanent monument as will reasonably identify the land, stating the amount thereof in acres, he shall during the period of thirty days following such marking and posting, be entitled to a preferential right over others to a permit for the land so identified; provided, however, that applicant shall, as a part of his application for a permit, show that within two days after the posting of the said notice, he recorded a copy of the same in the county recorder's office of the county in which the said land is situated.

Recording notice

Marking boundaries

The applicant shall, within ninety days after receiving a permit, mark each of the corners of the tract described in the permit upon the ground with substantial monuments, so that the boundaries can be readily traced on the ground, and shall post in a conspicuous place upon the lands a notice that such permit has been granted and a description of the lands covered thereby; provided, however, that where the boundaries of the land sought to be prospected or developed under lease are wholly or partially in river or lake beds, overflowed, tide and submerged lands, the notice shall be conspicuously posted on a monument as close to a corner of the land as possible and shall specifically describe the area to be developed by courses and distances so that the limits of the area can be easily determined; provided, further, however, that in no case shall permits or leases be granted covering tide, overflowed or submerged lands fronting on an incorporated city, or for a distance of one mile on either side thereof; provided, further, however, that in case of an application for a permit or a lease covering tide, overflowed or submerged land by anyone other than the littoral or riparian proprietor, said littoral or riparian proprietor shall have six months within which to file an application for a permit or lease, but if said littoral or riparian proprietor fails to comply with the requirements of this act and its rules and regulations made in pursuance hereof, his preferential rights shall thereupon cease and forever be terminated, and the original applicant shall be permitted to proceed with his application;

Exception

Permits and leases covering tide-lands, etc

Exception.

provided, further, that after the approval of this act and prior to the first day of September, 1929, no monument shall be erected, or notice posted upon or notice recorded in relation to any tide, overflowed or submerged lands of this State, or application for permit presented to or received by the Surveyor General for or in relation to any tide, overflowed or submerged lands of this State as provided in this section; provided, further, that no permit to prospect or drill for oil or gas in or upon any tide, overflowed or submerged lands shall ever be granted by the Surveyor General upon an application made between the date of approval of this act and the first day of September, 1929. Nothing contained in the two provisos last preceding this clause, shall, however, be deemed or construed to prevent any littoral owner from exercising the preference right given by the terms of this section, nor as affecting the rights under this act of the holder of any permit or lease heretofore issued and now outstanding nor of any applicant therefor who has fully complied heretofore with the provisions of this act, nor as recognizing, ratifying or validating any rights so claimed.

Stats 1921, p. 406.

SEC. 3. Section 5 of the act cited in the title hereof is hereby amended to read as follows:

Lease.

Sec. 5. Upon establishing to the satisfaction of the Surveyor General that valuable deposits of oil or gas have been discovered within the limits of the land embraced in any permit, the permittee shall be entitled to a lease for one-fourth of the land embraced in the prospecting permit; provided, that the permittee shall be granted a lease for as much as one hundred sixty acres of said lands, if there be that number of acres within the permit. The area to be selected by the permittee shall be in compact form and if surveyed, to be described by the legal subdivision of the public land surveys; if unsurveyed, to be surveyed by the Surveyor General at the expense of the applicant for lease in accordance with rules and regulations to be prescribed by the Surveyor General, and the lands leased shall be conformed to and taken in accordance with the legal subdivisions of such surveys; deposits made to cover expense of survey shall be deemed appropriated for that purpose, and any excess deposit may be repaid to the person or persons making such deposits, or their legal representative. Such lease shall be for a term of twenty years upon a royalty of five per centum in amount or value of the production and the annual payment in advance of a rental of one dollar per acre, the rental paid for any one year to be credited against the royalties as they accrue for that year, with the right of renewal as prescribed in section 8 hereof. The permittee shall also be entitled to a preference right to a lease for the remainder of the land in his prospecting permit at a royalty of not less than twelve and one-half per centum in amount or value of the production, and under such other conditions as are fixed for oil or gas leases in this act, including the right of renewal as prescribed in section 8 hereof, the bonus and royalty to be determined by competitive bidding or fixed by such other method as the

Term, royalty and rental.

Preference right to lease of remainder

Surveyor General may by regulations prescribe; provided, that the Surveyor General shall have the right to reject any and all bids.

SEC. 4. Section 10 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1921, p. 408.

Sec. 10. For the purpose, however, of promoting the sale of State land, and the more active cooperation of the owner of the soil, and to facilitate the development of its mineral resources the State hereby constitutes the purchaser of the soil, its agent for the purposes herein named and in consideration hereof, relinquishes to and vests in the purchaser of State lands an undivided fifteen-sixteenths of all oil and gas and the value of the same that may be upon or within any State land purchased after the passage of this act. The purchaser of the soil is hereby authorized to sell or lease to any person, association of persons, or corporation which at the time of said proposed sale or lease possesses the qualifications provided in section 4 of this act the oil and gas and other minerals that may be thereon or therein upon such terms and conditions as such purchaser and owner may deem best, subject, however, to the provisions of this act and the reservations herein contained; and provided, further, that the lessee or purchaser shall in every case pay to the State an undivided one-sixteenth of the mineral produced or the value thereof at the well or mine as may be determined by the Surveyor General; provided, further, however, that upon the discovery of oil or gas in paying quantities on adjoining lands the purchaser shall within three months thereafter begin or cause to be started the drilling of a well upon his land, which drilling shall be continuous, as may be provided for by appropriate rules and regulations, prescribed by the Surveyor General.

Purchaser entitled to fifteen-sixteenths of oil and gas

May sell or lease oil and gas.

Discoveries on adjoining lands.

SEC. 5. Section 12 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1933, p. 1523.

Sec. 12. No person, association of persons, or corporation shall take or hold, either directly or indirectly, under the terms of this act, permits or leases exceeding in aggregate acreage 640 acres for each of the minerals reserved to the State under the terms of this act; and no person, association of persons, or corporation shall take or hold at any one time any interest or interests as a member of an association or associations, or as a stockholder of a corporation or corporations holding a permit or permits, lease or leases, under the provisions hereof, which, together with the area embraced in any direct holding of a permit or permits, lease or leases, under this act, or which, together with any other interest or interests, as a member of an association or associations, or as a stockholder of a corporation or corporations holding a permit or permits, lease or leases, under the provisions hereof, for any kind of said minerals leased hereunder, exceeds in the aggregate an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one per-

Limitation on permits and leases to one person or corporation

Proportion of acreage chargeable to stockholder or association member

mittee or lessee under this act; provided, however, that for the purposes of this section, a person, association of persons, or corporation which is a member of an association or stockholder in a corporation holding a permit or permits, lease or leases, under the provisions of this act, shall be chargeable only with that proportion of the acreage of said permit or permits, lease or leases, held by said association or corporation, which his or its interest in said association bears to the entire interest held by all the members in said association or which his or its stock holdings in said corporation bear to the stock held by all the stockholders of said corporation; and provided, further, that for the purposes of this section, a person, association of persons, or corporation holding a fractional undivided interest, whether it be the legal or beneficial interest, in a permit or permits, lease or leases, shall be chargeable only with that proportion of the acreage of said permit or permits, lease or leases, which his or its fractional undivided interest bears to the entire interests held in said permit or permits, lease or leases, by all persons, associations of persons, or corporations.

Forfeiture of interest

Any interest held in violation of this act shall be forfeited to the State of California by appropriate proceedings for that purpose in the superior court for the county in which the property, or some part thereof, is located, except that any ownership or interest forbidden in this act which may be acquired by descent, will, judgment, or decree may be held for two years and not longer after its acquisition. Nothing herein contained shall be construed to limit or to prevent any number of permittees or lessees under the provisions of this act from combining their several interests so far as may be necessary for the purposes of constructing and carrying on the business of a refinery, or of establishing and constructing as a common carrier a pipe line or lines of railroads to be operated and used by them jointly in the transportation of oil from their several wells, or from the wells of other lessees under this act, or the transportation of coal.

Unit plan of development

And provided further, that for the purpose of more properly conserving the natural resources of any single oil or gas pool or field, permittees and lessees thereof and their representatives may unite with each other jointly or separately, or jointly or separately with others owning or operating lands not belonging to the State, in collectively adopting and operating under a cooperative or unit plan of development or operation of said pool or field, whenever determined and certified by the Surveyor General to be necessary or advisable in the public interest, and the Surveyor General is thereunto authorized in his discretion, with the consent of the holders of leases or permits involved, to establish, alter, change and revoke, drilling, and producing requirements of such leases or permits, and to make such regulations with reference to such leases and permits with like consent on the part of the lessee or lessees and permittees in connection with

the institution and operation of any such cooperative or unit plan as he may deem necessary or proper to secure the proper protection of the interest of the State of California.

Lease for permit area included in unit plan

And further provided, that when any permit immediately adjacent to another permit or lease upon which valuable deposits of oil or gas have been discovered, and in good standing and not expired on January 1, 1933, has been included, with the approval of the Surveyor General, in a unit plan of development or operation under this section, the Surveyor General may issue a lease for the area of the permit so included in said plan without further proof of discovery, upon such royalty requirements as may appear to him to be to the best interests of the State, but not to exceed a royalty of twelve and one-half (12½) per centum.

Surveyor General to approve contracts

And provided further, that the Surveyor General is hereby authorized, on such conditions as he may prescribe, to approve operating, drilling or development contracts made by one or more permittees or lessees in oil or gas leases or permits with one or more persons, associations, or corporations, whenever in his discretion and regardless of acreage limitations, provided for in this section, the conservation of natural products or the public convenience or necessity may require it, or the interests of the State of California may be best subserved thereby.

Compensation for drainage from State lands

And provided further, that whenever it appears to the Surveyor General that wells now drilled upon private lands are draining oil or gas from lands owned by the State of California upon which drilling is now prohibited by law, the Surveyor General is hereby authorized and empowered on behalf of the State of California to negotiate in the name of and on behalf of the State of California, agreements whereby the State of California shall be compensated for such drainage.

Unlawful leases may be forfeited

And provided further, that, if any of lands or deposits leased under the provisions of this act shall be subleased, trusteed, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever, so that they form part of, or are in anywise controlled by any combination in the form of an unlawful trust, with consent of lessee, or form the subject of any contract or conspiracy in restraint of trade in the mining or selling of coal, phosphate, oil, oil shale, gas, or sodium entered into by the lessee, or any agreement or understanding, written, verbal, or otherwise to which such lessee shall be a party, of which his or its output is to be or become the subject, to control the price or prices thereof or of any holding of such lands by any individual, partnership, association, corporation, or control in excess of the amounts of lands provided in this act, the lease thereof shall be forfeited by appropriate court proceedings.

Stats 1921, p. 410.

SEC. 6. Section 13 of the act cited in the title hereof is hereby amended to read as follows:

Rights of way for pipe line purposes

Sec. 13. Rights of way through all State lands are hereby granted for pipe-line purposes for the transportation of oil or natural gas to any applicant possessing the qualifications provided in section 4 of this act, to the extent of the ground occupied by the said pipe-line and twenty-five feet on each side of the same under such regulations as to survey, location, application, and use as may be prescribed by the Surveyor General and upon the express condition that such pipe-lines shall be constructed, operated, and maintained as common carriers; provided, that the Surveyor General shall in express terms reserve and shall provide in every lease of oil lands hereunder that the lessee, assignee, or beneficiary, if owner or operator or owner of a controlling interest in any pipe-line or of any company operating the same which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without discrimination accept and convey the oil of the State or of any person, association of persons, or corporation not the owner of any pipe-line, operating a lease or purchasing gas or oil under the provisions of this act; provided, that no right of way shall hereafter be granted over said lands for the transportation of oil or natural gas except under and subject to the provisions, limitations, and conditions of this section. Failure to comply with the provisions of this section or the regulations prescribed by the Surveyor General shall be ground for forfeiture of the grant by appropriate proceedings prosecuted in the superior court for the county in which the property, or some part thereof, is located; and provided, further, that all of the rights and privileges as are now, or as may hereafter be provided by law, respecting the acquisition of rights of ingress, egress and regress over the property of another, by proceedings in eminent domain, are hereby expressly given to a permittee or lessee so that such permittee or lessee may carry on the operations contemplated under the terms of this act.

Use of pipe line by State and others.

Forfeiture

Eminent domain

Stats. 1921, p. 411.

SEC. 7. Section 15 of the act cited in the title hereof is hereby amended to read as follows:

Assignment, transfer or sublease of lease or permit

Sec. 15. A lease or permit issued under the authority of this act may be assigned, transferred or sublet, with the consent of the Surveyor General, to any person, association of persons, or corporation which at the time of said proposed assignment, transfer or sublease possesses the qualifications provided in section 4 of this act. The lessee or permittee may, in the discretion of the Surveyor General, be permitted at any time to make written relinquishment of all rights under such a lease or permit and upon acceptance thereof be thereby relieved of all future obligations under said lease or permit, and may with like consent surrender any legal subdivision of the area included within the lease or permit. Each lease shall contain provisions for the purpose of insuring the exercise of reasonable diligence, skill, and care in the operation of said property; a provision that such rules for

Relinquishment and surrender

Provisions required in leases

CHAPTER 849, STATUTES 1935.

An act requiring licenses for the operation, maintenance or establishment of stores in this State, prescribing the license and filing fees to be paid therefor; providing for penalties for the violation of this act, providing for the enforcement of this act.

[Above and foregoing chapter delayed from going into effect by referendum provisions of Section 1, of Article IV, of the State Constitution (petition therefor with sufficient signatures having been filed with the Secretary of State) and will be voted on by the people at the next general election in November, 1936, or at any special election which may be called by the Governor, in his discretion, prior to such regular election.]

the safety and welfare of the miners and for the prevention of undue waste as may be prescribed by said Surveyor General shall be observed, including a restriction of the work day to not exceeding eight hours in any one day for underground workers except in cases of emergency; provisions prohibiting the employment of any boy under the age of sixteen or the employment of any girl or woman, without regard to age, in any mine below the surface; provision securing the workmen complete freedom of purchase; provision requiring the payment of wages at least twice a month in lawful money of the United States, and providing proper rules and regulations to insure the fair and just weighing or measurement of the coal mined by each miner, and such other provisions as he may deem necessary to insure the sale of the production of such leased lands to the public at reasonable prices, for the protection of the interests of the State, for the prevention of monopoly, and for the safeguarding of the public welfare

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CHAPTER 849.

An act requiring licenses for the operation, maintenance or establishment of stores in this State, prescribing the license and filing fees to be paid therefor; providing for penalties for the violation of this act, providing for the enforcement of this act.

[Approved by the Governor July 20, 1935. Delayed from going into effect by referendum.]

The people of the State of California do enact as follows:

SECTION 1. (a) The term "person" when used in this act shall include individuals, partnerships, trusts, associations, joint stock companies, corporations and firms however organized or whatever be the plan of operation. Definitions "Person"

(b) "Board" means the State Board of Equalization. "Board"

(c) The term "store" as used in this act, shall be construed to mean and include any store or stores, or any mercantile establishment or establishments which are owned, operated, maintained, or controlled by the same person, in which goods, wares or merchandise of any kind are sold at retail, provided, however, the term "store" shall not apply to any office or warehouse maintained by a manufacturer in the distribution of its merchandise if no orders therefor are taken and no sales thereof are made in the premises of such office or warehouse: and provided, further, that the term "store" shall not include any place or places of business commonly known as filling stations, or gasoline bulk plants, engaged primarily in the sale or distribution of gasoline or other petroleum products; and provided, further, the term "store" shall not apply to any branch, depot, warehouse, or other facility owned and "Store" Exemptions

maintained by a manufacturer of ice for distribution of his product to consumers. The provisions of this act shall not apply to establishments or facilities maintained as part of the transportation facilities of common carriers primarily for the furnishing of meals and other commodities to their passengers and employees. This act shall not be construed to apply to or include (a) any agricultural cooperative organization, operating under and by virtue of the laws of the State of California or of any other State or under the District of Columbia or under Federal statutes, or the agents, individual or corporate, of such organizations in the performance of their duties as such agents, except where stores operated by such organization or agent sell to nonmembers of such organization, nor shall it apply to or include (b) newspaper establishments who maintain as a part of their business branch offices for the distribution of their papers or for taking subscriptions for said newspapers or for advertisements for said newspapers; nor shall the provisions of this act apply to any shop, store, or establishment engaged in the sale of goods, wares or merchandise of any kind sold at retail which is merely incidental to the rendering of personal services.

(c) This act shall not be construed to apply to or include any place or places of business commonly known as theatres, motion picture theatres or cinemas.

License

SEC. 2. From and after the first day of October, 1935, it shall be unlawful for any person to operate, maintain, open or establish any store in this State without first having obtained a license so to do from the board as hereinafter provided.

Application for license

SEC. 3. Any person desiring to operate, maintain, open, or establish a store in this State shall apply to the board for a license so to do The application for a license shall be made on a form prescribed and furnished by the board, and shall set forth the name of the owner, manager, trustee, lessee, receiver or other person desiring such license; the name of such store, the location thereof and such other facts as the board may require.

If the applicant desires to operate, maintain, open or establish more than one such store he shall make a separate application for a license to operate, maintain, open or establish each such store, but the respective stores for which the applicant desires to secure licenses may all be listed on one application blank, and such application blank shall be deemed to be a separate application for each such store.

Fees

Each such application shall be accompanied by a filing fee of fifty cents and by a license fee as prescribed in section 6 of this act.

Return of application

SEC. 4. As soon as practicable after the receipt of such application the board shall carefully examine such application to ascertain whether it is in the proper form and contains the necessary and requisite information. If, upon examination, the board shall find that any such application is not in proper

form and does not contain the necessary and requisite information, he shall return such application for correction.

Issuance of license

If an application is found to be satisfactory, and if the filing and license fees, as herein prescribed, shall have been paid, the board shall issue to the applicant a license for each store for which an application for a license shall have been made.

Each licensee shall display the license so issued in a conspicuous place in the store for which such license is issued.

Renewal of license

SEC. 5. All licenses shall be so issued as to expire on the thirty-first day of December of each calendar year. On or before the first day of January of each year, every person having a license, shall apply to the board for a renewal license for the calendar year next ensuing. All applications for renewal licenses shall be made on forms which shall be prescribed and furnished by the board.

Lapse of license

No license shall lapse prior to the thirty-first day of January of the year next following the year for which such license was issued, but if, by such thirty-first day of January, an application for a renewal license has not been made, the board shall notify such delinquent license holder thereof, by registered mail, and if application is not made for and a renewal license issued on or before the last day of February, next ensuing, the former license shall lapse and become null and void.

Renewal fees

Each such application for a renewal license shall be accompanied by a filing fee of fifty cents and by the license fee as prescribed in section 6 of this act.

License fee

SEC. 6. Every person opening, establishing, operating or maintaining one or more stores within this State, under the same general management, supervision or ownership, shall pay the license fees hereinafter prescribed, for the privilege of opening, establishing, operating or maintaining such stores.

The license fee herein prescribed shall be paid for the calendar year in equal quarterly installments, payable quarterly in advance and shall be in addition to the filing fee prescribed in sections 3 and 5 of this act.

Store number one (1)—one (1) dollar, store number two (2)—two (2) dollars, store number three (3)—four (4) dollars, store number four (4)—eight (8) dollars, store number five (5)—sixteen (16) dollars, store number six (6)—thirty-two (32) dollars, store number seven (7)—sixty-four (64) dollars, store number eight (8)—one hundred twenty-eight (128) dollars, store number nine (9)—two hundred fifty-six (256) dollars, store number ten (10)—five hundred (500) dollars, and each and every store above this number—five hundred (500) dollars, for each such store.

License for part year

SEC. 7. Each and every license issued prior to the first day of July of any year, shall be charged for at the full rate, and each and every license issued on or after the first day of July of any year, shall be charged for at one-half of the full rate as prescribed in section 6 of this act.

Application of act.

SEC. 8. The provisions of this act shall be construed to apply to every person, firm, corporation, association or copartnership, either domestic or foreign, which is controlled or held with others by a majority stock ownership or ultimately controlled or directed by one management or association of ultimate management.

Penalties

SEC. 9. Any person, firm, corporation, copartnership or association who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than two hundred dollars and each and every day that such violation shall continue, shall constitute a separate and distinct offense.

Enforcement of act.

SEC. 10. The board shall administer and enforce the collection of the filing and licensing fees imposed by this act. It may make and establish such rules not inconsistent with this act as it deems necessary to enforce its provisions. It shall prepare forms or applications and licenses as provided herein.

Disposition of moneys

SEC. 11. All moneys collected under this act by the board shall be transmitted forthwith to the State Treasurer to be deposited in the State treasury to the credit of the general fund.

Action to collect delinquent fee.

SEC. 12. At any time within two years after the delinquency of any license fee the board may bring an action in a court of competent jurisdiction in the name of the people of the State of California to collect the amount delinquent together with interest thereon at one per cent per month from the date such fee was due. The Attorney General must prosecute such action and the provisions of the Code of Civil Procedure relating to service and summons, pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for. In such action a writ of attachment may issue and no bond or affidavit previous to the issuing of said attachment is required.

Constitutionality

SEC. 13. If any section, subsection, sentence, clause or phrase of this act be for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act, and the Legislature hereby declares that it would have passed this act and each and every other section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases of this act be declared unconstitutional.

CHAPTER 850.

Stats 1931, p 1442, amended

An act to amend sections 5, 13, 65, 78, 83, 85, 86, 100, 101 and 109 of, and to add sections 28a, 65a, 65b, 65c, 65d, 83a, 85a, 100a and 100b to an act entitled "An act to provide for the creation, establishment, and adjustment with other such systems, of a retirement system for employees of the State

of California, and make an appropriation therefor," approved June 9, 1931, relating to retirement of members of the California Highway Patrol.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 5 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1931, p. 1442.

Sec. 5. "Member" shall mean any person included in the membership of the retirement system set forth in sections 26, 27, 28 and 28a, and not excluded in sections 29 to 40, inclusive, of this act; "Member."

SEC. 2. Section 13 of said act is hereby amended to read as follows: Stats 1931, p. 1443

Sec. 13. "Compensation earnable" by a member shall mean the average monthly compensation as determined by the board upon the basis of the average time put in by members in the same group or class of employment and at the same rate of pay, it being assumed that during any absence said member was in the position held by him at the beginning of the absence and that prior to entering State service he was in the position first held by him in such service, but such "compensation earnable" shall not exceed four hundred sixteen dollars and sixty-six cents cents per month. "Compensation earnable"

SEC. 3. A new section is hereby added to said act to be numbered section 28a and to read as follows: New section

Sec. 28a. Persons who are members of the California Highway Patrol become and remain members of the retirement system in the same manner as in the case of other eligible State officers or employees, except that when any such person is disabled or killed by injury or illness arising out of and in the course of such duties, such person, in respect to such disability or death, is deemed a member of the retirement system while in State service prior to the completion of the six months of service referred to in section 27, to the same extent as if such six months of service was completed prior to such disability or death. Highway Patrol members

"Member of the California Highway Patrol," for the purpose of the retirement system, includes persons employed in the Motor Vehicle Department whose principal duties consist of active law enforcement service and excludes such persons whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise clearly not falling within the scope of active law enforcement service, even though such person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service. "Member of the California Highway Patrol" defined

SEC. 4. Section 65 of said act is hereby amended to read as follows: Stats. 1931, p 1448

Normal rates of contribution

Sec. 65. The normal rates of contribution of members, other than members of the California Highway Patrol, shall be based on sex and age at the nearest birthday at the time of entrance into the retirement system. The normal rates of contribution shall be such as will provide an average annuity at age sixty-five equal to one one-hundred-fortieth of the final compensation of members, according to the tables adopted by the board, for each year of service rendered after entering the system.

New section

SEC. 5. A new section to be numbered section 65a is hereby added to said act to read as follows:

Contribution by Highway Patrol members

Sec. 65a. The normal rates of contribution of each member, who is also a member of the California Highway Patrol, shall be based on his age at July 1, 1935, or at his later entrance into the retirement system, and his age when he became a member of the said patrol, both ages being taken to the next lower completed quarter year. The age at entrance into the California Highway Patrol shall be determined by deducting the total State service in said patrol credited to the member at July 1, 1935, from his age at that date. The normal rates of contribution of each such member who became a member of the said patrol at or below age forty-five shall be such as, on the average for such member, if his service on full salary be uninterrupted and when accumulated with regular interest, added to the equal accumulated contributions of the State and applied according to the tables adopted by the board, will provide a retirement allowance upon retirement for service at the age of sixty years, or upon completion of twenty years of service at an age higher than sixty years, equal to one-half of his final compensation, less that part of the retirement allowance set forth in section 83a, which is to be provided by contributions of the State on account of service rendered prior to January 1, 1932, if such member affirmatively exercises the option in section 65d; otherwise, less a pension calculated in the same manner as the pension in section 83a, but on the basis of service rendered by him in the California Highway Patrol prior to July 1, 1935. If such member entered the said patrol at an age greater than forty-five years, then his normal rate of contribution shall be such as will provide an average annuity at age sixty-five equal to one-eightieth of his final compensation, according to tables adopted by the board, for each year of service after July 1, 1935, or after entrance into the retirement system if he affirmatively exercises the option in section 65d.

New section

SEC. 6. A new section is hereby added to said act to be numbered section 65b and to read as follows:

Accumulated contributions Transfer in State service

Sec. 65b. If a member ceases to be a member of the California Highway Patrol and continues to be a member of the retirement system in a different employment status, or if the reverse be true, then the accumulated contributions standing to his credit or redeposited by him shall remain in his individual account, and the rate of his contribution thereafter

shall be the normal rate provided in section 65c for persons in his new group or class of employment and at his age when he first became a member, subject to section 76 hereof in the event he did not redeposit accumulated contributions withdrawn from the system.

SEC. 7. A new section to be numbered 65c is hereby added to said act to read as follows: New section

Sec. 65c. The actual amount of annuity receivable by any member upon retirement shall be the actuarial equivalent of his accumulated contributions, as provided in section 81. Until revised as a result of the actuarial valuation provided for in section 51, the rate of contribution of each member shall be that percentage of his compensation shown in the following tables according to age and sex at the time of entry into the retirement system: Retirement annuity Rate of contribution

(a) For members other than members of Highway Patrol: Members other than Highway Patrol

Age of entry into system	Percentage of contribution, male	Percentage of contribution, female
16	2.62	2.77
17	2.63	2.79
18	2.64	2.81
19	2.66	2.84
20	2.68	2.88
21	2.70	2.92
22	2.73	2.97
23	2.77	3.02
24	2.81	3.08
25	2.85	3.14
26	2.89	3.20
27	2.93	3.26
28	2.98	3.33
29	3.03	3.40
30	3.09	3.47
31	3.14	3.54
32	3.20	3.61
33	3.26	3.69
34	3.32	3.77
35	3.39	3.85
36	3.46	3.94
37	3.53	4.02
38	3.60	4.11
39	3.68	4.20
40	3.75	4.29
41	3.83	4.38
42	3.91	4.48
43	3.99	4.57
44	4.08	4.67
45	4.17	4.77
46	4.26	4.87

Age of entry into system	Percentage of contribution, male	Percentage of contribution, female
47	4.35	4.98
48	4.44	5.08
49	4.53	5.19
50	4.63	5.30
51	4.73	5.41
52	4.83	5.52
53	4.93	5.64
54	5.04	5.75
55	5.14	5.87
56	5.25	5.99
57	5.36	6.11
58	5.47	6.24
59	5.58	6.36
60	5.69	6.49
61	5.80	6.62
62	5.92	6.75
63	6.04	6.89
64	6.16	7.02

New section

SEC. 8. A new section is hereby added to said act to be numbered section 65d and to read as follows:

Rate of contribution Highway Patrol

Sec. 65d. The rates of contribution shown in section 65c for members of the California Highway Patrol shall apply on and after July 1, 1935. Each of such members, however, shall have the option of contributing a sum sufficient to make the amount of the accumulated contributions standing to his credit on that date the same as such amount would have been had he been contributing at the rate, from and after the effective date of his membership in the retirement system, which would have applied to him at such effective date if said rates for the Highway Patrol had been then in effect. If such option is affirmatively exercised, then the rate of contribution for such member on and after July 1, 1935, shall be based on his age at such effective date and his age at the date of entrance into the Highway Patrol.

Stats. 1931, p. 1452.

SEC. 9. Section 78 of said act is hereby amended to read as follows:

Retirement age

Sec. 78. From and after January 1, 1933, until January 1, 1937, every member shall be retired on the first day of the calendar month next succeeding that in which he attains the age of seventy-five years. On or after January 1, 1937, every member who is also a member of the California Highway Patrol, and who at that time has attained the age of sixty-five years shall be retired forthwith, and thereafter every such member must be retired on the first day of the calendar month next succeeding that in which he attains the age of sixty-five years. On and after January 1, 1937, every other member who at that time has attained the age of seventy years shall be retired forthwith, and thereafter every such other member

must be retired on the first day of the calendar month next succeeding that in which he attains the age of seventy years.

SEC. 10. Section 83 of said act is hereby amended to read as follows: Stats 1933, p. 1242.

Sec. 83. An additional pension for members other than members of the California Highway Patrol, purchased by the contributions of the State. Such additional pension shall be equal to one-seventieth of the average annual compensation earnable by him during the three years ending December 31, 1931, multiplied by the number of years of prior service credited to him, except that if a member retires before attaining the age of sixty-five years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age sixty-five, will purchase at the actual age of retirement. Additional pension Other than Highway Patrol

SEC. 11. A new section is hereby added to said act to be numbered section 83a and to read as follows: New section

Sec. 83a. An additional pension for members who are also members of the California Highway Patrol, purchased by contributions of the State. Such additional pension shall be the same percentage of his final compensation, regardless of his age at retirement, for each year of service rendered by him in the California Highway Patrol, prior to January 1, 1932, as the contributions of the member and the State are calculated to provide upon retirement for service at sixty years of age or upon completion of twenty years of service at an age higher than sixty years or upon retirement with less than twenty years of service at age sixty-five, for each year of service after said date. Same Highway Patrol

SEC. 12. Section 85 of said act is hereby amended to read as follows: Stats. 1931, p. 1453.

Sec. 85. Any member who is also a member of the California Highway Patrol shall be retired for disability regardless of age or amount of service, if incapacitated for the performance of duty as the result of an injury or disease arising out of and in the course of his employment. Incapacity for performance of duty shall be determined by the Board of Administration, but the Industrial Accident Commission shall determine, in the same manner as for all other State employees, whether such incapacity is the result of injury or disease arising out of and in the course of employment. Any such member incapacitated for the performance of duty by reason of a cause not included in the immediately preceding sentence, and any other member so incapacitated, regardless of the cause, shall be retired regardless of age but only after ten years of service to the State. Retirement for disability: Highway Patrol

SEC. 13. A new section is hereby added to said act to be numbered section 85a and to read as follows: New section

Sec. 85a. Subject to the requirements as to service and cause of disability stated in section 85 and upon the application of a member or upon the application of the head of the office or department in which such member is or was last Physical examination

employed, or any other person on behalf of such member, while such member is in State service, within four months after such member's discontinuance of State service, or while such member continuously, from the date of discontinuance of State service to the time of the application or motion, is physically or mentally incapacitated to perform his duties, may apply for, or the board upon its own motion may order, a medical examination to determine the existence of such incapacity. Upon the receipt of such application, the board shall order such medical examination. If the medical examination shows to the satisfaction of the board, that the member is permanently incapacitated physically or mentally for the performance of his duties in the State service, the board shall forthwith retire the member for disability. The board shall secure such medical service and advice as is necessary to carry out the purpose of this section and of sections 90 to 94, inclusive, of this act, and shall pay for such medical services and advice such compensation as the board deems reasonable.

Medical assistance

Stats 1931, p 1453

SEC. 14. Section 86 of said act is hereby amended to read as follows:

Retirement allowance

Sec. 86. Upon retirement for disability, a member who is not a member of the California Highway Patrol and who has attained the age of sixty years shall receive a service retirement allowance as provided in sections 81 to 83a, inclusive, of this act. Upon retirement of a member, who is also a member of the said highway patrol, for disability resulting from injury or disease arising out of and in the course of employment, such member shall receive a retirement allowance of fifty per centum of his final compensation or, if he qualified as to age and service for service retirement under section 79, then such member shall receive a service retirement allowance as provided in sections 81 to 83, both inclusive. The allowance shall be provided by the contributions of the member and of the State in the same manner but not in the same amounts as is set forth in sections 87 and 88 for other disability retirement. Every other member retired for disability shall receive a retirement allowance which shall consist of:

Stats 1933, p 1243

SEC. 15 Section 100 of said act is hereby amended to read as follows:

Death in service, etc

Sec. 100. Upon the death before retirement of a member while in the State service, or within four months after the discontinuance of State service, or while physically or mentally incapacitated for the performance of his duty, if such incapacity has been continuous from discontinuance of State service, the retirement system shall be liable for a death benefit, which, if an amount is due under clause (3) next following, and if there is a surviving wife or surviving children, shall be paid in monthly installments and to the surviving wife and children as prescribed therein, otherwise such death benefit shall be paid to his estate, or to such person having an insurable interest in his life as he has nominated by written designation

duly executed and filed with the retirement board. Such death benefit shall consist of:

Death benefit

(1) His accumulated contributions, and in addition thereto.

(2) An amount, provided from contributions by the State, which shall be equal to one-twelfth of the annual compensation earnable by the deceased during the twelve months immediately preceding his death, multiplied by the number of completed years of service under the system, but not to exceed fifty per centum of such compensation.

If such member is a member of the California Highway Patrol and if, as determined by the Industrial Accident Commission in the same manner as for all other State employees, death shall be the result of injury or disease arising out of and in the course of employment, then in addition to the amounts set forth in clauses (1) and (2), there shall be paid

Highway Patrol Additional death benefit.

(3) An amount sufficient, when added to the amounts provided in the next preceding paragraphs (1) and (2), to provide, when applied according to tables adopted by the board, a monthly death benefit allowance, equal to one-half of the compensation earnable by such member during the five years immediately preceding his death, to be paid to the surviving wife to whom said member was married prior to sustaining the said injury, to continue as long as she shall live or until her remarriage; or if there is no widow, or if the widow dies before all children of such deceased member attain the age of eighteen years, then to his child or children under said age collectively, to continue until every child dies or attains said age. If payment of the allowance is stopped because of remarriage of the widow or attainment of the age of eighteen years by a child, before the sum of the monthly payment made equals the sum of the amounts provided in the next preceding clauses (1) and (2), then an amount equal to the difference between said sums shall be paid in one amount to the remarried widow, or if there is no widow, to the surviving children of the deceased member, share and share alike.

Remarriage of widow, etc

SEC. 16. A new section is hereby added to said act to be numbered 100a and to read as follows:

New section

Sec. 100a. A person, while a member or after retirement, shall have the right to revoke the nomination of a beneficiary made by him under the retirement system, and to nominate a beneficiary in lieu thereof, all by written designation duly executed and filed with the retirement board, provided that this right shall not extend to beneficiaries nominated under options 2, 3, and 4 in sections 97, 98 and 99 of this act, nor shall it extend to dependents designated as beneficiaries by this act to receive benefits payable on account of death or disability arising out of and in the course of employment.

Beneficiaries Renomination

SEC. 17. A new section is hereby added to said act to be numbered 100b and to read as follows:

New section

Sec. 100b. The board of administration, in the event that the whereabouts of the nominated beneficiary can not be determined, or in the event that the nominated beneficiary be the

Funeral expenses

estate of the deceased person, may pay to the undertaker who conducted the funeral in its discretion all or a portion of the amount payable under this section 100, but not to exceed the funeral expenses of such deceased person as evidenced by the sworn itemized statement of the undertaker and by such other documents as the board may require. Said payment shall be full and complete discharge and acquittance of the amount payable under this section up to the amount so paid, anything in this act to the contrary notwithstanding.

Stats 1931, p. 1456

SEC. 18. Section 101 of said act is hereby amended to read as follows:

Effect of workmen's compensation, etc., laws.

Sec. 101. No modification of the benefits provided in other sections of this act shall be made on account of any amounts payable to a beneficiary as defined herein under the workmen's compensation insurance and safety laws of the State of California. For the purposes of said laws and of this retirement act, acts performed in public police and not private capacity by members of the California Highway Patrol in preserving the peace, preventing injury to life and property, suppressing crime or disorder, and apprehending criminals shall be considered within their employment notwithstanding any provision in State law to the contrary. Members of the said patrol, however, shall be subject to the sections of said compensation law providing disability indemnity, only if the disability arising out of and in the course of employment shall be temporary. No disability indemnity shall be paid to or on account of members of the California Highway Patrol, for time after the date of retirement under the provisions of this act.

Stats. 1933, p. 1245

SEC. 19. Section 109 of said act is hereby amended to read as follows:

Appropriation: From special funds

Sec. 109. In addition to such payments from the general fund, there shall be paid monthly, from and after the date this act takes effect, into the State employees' retirement fund out of the motor vehicle fund a sum equal to eight and forty one-hundredths per centum of the total compensation paid from said fund to members of the retirement system who also are members of the California Highway Patrol and out of said motor vehicle fund and every other fund directly controlled by the State, out of which the compensation of members is paid, a sum equal to three and twenty-five one-hundredths per centum of the total compensation paid members, other than members of the said highway patrol, of the retirement system from the said fund. All such payments, whether heretofore or hereafter made are hereby validated and confirmed. The board of administration shall certify to the State Controller at the end of each month the total amount of compensation paid such members of the retirement system from each such fund and the State Controller shall thereupon transfer the percentages as specified in this section, of said total amount from each such fund, respectively, to the "State employees' retirement fund." If any member of the said highway patrol shall affirmatively exercise the option in section 65d, the Controller shall transfer

into the said retirement fund from the motor vehicle fund upon certification by the board of administration of the total compensation received by said member for service as a member of the retirement system rendered prior to July 1, 1935, three and ninety one-hundredths per centum of said total compensation.

CHAPTER 851.

An act to amend sections 737j and 737bbb of the Political Code, relating to salaries of superior court judges.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. Section 737j of the Political Code is hereby amended to read as follows: Stats 1933, p 978

737j. The annual salary of each of the judges of the superior court in and for the county of Fresno is seven thousand dollars. Superior judges: Fresno County.

SEC. 2. Section 737bbb of the Political Code is hereby amended to read as follows: Stats 1933, p. 2055

737bbb. The annual salary of each of the judges of the superior court in and for the county of Tulare is six thousand dollars. Tulare County

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CHAPTER 852.

An act to add a new section to the Code of Civil Procedure to be numbered 349¾, relating to the limitation of the time within which actions, for trespass, use or occupancy of real property by oil or gas wells, and for damages by reason thereof, and for the conversion or for the taking or removing of oil, gas or other liquid or fluids by means of any such well, may be commenced, fixing the measure of damages in certain of such cases, and defining oil and gas for the purposes of this act.

[Approved by the Governor July 20, 1935. In effect September 15, 1935.]

The people of the State of California do enact as follows:

SECTION 1. A new section to be numbered 349¾ is hereby added to the Code of Civil Procedure to read as follows: New section

349¾. Within one hundred eighty days: Actions which must be commenced in 180 days

(a) An action to enjoin, abate, or for damages on account of, an underground trespass, use or occupancy, by means of a well drilled for oil or gas or both from a surface location on land other than real property in which the aggrieved party has some right, title or interest or in respect to which the aggrieved party has some right, title or interest.

(b) An action for conversion or for the taking or removing of oil, gas or other liquid, or fluids by means of any such well.

When cause of action accrues

When any of said acts is by means of a new well the actual drilling of which is commenced after this section becomes effective, and such act was knowingly committed with actual intent to commit such act, the cause of action in such case shall not be deemed to have accrued until the discovery, by the aggrieved party, of the act or acts complained of; but in all other cases, and as to wells heretofore or hereafter drilled, the cause of action shall be deemed to have accrued ten days after the time when the well which is the subject of the cause of action was first placed on production.

Only one cause of action

Notwithstanding the continuing character of any such act, there shall be but one cause of action for any such act, and the cause of action shall accrue as aforesaid.

Measure of damages

In all cases where oil or gas has been heretofore or is hereafter extracted from any existing or subsequently drilled well in this State, by a person without right but asserting a claim of right in good faith or acting under an honest mistake of law or fact, the measure of damages, if there be any right of recovery under existing law, shall be the value of the oil or gas at the time of extraction, without interest, after deducting all costs of development, operation and production, which costs shall include taxes and interest on all expenditures from the date thereof.

Applicable to existing causes of action

This section shall apply to causes of action existing when this section becomes effective The time for commencement of existing causes of action which would be barred by this section within the first one hundred eighty days after this section becomes effective, shall be the said first one hundred eighty days.

"Oil" and "gas" defined

Whenever the term "oil" is used in this section it shall be taken to include "petroleum," and the term "gas" shall mean natural gas coming from the earth.

Exceptions.

The limitations prescribed by this section shall not apply to rights of action or actions to be brought in the name of or for the benefit of the people of this State, or of any county, city and county, city or other political subdivision of this State.

Declaration of policy

SEC. 2. It is declared that it is common knowledge that there are thousands of oil and gas wells, of varying age, within this State, which are not wholly within land owned, leased or otherwise controlled by the past or present owner or operator of the well; that many such wells were drilled without intent so to invade the land of another; that until recent years there was no way for determining even approximately the subsurface location of the well; that now it is difficult and expensive to determine by any method of subsurface directional survey even the approximate subsurface location of the well, and in cases of many producing wells, to make such survey may jeopardize the well and its ability to produce; that in many instances wells could not have been drilled and hereafter can

not be drilled without some material deviation from the vertical; that the producing of most and perhaps all such wells has been and will be of great public benefit; that the possibility of commencement of large numbers of said causes of action, excepting where the acts hereafter are committed knowingly and intentionally as aforesaid, has brought great and undesirable confusion and uncertainty in the oil industry, may cause terrific financial distress and unemployment, and may cause the premature abandonment and prevent the full use of many wells, all contrary to true conservation of oil and gas; that the people have a public interest in removing said hazard and precluding said confusion, uncertainty, distress and unemployment, without doing violence to private rights; that vigilant persons can protect their rights within said one hundred eighty days; that public policy and the welfare of the people require the reduction of the time for commencement of such causes of action and that said one hundred eighty days is deemed reasonable; that public policy and the welfare of the people require the measure of damages to be as above provided, in all cases where the invasion of the rights of another person has heretofore been or shall hereafter be by reason of any honest mistake of law or fact, either by the departure of a well from the vertical or otherwise.

Constitutionality

SEC. 3. If any section, subsection, sentence, proviso, clause or phrase of this act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, proviso, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, provisos, clauses or phrases be declared unconstitutional.

CHAPTER 853.

An act to amend sections 3454 and 3455 of and to add sections 3454a and 3454b to the Political Code, relating to reclamation districts, declaring the urgency thereof and providing that this act shall take effect immediately.

[Approved by the Governor July 20, 1935. In effect immediately.]

The people of the State of California do enact as follows:

Stats. 1925, p. 269

SECTION 1. Section 3454 of the Political Code is hereby amended to read as follows:

Powers of trustees

3454. (a) Said board of trustees shall have powers and duties as follows, to wit:

Office.

(1) To keep an office in or near the district for the transaction of the business thereof, and the books, maps, papers, rec-

Inspection of records

ords, contracts, and all other documents pertaining to the affairs of the district must be open to inspection at all times by any person interested.

President

(2) To elect one of its members president of said board of trustees.

Secretary

(3) To elect one of its members or any other person secretary of said board of trustees. It shall be the duty of the secretary to have charge of the office of the board of trustees and to keep the minutes of all meetings and to attest all documents requiring the signature of the president and to keep true and accurate accounts of all expenditures made in behalf of said district, which accounts, and all contracts that may be made by the said board of trustees shall be open to the inspection of the board of supervisors and every person interested.

Money from reclamation board

(4) To receive from the reclamation board any money allowed on account of uncollected assessments previously levied on lands purchased by said board for rights of way, and to distribute said money among the land owners of said district in proportion to their payments on the last assessment roll or place the same in the county treasury to the credit of said district.

Revolving fund

(5) To create by order duly entered in the minutes of the board of trustees a revolving fund. No warrant for creation or replenishment of this fund shall be paid by the county treasurer unless a bond in double the amount of said fund, signed by the members of the board of trustees with sureties and conditioned as security for the safety and proper disbursements of said fund, approved by the board of supervisors, shall be on file with the county treasurer. Said fund shall be disbursed by checks or drafts, signed by at least two members of the board of trustees, or some person by unanimous vote of the board of trustees authorized to do so. The board of trustees shall within thirty days after any payment from this fund file the vouchers therefor in the office of the county treasurer retaining a duplicate thereof in the office of the secretary of the board of trustees. The board of trustees shall have authority by order entered in the minutes of said board to issue warrants for the creation and replenishment of said fund. No warrant for the replenishment of said fund shall be approved by the board of supervisors or paid by the county treasurer, except to the extent that proper vouchers for previous legal disbursements from said fund have been filed with the county treasurer as hereinbefore provided. Said fund shall not exceed the sum of two thousand dollars. The order creating said revolving fund must receive the unanimous vote of the board of trustees.

Improper disbursements

Any land owner within the district may maintain an action for the benefit and in behalf of the reclamation district in the superior court of the county in which the district, or any part thereof is situated against any member or members of the board of trustees for any improper disbursements of the funds of the district made with his or their consent and also against

the members of the board of trustees and their sureties upon the said bond for any improper disbursement from said revolving fund.

(6) To employ engineers and others to survey, plan, locate and report on the works necessary for the reclamation of the lands of the district, and estimate the cost thereof; thereafter, at any time, modify or change such original plan or plans, or adopt new, supplemental, or additional plan or plans, when, in its judgment, the same shall become necessary. Engineers, etc

(7) To acquire, take, or hold for and in the name of the district, by purchase, condemnation, gift, lease or other legal means, whatever real or personal property, rights of way, materials or labor that it shall deem necessary for the construction of the works of reclamation or necessary or useful in connection with carrying out the original plan or plans of reclamation or any supplemental or additional plan of reclamation. Property, rights of way, etc

(8) To acquire, take, or hold in the name of the district, by purchase, condemnation, gift, lease or other legal means, and to construct, maintain and operate such drains, canals, sluices, bulkheads, water gates, levees, embankments, pumping plants, dams, diversion works, water rights or works of irrigation, and all things reasonably necessary or convenient for the reclamation of the lands embraced in said district either within or without the boundaries of the district. Drains, canals, sluices, etc

(9) To employ such labor, and to purchase and operate or hire such tools, machinery, material and equipment and to make and enter into such contracts and agreements as they shall deem necessary in order to accomplish the proper construction, maintenance, repair or operation of the works of reclamation of the said district. Tools and machinery

(10) To sell, convey, transfer, lease to others or otherwise dispose of such real or personal property belonging to the said district which said board of trustees shall find no longer necessary for the construction, maintenance or operation of the works of reclamation of said district; also to lease to others or to operate for hire any tools or machinery belonging to the said district which is not at the time needed by the district. Disposal of property

(11) To commence proceedings in the superior court of the county where the greater portion of the district is situated to determine the legality of the existence of such district in the manner provided by section 3453 of this code. Legality of district

(12) To distribute, among the land owners of the district, after having first provided by order duly entered in their minutes, any funds in the treasury belonging to said districts and not needed for the purposes of reclamation, such distribution to be made among the several land owners in the said district in proportion as said owners were assessed on the last assessment made by said district. Distribution of surplus funds

(13) To report to the supervisors every original plan, and every new, supplemental or additional plan for the reclama- Report of plans

tion of the lands within said district in the manner provided by section 3455 of this code.

Cancellation of warrants

(14) To cancel all warrants of the district not paid within four years after date of issuance unless the payment thereof is extended in the manner provided by section 3457 of this code.

Collection of assessments

(15) To perform such duties with respect to the collection of assessments as is provided by section 3466 of this code.

Bond elections

(16) To perform such duties with respect to the calling of bond election and the issuance of bonds as is provided in section 3480.

Reapportionment of assessments

(17) To reapportion the assessment or assessments upon any tract of land that has been subdivided into smaller parcels in such manner as will charge each of said smaller parcels with a just proportion of the assessment or assessments previously made upon said tract so subdivided, in the manner provided by section 3460 hereof.

Supervision over works

(18) To exercise a general supervision and complete control over the construction, maintenance and operation of the works of reclamation and generally over the affairs of the district.

Seal.

(19) To provide a seal which shall contain the number of the district and the county in which the lands or the greater portion thereof are located and all documents requiring the approval by the board of trustees shall hereafter bear the seal of the district.

General powers.

(20) And to do and perform all acts and things which the said trustees may deem advisable, necessary or convenient for constructing, maintaining, or operating the works of reclamation, or accomplishing the purposes for which said reclamation district was formed.

Compensation of trustees

(b) The several members of the board of trustees shall each be entitled to receive such compensation for services actually and necessarily performed as the said board of trustees may determine to be just and reasonable, and shall be reimbursed for such expenses as they may necessarily incur in the performance of their said duties as trustees. All claims by or in behalf of trustees for services rendered or expenses incurred shall be presented to the board of trustees, and if allowed shall be paid in the same manner as other indebtedness of the district, but no warrants drawn in favor of a trustee shall be valid until approved by the board of supervisors of the proper county. No trustee shall be disqualified from participating in any and all proceedings of the board of trustees, excepting that he shall not cast the deciding vote upon a motion or resolution awarding a contract in favor of himself or in which he is directly or indirectly interested.

Award of contract in which trustee interested

Regular meetings

(c) All meetings of the board of trustees at which all trustees are present or of which all members of said board of trustees shall have received notice in writing of such meeting at least one day prior to the time set for such meeting to con-

vene shall be deemed a regular meeting at which any business may be transacted.

SEC. 2. Section 3455 of the Political Code is hereby amended to read as follows: Stats 1919, p. 604

3455. If and when any such district is located, in whole or in part, within the Sacramento and San Joaquin drainage district; Districts within Sacramento and San Joaquin drainage district

(1) The board of trustees of such reclamation district must report to the board of supervisors of the county within which the district, or the greater part thereof, is situate, by filing, with the county clerk of said county, three copies of the original plan or plans of the works of reclamation and three copies of every new, supplemental, or additional plan, if any, together with the estimates of the cost of the contemplated works of the district, including incidental expenses, maintenance and repair necessary for the reclamation of the lands of the district in pursuance of any such plan or plans. The term "works of reclamation" as used in this chapter shall include not only such public works and equipment, as are necessary for the unwatering of lands in reclamation districts, but shall also include such like works as may be necessary to water or irrigate the same lands in such districts. Plans to be reported to supervisors

(2) Within five days after said three copies of such plans and estimates are filed with him, the said county clerk shall certify two of said copies and transmit the same to the secretary of the reclamation board. Two copies to be certified

(3) Upon receipt of said certified copies of said plan or plans, the secretary of the reclamation board shall immediately set a date when the reclamation board will hold a meeting for considering objections, if any, to said plans. All such hearings by the said reclamation board shall be held not less than twenty, nor more than sixty days after the day the secretary of the reclamation board received the certified copies of the said plans. Notice of said hearing before the said reclamation board shall be given by the secretary of said board by publishing a notice of such hearing once a week for two weeks in some newspaper of general circulation published within said district or, if there be no such newspaper so published, then in the county seat of the county within which the said district or the greater part thereof, is situate. Said notice shall be in substantially the following form: Hearing upon objections Notice

"Notice to the land owners of reclamation district _____. Notice is hereby given to the land owners of reclamation district number _____ that there has been filed with the county clerk of the county of _____ and with the secretary of the reclamation board, original (supplemental or new, as the case may be) plans for the reclamation of lands of said district; that the reclamation board will hold a meeting at its office in the city of Sacramento, county of Sacramento, State of California, on the _____ day of _____, A D. 19___, at _____ o'clock, at which time any interested party may appear and object to the said plans." Form of notice

Action on plans at hearing

(4) At said hearing the reclamation board shall hear such evidence as may be offered with respect to said plans, and thereafter shall approve, modify, amend or reject the said plans; provided, however, that the said reclamation board shall not have the power to modify, amend or reject any plans so submitted on the ground that said plans provide for a levee which in their judgment is of excessive strength either in height, slopes or crown width; but no claim for compensation shall thereafter be made against the reclamation board or the Sacramento and San Joaquin Drainage District for any part of such levees which said board may consider to be in excess of what is required to comply with its plans for flood control. The reclamation board shall have power to continue or adjourn the said hearing from time to time and shall have authority to cause such investigation and report of said plans to be made by the engineers connected with the reclamation board or by such other competent authority as said board shall deem necessary.

Action to be final

(5) When the said reclamation board shall have taken action approving, modifying, or rejecting any such original, supplemental or new plan of reclamation after a hearing as herein provided, such action shall be final, and thereafter the sufficiency of said plans shall not be subject to attack either before the reclamation board or in any court; provided, however, that nothing herein contained shall prevent the board of trustees of any district from at any time filing with the county clerk of the county within which the district, or the greater part thereof, is situate, three copies of any amendatory, additional or supplemental plan of reclamation. In the event any such amendatory, additional or supplemental plan of reclamation is filed with the said clerk, two certified copies thereof shall be transmitted to the secretary of the reclamation board, who shall set the time for hearing, and thereafter the same proceedings shall be had and with like effect with respect to said amendatory, additional or supplemental plan as is herein provided for the original plan.

Districts outside Sacramento and San Joaquin drainage district

(b) If and when neither the whole nor any part of such district is situate within the boundaries of the Sacramento and San Joaquin Drainage District;

Plans to be reported to supervisors

(1) The board of trustees of such reclamation district must report to the board of supervisors of the county in which the district, or the greater part thereof is situate, by filing with the county clerk of said county two copies of every new, supplemental, or additional plan, if any, together with estimates of the cost of the contemplated works of the district, including incidental expenses, maintenance and repairs, necessary for the reclamation of the lands of the district in pursuance of any such plan.

Appointment of commissioners

(2) Thereupon the board of supervisors of such county must appoint three commissioners, who shall have no interest in any real estate within said district, each of whom, before entering upon his duties, shall make and subscribe an oath

that he is not in any manner interested in any real estate within said district, directly or indirectly, and that he will perform the duties of a commissioner to the best of his ability. Said commissioners must view and assess upon the land within said district said sum so estimated and shall apportion the same according to the benefits that will accrue to each tract of land in said district, respectively, by reason of the expenditures of said sums of money, and shall estimate the same in gold coin of the United States. The same must be collected and paid into the county treasury as hereinafter provided, and be placed by the treasurer to the credit of the district, and paid out for the works of reclamation upon the warrants to the trustees, approved by the board of supervisors, or, if bonds of such district have been issued upon said assessment, then said treasurer shall set the same apart as a separate fund for the purpose of paying the principal and interest of such bonds, and shall not pay any part of the moneys received from such assessment for any purpose other than the payment of the principal and interest of such bonds.

To view and assess land

(c) Any of the said plan or plans and estimates may include any levees or other reclamation works already constructed or in course of construction and payments therefor may be made to the person or persons who constructed the same or to the grantee of the lands for the benefit of which such levees or other works of reclamation were constructed by the owner of such lands, and no trustee shall be disqualified to make or approve such plans or estimates because of his ownership of any levee or other reclamation works included in such plan, or the cost of which is embraced in said estimates but he shall be disqualified to vote for the issuance of any warrant or order to himself in payment therefor. Any of the said plan or plans and estimates may include any system or works of irrigation which the district is empowered to acquire, take or hold by purchase, condemnation, gift, lease or other legal means as provided herein.

What plans may include

SEC. 3. A new section is hereby added to the Political Code to be numbered 3454a and to read as follows:

New section

3454a. Any reclamation district shall have the power to acquire, take or hold by gift, purchase, conditional sales contract, lease, condemnation or other legal means and to maintain and operate the whole or any part of any irrigation system, public or private, through which any lands in the district and lands contiguous to the district have been or may be supplied with water for irrigation, including water rights, dams, diversion works, rights of ways, canals, pumps and all property or things, real or personal, incidental thereto, and upon the payment of and compliance with such tolls and rates and rules and regulations as the board of trustees may adopt, to furnish through such system of irrigation or the works of irrigation of the district, water for irrigation of lands contiguous to the boundaries of the district, but not included therein, where such contiguous lands have been or may be

Irrigation system

Water for lands contiguous to district

furnished such water through such canals or ditches as have been or may be used for the irrigation of lands within the district.

New section

SEC. 4. A new section is hereby added to the Political Code to be numbered 3454b and to read as follows:

Water for lands within district.

3454b. Any reclamation district shall have the power to acquire, take or hold by gift, purchase, conditional sales contract, lease, condemnation or other legal means and to maintain and operate the whole or any part of any irrigation system, public or private, through which any lands in the district have been or may be supplied with water for irrigation, including water rights, dams, diversion works, rights of ways, canals, pumps and all property or things, real or personal, incidental thereto, and upon the payment of and compliance with such tolls and rates and rules and regulations as the board of trustees may adopt to furnish through such system of irrigation or the works of irrigation of the district, water for irrigation of lands within the boundaries of the district.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure within the meaning of section 1, Article IV, of the Constitution of the State of California, and it is deemed necessary for the immediate preservation of the public peace and safety that this law shall go into immediate effect.

The following is a statement of facts constituting such necessity: Within certain districts there are private irrigation systems through which lands within such districts and contiguous thereto are being furnished with water for irrigation. The toll rates and charges for such water service under present agricultural conditions are exceedingly high and far beyond the economic ability of the land to pay and the rules and regulations under which such water is supplied are burdensome. Unless this condition is remedied the owners of thousands of acres of good land will be forced to cease operations thereon and abandon the same. The land owners are unable to obtain relief from such situations except by purchasing, leasing or otherwise acquiring and operating such irrigation systems with the aid of Federal financing. Under the Federal Emergency Farm Mortgage Act of 1933 the Reconstruction Finance Corporation was authorized to make loans in an aggregate amount not exceeding $125,000,000 to and for the benefit of drainage, levee, irrigation, reclamation and similar districts throughout the United States. Approximately $85,000,000 of this sum has been applied for and allocated for the purposes stated. Approximately only $40,000,000 remains to be allocated throughout the United States. Applications therefor are being made rapidly and the said sum of $40,000,000 will be applied for and allocated before this act will become effective unless made effective immediately and if not so made said districts will lose the opportunity of purchasing, leasing or otherwise acquiring and operating said irrigation systems on an economic basis, all to the great loss of landowners.

CONCURRENT AND JOINT RESOLUTIONS

AND

CONSTITUTIONAL AMENDMENTS

CONCURRENT AND JOINT RESOLUTIONS
AND
CONSTITUTIONAL AMENDMENTS

CHAPTER 1.

Senate Concurrent Resolution No. 1—Relative to inaugural ceremonies.

[Filed with Secretary of State January 11, 1935.]

Joint inaugural committee.

Resolved by the Senate, the Assembly concurring, That a committee of three members of the Senate be appointed to confer with a committee of three from the Assembly, to make arrangements for the inaugural ceremonies, said committee to be appointed by the President of the Senate and the Speaker of the Assembly, respectively, and to have full power to act in the premises. Any expenses to be paid by the Senate and Assembly out of their respective contingent funds, and not to exceed the sum of five hundred dollars, one-half to be paid from the contingent fund of each house.

CHAPTER 2.

Senate Concurrent Resolution No. 2—Approving a certain amendment to the charter of the County of Alameda, State of California.

[Filed with Secretary of State January 14, 1935.]

County of Alameda: Charter amendments.

WHEREAS, The county of Alameda, State of California, has at all times herein mentioned been and now is a body politic and corporate and is now and has been since the eighteenth day of January, 1927, organized and acting under and by virtue of a charter adopted under and by virtue of section 7½ of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said county at an election held for that purpose on the second day of November, 1926, and approved by the Legislature of the State of California on the eighteenth day of January, 1927; and

Certificate.

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of an amendment to said charter set out in the certificate of the chairman of the board of supervisors and the county clerk and ex officio clerk of the board of supervisors of the county of Alameda, to wit:

Alameda County charter.

State of California, } ss
County of Alameda. }

CERTIFICATE OF COUNTY CLERK OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND CHAIRMAN OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AS TO THE ADOPTION AND RATIFICATION OF A CERTAIN AMENDMENT TO THE CHARTER OF SAID COUNTY OF ALAMEDA, SUBMITTED TO THE QUALIFIED ELECTORS OF THE SAID COUNTY OF ALAMEDA ON THE NINETEENTH DAY OF DECEMBER, 1933

PREAMBLE

BE IT KNOWN THAT:

WHEREAS, The County of Alameda, State of California, has, at all times mentioned herein, been and now is a body politic of the STATE of California, and is now and has been since the 18th day of January, 1927, organized and acting under and by virtue of a charter adopted under and by virtue of section seven and one-half of article eleven of the constitution of the State of California, which charter was duly ratified by the qualified electors of the said county at an election held for that purpose on the 2nd day of November, 1926, and approved by the Legislature of the State of California on the 18th day of January, 1927; and

WHEREAS, On the 7th day of November, 1933, the board of supervisors of said County of Alameda, pursuant to the provisions of section seven and one-half of article eleven of the constitution of said state duly proposed to the qualified electors of the said county a certain amendment to the charter of the said county by submission of a proposal for such amendment to said electors at the special election held on December 19th, 1933, and at the same time said board of supervisors duly ordered said proposal to be submitted to the qualified electors of said county for ratification or rejection at said general election, and further duly ordered that said proposal should be forthwith published for ten times in "The Oakland Post-Enquirer", a newspaper of general circulation printed, published and circulated in said county, and in said proposal said proposed amendment was set forth in full and at length and was and is in the words and figures hereinafter set forth; and

WHEREAS, Thereafter, the said proposal was duly published in full and at length in said newspaper for ten times and on the following dates, to-wit: November 8, 9, 10, 11, 13, 14, 15, 16, 17 and 18, 1933, and as often during said time as said newspaper was regularly published; and said general election at which said proposal was submitted to the vote of the qualified electors of said county was not less than thirty days nor more than sixty days after publication of said proposal as aforesaid; and

Alameda County charter.

WHEREAS, Immediately subsequent to said publication, the said board of supervisors duly prescribed the form and title to be printed on the general election ballot to be used at said general election for the submission of said proposal, which said form and title are hereinafter set forth, and in which said form and under which said title said proposal appeared on said ballot; and

WHEREAS, Subsequent to said publication and at least twenty-five days prior to December 19, 1933, the county clerk of said county duly filed in his office a notice of election in which, among other things and in addition to all other matters required by law, it was stated that said proposal would be submitted to the qualified electors of said county at said special election on December 19th, 1933, and said clerk caused a copy of said notice to be posted in a prominent place in his office; and

WHEREAS, At said special election said proposal was duly submitted to the vote of the qualified electors of said county and appeared on the general ballot at said election in the following form, to wit:

AMENDMENT TO THE CHARTER OF THE COUNTY OF ALAMEDA

Shall Section 12½ be added to the Charter of the County of Alameda to provide that it shall be the duty of the Board of Supervisors to provide that all laborers and mechanics employed in the execution of any county contract in Alameda County for any public work or improvement must have been residents of the County for a period of one year immediately preceding their employment under such contract, except upon express waiver of the Board of Supervisors when the required number of laborers and mechanics cannot be so engaged, and when such work is to be paid for, wholly or in part, by moneys derived from sources other than the County of Alameda, upon conditions which are incompatible with the requirements of this subdivision and said Board has waived such residence qualifications by a four-fifths (4/5) vote.	YES	
	NO	

and

WHEREAS, Said ballot contained all matters and things required by law to be stated and contained thereon, and said ballot in all respects duly complied with law; and said proposal was duly and regularly submitted to said

Alameda County charter.

qualified electors in strict compliance with law, and after full compliance with each and every provision of law relating to the amendment of county charters; and

WHEREAS, The returns of said special election held in the County of Alameda on the 19th day of December, 1933, at which election said proposal was duly submitted to the vote of the qualified electors of said county, was made to and canvassed by the board of supervisors of the County of Alameda, and it appeared therefrom and was so declared by the said board of supervisors that fifty-one thousand six hundred ninety-five votes were cast in favor of said proposal and that twenty thousand two hundred votes were cast against said proposal; and it appeared therefrom and was so declared by said board of supervisors that a majority of the qualified electors of said County of Alameda voting thereon at said special election voted in favor of said proposed amendment, and said board of supervisors thereupon ordered and declared that said proposed amendment was ratified; and

WHEREAS, said amendment so ratified by the electors of said County of Alameda at said special election held on December 19th, 1933 is now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment in accordance with the provisions of section seven and one-half of article eleven of the constitution of the State of California;

NOW THEREFORE, the undersigned, Wm. J. Hamilton, Chairman of the Board of Supervisors of the County of Alameda, State of California, and G. E. Wade, County Clerk and Ex-officio Clerk of the Board of Supervisors of the County of Alameda, State of California, authenticating their signatures with the official seal of said Board of Supervisors of the County of Alameda, do hereby certify that said amendment to said charter of said County so ratified by the majority of the electors voting thereon at said special election held on the 19th day of December, 1933, as submitted to said electors, is in words and figures as follows, and is and shall, if so approved by said legislature be in the words and figures following, to wit:

Residence requirements of persons employed on public works.

"Sec 12½: It shall be the duty of the Board of Supervisors to provide in every contract let by such Board for any public work or improvement, exclusive of purchases, whether such work is to be done directly under such contract or indirectly by or under subcontract, that all laborers and mechanics employed, in the execution of such contract, within the limits of the county shall have been residents of the county for a period of one year immediately preceding the date of their engagements to perform labor thereunder provided, however, that the Board of Supervisors may, upon application of the contractor, waive such residence qualifications and issue a permit specifying the extent and terms of such waiver whenever the fact be established that the required number of laborers

and mechanics possessing qualifications required by the work to be done cannot be engaged to perform labor thereunder, provided further, that in the event that such work is to be paid for, wholly or in part, by moneys derived from sources other than the County of Alameda and upon conditions which are incompatible with the requirements of this subdivision, then and in that event the Board of Supervisors may waive such residence qualifications by a four-fifths (4/5) vote and issue a permit specifying the extent and terms of such waiver. Waiver.

The Board of Supervisors shall have power and authority to make and enforce regulations in the premises not in conflict with the provisions hereof."

We further hereby certify that the facts set forth in the preamble of this certificate preceding said amendment to said Charter are, and each of them, is true; and for and on behalf of said County of Alameda, we, being duly authorized, do hereby request the legislature of the State of California to approve said amendment to said Charter as a whole, and to take such other and further steps and proceedings as may be necessary to perfect such approval. Certificate.

IN WITNESS WHEREOF we have hereunto set our hands and affixed the official seal of said Board of Supervisors of the County of Alameda, State of California, this fourth day of January, 1935.

WM. J. HAMILTON,
Chairman of the Board of Supervisors of the County of Alameda, State of California.

ATTEST:
[SEAL]

G. E. WADE,
County Clerk and Ex-officio Clerk of the Board of Supervisors of the County of Alameda, State of California.

WHEREAS, Said proposed amendment to the charter of the county of Alameda, so ratified by the majority of the electors voting thereon at said special election held on the nineteenth day of December, 1933, has been submitted to the Legislature of the State of California for approval and ratification as a whole, without power of alteration or amendment in accordance with the provision of section 7½ of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly concurring, a majority of all the members elected to each house voting for the adoption of this resolution and concurring therein, That said amendment to the charter of the county of Alameda, as proposed, adopted and ratified by the electors of the said county of Alameda, and as hereinbefore set forth, be, and the same is hereby approved as a whole, without amendment or alteration, and as an amendment to and as a part of the charter of the county of Alameda. Ratification

CHAPTER 3

Assembly Joint Resolution No. 1—Relative to memorializing Congress to enact proposed legislation directing immediate payment of the adjusted service certificates of sailors and soldiers of the World War.

[Filed with Secretary of State January 16, 1935.]

WHEREAS, A period of depression exists in the State of California, throughout the United States, and the world; and

World War adjusted service certificates

WHEREAS, The immediate cash payment of the adjusted service certificates of the sailors and soldiers of the World War, some of whom are in dire need owing to the present economic conditions, will alleviate suffering, and increase tremendously the purchasing power of millions of the consuming public, distributed uniformly throughout the Nation, and lighten immeasurably the burden which states, counties, and cities are now required to carry for relief; and

WHEREAS, The payment of such certificates will not create any additional debt, but will discharge and retire an acknowledged contract obligation of the government; and

WHEREAS, The government of the United States is now definitely committed to a policy of spending large sums of money for the purpose of hastening recovery from the present economic crisis; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California most respectfully urges and petitions the President and the Congress of the United States to enact legislation for the immediate payment, at face value, of the adjusted service certificates; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and member of the House of Representatives from California in the Congress of the United States, and that such Senators and members from California be urged to support such legislation.

CHAPTER 4.

Assembly Concurrent Resolution No. 3—Approving certain amendments to the charter of the city of Compton, State of California, ratified by the qualified electors of said city at a special municipal election held therein on the tenth day of October, one thousand nine hundred thirty-three.

[Filed with Secretary of State January 16, 1935.]

City of Compton Charter amendments

WHEREAS, The city of Compton, in the county of Los Angeles, State of California, contains a population in excess of three thousand five hundred inhabitants, and has been

ever since the year one thousand nine hundred twenty-five, and now is organized and acting under a freeholders charter, adopted under and by virtue of section 8 of article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city, at a special election held for that purpose on the ninth day of December, 1924, and approved by the Legislature of the State of California (Statutes 1925, page 1212), and by resolution of said Legislature filed with the Secretary of State of the State of California, the twenty-seventh day of January, 1925 (Statutes 1925, page 1212); and

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of certain amendments to the charter of the city of Compton, as set out in the certificate of the mayor and the city clerk of said city of Compton, to wit: Certificate

CERTIFICATE OF ADOPTION BY THE QUALIFIED ELECTORS OF THE CITY OF COMPTON AT A SPECIAL MUNICIPAL ELECTION HELD ON THE 10TH DAY OF OCTOBER, ONE THOUSAND NINE HUNDRED THIRTY-THREE, OF CERTAIN AMENDMENTS TO THE CHARTER OF THE CITY OF COMPTON, STATE OF CALIFORNIA.

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES } ss.
CITY OF COMPTON

WE, C. S. SMITH, Mayor of the City of Compton, and BLANCHE C. R. FIRKINS, City Clerk of the City of Compton, do hereby certify as follows:

That said City of Compton, in the County of Los Angeles, State of California, is now and was at all the times herein mentioned a City containing more than Thirty-five Hundred inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States; and

That said City of Compton is now and was at all the times herein mentioned organized and existing under a freeholder's Charter, adopted under the provisions of Section 8, of Article Eleven of the Constitution of the State of California, which Charter was duly ratified by a majority of the electors of said City at a special election held therein on the 9th day of December, 1924, and approved by the Legislature of the State of California (Statutes of 1925, page 1212), and by resolution of said Legislature filed with the Secretary of State of the State of California, on the 27th day of January, 1925 (Statutes of 1925, page 1212); and

That pursuant to the provisions of Section 8 of Article Eleven of the Constitution of the State of California, the Legislative body of said City, namely: The City Council of said City did on its own motion and pursuant to the provisions of Section 8, of Article Eleven of the Constitution of

Compton charter

the State of California, duly propose to the electors of said City of Compton certain amendments to the Charter of said City; and ordered that said amendments be submitted to said electors of said City at a special municipal election to be held in said City on the 10th day of October, 1933, and

That said proposed amendments were, on the 23rd day of August, 1933, duly published in the "Compton News-Tribune" a newspaper of general circulation, published in the City of Compton, and the official newspaper of said City, and the newspaper designated by said City Council for that purpose, and in each edition thereof;

That said proposed amendments were printed in convenient pamphlet form and from the 23rd day of August, 1933, to the 10th day of October, 1933, both inclusive, a notice was published in said "Compton News-Tribune", that copies thereof could be and had upon application therefor at the office of the City Clerk of said City, and

That said City Council did by Ordinance designated as Ordinance No. 325, which was duly adopted on the 24th day of August, 1933, order the holding of a special municipal election in said City of Compton on the 10th day of October, 1933, which date was more than Forty (40) days and less than Sixty (60) days after the completion of the publication of said proposed amendments to the Charter of the City of Compton, as aforesaid; and

That said special municipal election was held in said City of Compton on said 10th day of October, 1933, which date was more than Forty (40) days and less than Sixty (60) days after said proposed amendments to said Charter had been published in said Compton News-Tribune, as aforesaid; and

That at the said special municipal election held as aforesaid, on said 10th day of October, 1933, a majority of the voters, voted in favor of said proposed amendments to the Charter of the City of Compton, and duly ratified the same;

That the City Council of the City of Compton after duly canvassing the returns of said special municipal election at the time and in the manner and form prescribed by law, duly found, determined and declared that a majority of the qualified voters voting thereon, had voted in favor of and ratified said proposed amendments to the Charter of the City of Compton, which said amendments are in words and figures as follows, to-wit:

PROPOSITION NO. 2. CHARTER AMENDMENT.

ELECTIONS—Shall proposed Charter Amendment No. 2, proposed by the City Council of the City of Compton on its own motion, as PROPOSITION NO. 2 in the proposed Amendments published in the Compton News-Tribune, Compton, California, August 22nd, 1933, amending section 1 of Article V of the Charter of the City of Compton as follows:

"Section 1. Municipal elections held in the City of Compton shall be classified as of three kinds, to-wit: Municipal elections.

1. Primary Nominating election.
2. General Municipal election.
3. Special Municipal Election.

The first primary nominating election shall be held in the City of Compton, on the First Tuesday in May, 1935. The first General municipal election shall be held in the City of Compton on the first Tuesday in June, 1935, and such primary and general elections shall be held in the City of Compton, respectively on the first Tuesday in May, and on the first Tuesday in June in every odd numbered year thereafter for the purpose of nominating and electing all the elective officers of the City, except the Board of Education, made elective by the terms of this Charter, and for other purposes in this charter provided. All other municipal elections except the election of the Board of Education, that may be held by authority of this Charter or of the general law, shall be known as special municipal elections." BE RATIFIED?

PROPOSITION No. 3. CHARTER AMENDMENT.

ELECTIONS—Shall proposed Charter Amendment No. 3 proposed by the City Council of the City of Compton on its own motion, as Proposition No. 3 in the proposed Amendments published in the Compton News-Tribune, Compton, California, August 22nd, 1933, amending Section 5 of Article V of the Charter of the City of Compton, as follows:

"Section 5. PROVISIONS OF STATE LAW TO APPLY: The Council may, by Ordinance, make further provisions as to the manner of holding and conducting elections. The provisions of the Laws of the State of California relating to the qualifications of electors, the manner of voting, the duties of election officers, and all other particulars in respect to the management of general state elections, so far as they may be applicable, shall govern Primary and all Municipal elections, except as otherwise provided in this Charter, or by such ordinance, "BE RATIFIED? Conduct of elections.

That the foregoing is a full, true and correct copy of said proposed amendments to the Charter of the City of Compton, ratified by the electors of said City, as aforesaid, on file in the office of the City Clerk of the said City of Compton. Certificate

IN WITNESS WHEREOF, C. S. Smith, Mayor, as aforesaid, and Blanche C. R. Firkins, City Clerk, as aforesaid, have hereunto set their hands and caused the corporate seal of the City of Compton to be thereunto duly affixed, on this 15th day of November, 1934.

C. S. SMITH,
Mayor of the City of Compton
BLANCHE C. R. FIRKINS,
[SEAL] City Clerk of the City of Compton

WHEREAS, Said proposed amendments to the charter of the city of Compton, ratified by the electors of said city, as aforesaid, have been submitted to the Legislature of the State of California for approval or rejection, without alteration or amendment in accordance with section 8 of Article XI of the Constitution of the State of California; now therefore, be it

Ratification

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor, and concurring therein, That said proposed amendments to the charter of the City of Compton ratified by the electors of said city, as aforesaid, as presented to, adopted and ratified by the qualified electors of said city of Compton, as hereinabove fully set forth, be and the same are hereby approved as a whole, without amendment or alteration, as amendments to and as a part of the charter of the city of Compton.

CHAPTER 5.

Relative to memorializing the President and Congress to enact old age pension legislation.

[Filed with Secretary of State January 16, 1935.]

National old age pensions.

WHEREAS, The United States has, for the past few years, passed through a most severe period of depression, hardship and destitution; and

WHEREAS, As a result of said depression many aged persons have seen their savings wiped away after a lifetime of service to our society; and

WHEREAS, Many such unfortunate citizens now find themselves destitute and with no hope of supporting themselves or recouping their fortunes because of advanced age; and

WHEREAS, The establishment of a system of old age security by the payment of pensions to worthy citizens would obviate the need for public charity in this direction, and restore self-respect to the persons receiving such assistance, increase purchasing power and economic revival, and carry out the principles of humanitarian social justice upon which our country was founded; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the President and the Congress of the United States are hereby respectfully urged to enact as quickly as possible such suitable legislation as will provide such a national system of old age pensions and old age security as will accomplish the purposes above set forth and which will be adequate for a respectable existence; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, to the

Speaker of the House of Representatives and to each Senator and member of the House of Representatives from California in the Congress of the United States, and that such Senators and Representatives from California are hereby respectfully urged to support such legislation.

CHAPTER 6.

Senate Concurrent Resolution No. 4—Relative to recognition by the Legislature of the State of California of the California Pacific International Exposition which will open at San Diego May 29, 1935.

[Filed with Secretary of State January 17, 1935.]

Publicity for California Pacific International Exposition.

WHEREAS, The California Pacific International Exposition which will be held at San Diego, and which will open its gates on May 29, 1935, will be the first exposition of international significance to be held in this State since the World War; and

WHEREAS, The California Pacific International Exposition is a nonprofit enterprise which will be held to stimulate recovery in the West; to illustrate the progress of man; to depict the past, the present, and the future, to promote a new realization of culture, beauty, science, history, the arts, and play; and

WHEREAS, Many states of our Nation and many foreign nations have recognized the California Pacific International Exposition by arranging for exhibits; and

WHEREAS, The California Pacific International Exposition has thus already been advertised and publicized throughout the world: now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That said Legislature add to the publicity already given the California Pacific International Exposition by this official recognition; and be it further

Resolved, That the Secretary of the Senate is directed to send copies of this resolution to the governing bodies of the counties and cities of this State, with a request that the resolution be given by them to their local papers, so that this great exposition may be further publicized.

CHAPTER 7.

Senate Concurrent Resolution No. 3—Approving certain amendments to the charter of the city of Riverside, a municipal corporation in the county of Riverside, State of California, voted for and ratified by the qualified elec-

tors of said city at a general municipal election held therein on the twentieth day of November, 1934.

[Filed with Secretary of State January 17, 1935.]

City of Riverside. Charter amendments

WHEREAS, Proceedings have been taken and had for the proper adoption and ratification of certain amendments hereinafter set forth, to the charter of the city of Riverside, a municipal corporation in the county of Riverside, State of California, as set out in the certificate of the mayor and city clerk of said city as follows, to-wit:

State of California
County of Riverside } ss:
City of Riverside

Certificate.

We, the undersigned, E. B. Criddle, Mayor of the City of Riverside, and G. Albert Mills, City Clerk of said City, do hereby certify and declare as follows:

That the City of Riverside, a municipal corporation in the County of Riverside, State of California, is now and at all times herein mentioned was, a city containing a population of more than three thousand five hundred inhabitants, and not more than fifty thousand inhabitants, and has since the 1st day of July, 1929, and is now organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which Charter was duly ratified by the qualified electors of said City at an election duly held for that purpose on the 15th day of March, 1929, and approved by the Legislature of the State of California by a concurrent resolution approved by the said Legislature on the 22nd day of March, 1929.

That pursuant to, and in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, on its own motion the Mayor and Council of the City of Riverside, being the legislative body thereof, duly and regularly submitted certain proposals for the amendment of the Charter of said City to be voted on by the qualified electors of said City at a general municipal election called and held for that purpose in said City on the 20th day of November, 1934, which said proposals were designated as Proposition No. 1, relating to recall elections, Proposition No. 2, relating to police and fire commissioners, Proposition No. 3, relating to primary elections, Proposition No. 4, relating to City Auditor's duties in public utility department, Proposition No. 5, relating to clerical changes in the Charter, respectively.

That the said proposed Charter amendments were published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, on the 10th day of October, 1934, in the Riverside Daily Press, a daily newspaper of general circulation,

published in the City of Riverside (there being no official newspaper in said City and in each edition thereof during the day of said publication. Riverside charter.

That copies of said proposed Charter amendments were printed in convenient pamphlet form, and in type of not less than ten point, and an advertisement that copies thereof could be had upon application therefor at the office of the City Clerk of the City of Riverside, State of California, was published in said Riverside Daily Press, a daily newspaper of general circulation in said City, on the 10th day of October, 1934, and on each day thereafter until the day fixed for said general municipal election, all as required by Section 8 of Article XI of the Constitution of the State of California.

That copies of said proposed Charter amendments could be had upon application therefor at the office of said City Clerk until the day fixed for the said general municipal election.

That the Mayor and Council of the City of Riverside, the legislative body of said City, by its ordinance No. 701 (N.S.) did call a general municipal election in said City of Riverside on the 20th day of November, 1934, said date being at least forty days after the completion of the advertising of the proposed charter amendments in said newspaper of general circulation, and not more than sixty days after the completion of said advertising and did provide in said ordinance for the submission of the proposed amendments to the Charter of said City to the qualified electors of said City for their ratification at said general municipal election.

That thereafter, and on the 20th day of November, 1934, said general municipal election was duly and regularly held, and pursuant to said ordinance the said proposed charter amendments and each of them were severally submitted to the qualified electors of said city for their ratification at said election, and at said election a majority of the qualified electors voting thereon voted in favor of the ratification of said amendments and each of them, and did ratify each of the said proposed amendments to the Charter of said City.

That the results of said election were duly and regularly canvassed and certified to, and it was duly found, determined and declared by the proper officers of the said City that a majority of the electors of said City, voting on said amendments and each thereof, had voted for and ratified each of said proposed amendments.

That said amendments to the charter so ratified by the qualified electors of the City of Riverside at said general municipal election are in words and figures as follows, to-wit:

PROPOSITION NO. 1

RELATING TO RECALL ELECTIONS

That Section 234 of the Charter of the City of Riverside be amended to read as follows:

THE RECALL

Recall of elective officers.

Section 234. The holder of any elective office may be removed or recalled at any time by the electors qualified to vote for a successor to such incumbent; provided such elective officer has held his office at least six months. The procedure to effect such removal or recall shall be as follows:

In case of an election at large, not less than one hundred qualified electors of the City of Riverside, and in case of a ward election, not less than twenty-five qualified electors of such ward, may originate a petition of recall in the following manner: The said qualified electors shall file with the City Clerk a petition containing, in not more than two hundred words, a general statement of the ground or grounds for which the recall of the official is sought. This petition shall be signed in the presence of the City Clerk or his deputy by each of the petitioners originating the recall, each signer adding to his signature his place of residence, giving street and number, and the date of signing. When the requisite number of qualified electors shall have signed the petition, the City Clerk shall file the same, and shall cause it with the signatures attached thereto, to be published for three successive days in a newspaper of general circulation published in said city, with notice therein that said petition is in the City Clerk's office open for signatures. The City Clerk shall, during office hours for forty-five days from the last day of publication aforesaid, keep the petition open in his office for signatures by the qualified electors of the city to sign in the presence of the City Clerk or his deputy, giving his place of residence, street and number and date of signature. At the expiration of said forty-five days, the City Clerk shall declare the petition closed for the purpose of examination, and within ten days thereafter shall ascertain whether said petition is signed by qualified electors of the City of Riverside equal to not less than twenty-five per cent of all the votes cast for such office at the last general municipal election; and the City Clerk shall attach to the petition his certificate showing the result of such examination. If the petition is shown, by the City Clerk's certificate, to be insufficient, the City Clerk shall at once notify the signers who originated the petition of recall of the deficiency, and fifteen additional days, exclusive of the day of mailing shall be allowed for the final completion of the recall petition. Notice herein required shall consist of depositing in the post office at Riverside a letter, postage prepaid and registered, containing such notice, addressed to each signer who originated the petition of recall at his address given in the petition. The City Clerk shall within five days after the expiration of the additional fifteen days allowed in which to complete the recall petition, make a like examination of any names added thereto and check the same as hereinbefore provided; and if the City Clerk's certificate shall show the recall petition to be still insufficient, no further action shall be taken and no petition

for the recall of the same officer shall be originated within six months thereafter. Recall

If necessary the Council shall allow the City Clerk extra help for the purpose of such examination. In case the City Clerk is the officer sought to be recalled, the duties herein provided to be performed by him shall be performed by some other person designated by the Council for that purpose. If the petition shall be found to be sufficient, the City Clerk shall submit the same to the Council without delay, and the Council shall thereupon cause a special election to be held within not less than forty nor more than sixty days after the passage of an ordinance calling such election, to determine whether the voters will recall such officer; provided that if a regular municipal election is to occur within sixty days from the date of the filing of the petition with the Council, the Council may, in its discretion, submit such recall at such regular municipal election. If a vacancy occurs in said office after a recall petition is filed, the election shall nevertheless proceed as in this Section provided. One petition is sufficient to propose the removal and election of one or more officials. Nominations for any office under such recall election shall be made by petition in the manner provided by Section 1188 of the Political Code; except that no party affiliation of candidate, signer or verification deputy shall be given, and any qualified elector may sign said petition. Upon the sample ballot there shall be printed in not more than two hundred words, the reasons set forth in the recall petition for demanding the recall of the officer, and upon the same ballot in not more than two hundred words, the officer may justify his course in office. There shall be printed on the recall ballot, as to every officer whose recall is to be voted on, the following question: "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)"? following which question shall be the words "Yes" and "No," on separate lines with a blank space at the right of each, in which the voter shall indicate by stamping a cross (X) his vote for or against such recall. On such ballots, under each such question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the incumbent recalled, (in case he shall be removed from office by said recall election), followed by the appropriate voting squares; but no vote shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote "No" said incumbent shall continue in said office. If a majority shall vote "Yes," said incumbent shall thereupon be deemed removed from such office. The canvassers shall canvas all votes for candidates for said office and declare the result in like manner as in

a regular election. If the vote at any such recall election shall recall the officer, then the candidate who received the highest number of votes for the office shall be thereby declared elected for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to the provisions of this Charter.

No election for the recall of a Councilman shall be held unless a candidate to succeed the incumbent sought to be recalled has been nominated.

If any special election be ordered, held and conducted, it shall be ordered, held and conducted (except as to date thereof) and the result be made known and declared, in the same manner as herein provided for other elections.

PROPOSITION NO. 2

RELATING TO BOARD OF POLICE AND FIRE COMMISSIONERS

That Section 18 of the Charter of the City of Riverside be amended to read as follows:

City officers.

Section 18. The officers of the city shall be:
Mayor,
One Councilman from each Ward,
City Clerk, who shall be ex-officio City Assessor,
City Auditor,
City Treasurer, who shall be ex-officio City Tax Collector,
City Attorney,
Judge of the Police Court,
City Engineer,
Superintendent of Streets,
The members of the Board of Park Commissioners,
The members of the Board of Education,
The Trustees of the Riverside Public Library,
The members of the Board of Health,
The members of the Board of Public Utilities,
The members of the Board of Police and Fire Commissioners,
Chief of Police.
Chief of the Fire Department,
Health Officer,
and such other officers as the Council may create by ordinance.

That Section 21 of the Charter of the City of Riverside be amended to read as follows:

Compensation of certain officers

Section 21. The members of the Board of Education, Trustees of the Riverside Public Library, members of the Board of Park Commissioners, members of the Board of Health, members of the Board of Public Utilities and the members of the Board of Police and Fire Commissioners, shall serve without compensation as members of such Boards.

Repeals.

That Article XII, including Sections 177, 178, 179, 180 and 181, of the Charter of the City of Riverside, be and the same is hereby repealed.

That Article XIII, including Sections 182, 183, 184 and 185 of the Charter of the City of Riverside be and the same is hereby repealed. Repeals.

That there be added to the Charter of the City of Riverside a new Article, to be numbered Article XII, and reading as follows:

ARTICLE XII

POLICE AND FIRE DEPARTMENT

Section 177. There shall be a Board of Police and Fire Commissioners, consisting of the Mayor and four Commissioners. The members thereof shall be appointed and may be suspended or removed pursuant to the provisions of Sections 71, 72 and 73 of this Charter, provided that not more than two Commissioners may be removed in any period of one year, except for malfeasance, misfeasance or nonfeasance in office. The Commissioners first appointed shall so qualify themselves by lot at their first meeting, that one Commissioner shall go out of office on the first Monday in January, 1936, one at the end of one year thereafter, one at the end of two years thereafter and one at the end of three years thereafter. Thereafter said Commissioners shall hold office for a period of four years and until their successors have been appointed and qualified. Board of Police and Fire Commissioners

Section 178. Said Board shall have entire control and management of the Police and Fire Departments of the City of Riverside, and in order that the same may be maintained in a high state of efficiency, consistent with an economical administration of said departments, shall, in accordance with the rules established by them and as hereinafter provided, appoint the Chiefs and all members of said departments and shall from time to time make rules to carry out the purposes of this article, for the administration of said departments, for the conduct of examinations, for the appointment, suspension, removal, promotion and demotion of members of said departments, for the establishment of lists of those eligible to appointment, for the keeping of service records and for such other matters as are necessary for the efficient, proper and economical administration of said departments. Said rules shall only be established or changed after two weeks notice thereof, given to the Council and posted in the public office of the Fire Department and the Police Department. Powers of board.

Section 179. Said Board shall, by and with the advice and approval of the Council, fix the number of members of each department, establish their rank and fix the salary to be paid to the members of each rank. Members of departments

Section 180. All appointments to said departments shall be made only from eligible lists prepared after the examination of applicants, conducted in accordance with the rules established by said Board, which examination shall be public, competitive and free to all citizens of the United States; with specified limitations as to residence, age, sex, health, habits, Appointment

Examination. experience, moral character and physical ability. Such examinations shall be practical in their character and shall relate to those matters which shall thoroughly test the relative capacity of the persons examined, to discharge the duties of the position to which they seek to be appointed. The Board shall control all examinations and may, whenever an examination is to take place, obtain the assistance of a suitable person or persons to aid in preparing for and conducting such examination; providing, however, that no member of either department who shall have been in the employ of the city for one year preceding the going into effect of this Article of the Charter, shall be removed by the Commissioners because of failure to pass such examination, but such person may be demoted, if, in the opinion of the Board, such action be for the good of the public service.

Notice of examination. Notice of the time, place and general scope of the examinations shall be given by the Board by publication for two weeks preceding such examination in a newspaper of general circulation, published in the City of Riverside, and such notice shall also be posted by the Board in a conspicuous place in the City Hall and in the public office of the Police and Fire Departments.

Suspension of members of police and fire departments. Section 181. The Chief of each department shall have the power to suspend for cause any member of his department and he shall immediately report the cause in writing to the Board and serve a copy thereof upon the person so suspended, personally, or by leaving a copy thereof at his last known place of residence if he cannot be found. Within fifteen days after such statement shall have been so served, the said Board, upon its own motion, may, or upon written application of the person so suspended, filed with said Board within five days after service upon him of such statement, shall proceed to investigate the grounds for such suspension. If after such investigation said Board finds, in writing, that the grounds stated for such suspension were insufficient or were not sustained, and also finds, in writing, that the person so suspended is a fit and suitable person to fill the position from which he was suspended, said Board shall order said person so suspended to be reinstated or restored to duty. If the said Board finds the grounds stated for such suspension were sufficient and are substantiated it may remove the offending person from the department of which he is a member, or otherwise discipline him.

If said Board shall order that any person suspended by the Chief of either the Police or the Fire Department be reinstated or restored as above provided, the person so suspended may in the discretion of the Board be entitled to receive compensation from the city the same as if he had not been suspended by the Chief of said department.

The decision of the said Board upon all matters of suspension, discipline and dismissal shall be final.

Section 182. The Council shall by proper ordinance provide suitable penalties for fraudulent, dishonest or dishonorable conduct in and about examinations conducted by said Board. The City Clerk shall be ex-officio Clerk of said Board and shall administer necessary oaths to applicants for examination. Fraud in examinations.

Section 183. The Chief of Police shall enforce the execution of all the laws and ordinances within the jurisdiction of the City; and shall suppress any riot, public tumult, disturbance of the peace or resistance against the law or public authorities in the lawful exercise of their functions. He shall have the powers that are now or may be hereafter conferred upon Sheriffs by the laws of the State, and shall in all respects be entitled to the same protection, and his lawful orders shall be promptly executed by deputies, police officers and watchmen in the City of Riverside, and every citizen shall also lend aid when required for the arrest of offenders in maintenance of public order. He shall and is hereby authorized to execute and return all processes issued and directed to him by the Police Court or Judge or other legal authority of said city, and it shall be his duty to prosecute before the Police Judge all breaches or violations of or non-compliance with any city ordinance or law within the jurisdiction of the Police Judge which has come to his knowledge. Unless otherwise provided by ordinance, he shall receive from the Auditor all licenses and collect the same and at the expiration of any month shall pay to the Treasurer all funds of the city collected by him during said month. He shall, upon payment of the money, file with the Treasurer a statement of the money so collected and an affidavit stating that the money so paid is all the funds that he has collected or received during the preceding month. He shall have charge of the city prison and prisoners. He shall devote his entire time to the discharge of the duties of his office, and subject to such rules and regulations as may be prescribed by the Board of Police and Fire Commissioners, shall have control of the police force. In addition to the duties in this Charter specified, he shall discharge all duties required of him by the rules of the Board of Police and Fire Commissioners, the ordinances of the City of Riverside, or by law. Duties of Chief of Police.

Section 184. The Chief of the Fire Department shall be charged with the especial duty of superintending the extinguishing of fires that endanger the municipality or destroy property, and he shall take measures to guard and protect all property imperiled thereby. In addition to the duties in this Charter specified, he shall discharge all duties required of him by the rules of the Board of Police and Fire Commissioners, the ordinances of the City of Riverside, or by law. He shall devote his entire time to the discharge of the duties of his office and, subject to such rules and regulations as may be prescribed by the Board of Police and Fire Commissioners, shall have control of the Fire Department. Duties of Chief of Fire Department.

PROPOSITION NO. 3

RELATING TO PRIMARY ELECTIONS

That Section 191 of the Charter of the City of Riverside be amended to read as follows:

Primary elections.

Section 191. All candidates for city offices shall be nominated at a primary election to be held on the third Tuesday in September next preceding each general municipal election. If at any primary election a candidate for any office to which there is but one person to be elected shall receive a majority of all votes cast for that office, he shall be declared elected to that office and no other election therefor shall be held; provided further that if no candidate for such office receives a majority, then the two candidates receiving the highest number of votes for said office at said primary election shall be the candidates, and the only candidates, whose names shall be printed on the ballot to be used at the next general election; provided where one or more offices of the same kind are to be filled any candidate therefor who shall receive votes on a majority of all the ballots cast for candidates for the office for which such candidate seeks nomination, shall be elected to such office. If a greater number of candidates receive a majority than the number to be elected, only those candidates shall be elected who secure the highest votes of those receiving such majority and equal in number to the number to be elected; provided that if a less number of candidates than the number of such offices to be filled or elected at the primary election, then the remaining candidates therefor receiving the highest number of votes and equalling in number twice the number of the remaining offices to be filled, shall be the candidates, and the only candidates for such remaining offices whose names shall be printed upon the ballot to be used at the next general municipal election.

Except as herein otherwise provided, said election shall be conducted in all respects as provided in this Charter for general municipal elections.

The Mayor and Council may by ordinance provide for filing fees to be paid by candidates for election, and that any primary election be consolidated with the State election held in the same year, and in such case the said primary election shall be held at the same time and place and together with the said State election, within the limits of the City, in accordance with the provision of any general law of the State providing for such consolidation.

PROPOSITION NO. 4

RELATING TO CITY AUDITOR'S DUTIES IN PUBLIC UTILITY DEPARTMENT

That Section 137 of the Charter of the City of Riverside be amended to read as follows:

Public Utility Department.

Section 137. The Board may appoint, transfer, remove, discharge, suspend, or require bonds of superintendents,

engineers, laborers, accountants, clerks and all other persons employed in or by said Department or in connection therewith in whatever capacity, and may prescribe their duties, compensation and authority; provided, however, that all salaries and scale of wages must be first approved by the Council by resolution.

That Section 145 of the Charter of the City of Riverside be amended to read as follows:

Utility property.

Section 145. The Board shall keep all accounts of property, money, receipts and expenditures and shall take an annual inventory of all property belonging to each utility. The City Auditor shall exercise superintendence over the same as provided in Section 95 of this Charter. The Board shall pay to the general fund of the City of Riverside out of each utility fund the cost of such superintendence as fixed by resolution of the Council.

PROPOSITION NO. 5

RELATING TO CLERICAL CHANGES IN CHARTER

Assessor and Tax Collector

That Section 208 of the Charter of the City of Riverside be amended to read as follows:

Section 208. If there shall be no ordinance in force availing the City of Riverside of the privilege of having its taxes assessed and collected by the officers of the county, the City Clerk shall be ex-officio City Assessor, and the City Treasurer shall be ex-officio City Tax Collector; and they shall perform respectively the duties and have all the powers prescribed by law or ordinance for Assessors and Tax Collectors. While the city avails itself of the privilege of having its taxes assessed or collected by the county officers, the officers of City Assessor and City Tax Collector shall not exist. The taxes so levied and collected shall be paid by the proper county officers to the City Treasurer and be apportioned by the City Auditor to the several specific funds.

That section 222 of the Charter of the City of Riverside be amended to read as follows:

Claims and demands

Section 222. All said claims or demands, except those provided for in Section 214 of this Charter, shall be presented to the Mayor and Council for allowance. All claims or demands mentioned in Section 214 of this Charter must be presented to the Trustees of the Riverside Public Library or the Board of Public Utilities respectively for allowance and must be approved by the Auditor.

That Paragraph 13 of Section 16 of the Charter of the City of Riverside be amended to read as follows:

Creation of new offices

13. To create offices other than those established by this Charter or by the general law whenever the public convenience

Charter, and to fix the compensation, of the officers to fill the same;

That Section 224 of the Charter of the City of Riverside be amended to read as follows:

Purchases.

Section 224. The City of Riverside shall not be bound by any contract for the purchase of materials or supplies unless the Council or other board authorized by this Charter to make contracts shall have first caused notice to be published in a newspaper printed and published in the City of Riverside, inviting proposals, and thereafter shall have let said contract to the lowest responsible bidder furnishing adequate security for its performance, satisfactory to the Council, or other board, provided, that the Council, or other board, may reject any and all bids; and provided, that any such contract shall be made in writing, and approved and signed as provided in Section 10 hereof; and provided further, that the approval, as to form of such contract, by the City Attorney, as required by Section 112 of this Charter, shall be endorsed on the draft thereof before the Council shall have power to approve the same; but the Council, or any officer, board, committee or agent of the city, so authorized by resolution of the Council, may bind the city for the payment of the purchase price of materials or supplies not exceeding $1000.00 in value without a contract in writing and without any previous publication of notice inviting proposals; provided, that contracts made by the Board of Public Utilities shall not be subject to the provisions of this Section.

That Section 219 of the Charter of the City of Riverside be amended to read as follows:

Payment of claims.

Section 219. The Auditor shall designate the fund out of which any demand shall be paid. His disapproval of any demand shall be final, subject to the review of the courts. No demand can be paid by the Treasurer unless audited and approved as herein provided. If there are no funds to pay any demand on presentation, the Treasurer shall register such demand and thereafter, if there be funds legally applicable to pay such demand, it shall be paid in the order of registration with interest thereon at a rate to be fixed by the Mayor and Council.

That Section 140 of the Charter of the City of Riverside be amended to read as follows:

Contracts.

Section 140. Said board shall have power to contract or to extend contracts for power, electric current, gas, fuel, or similar commodity; if said contracts or extensions are for a period exceeding one year and not longer than five years they shall require the approval of the Council; if longer than five years they must, in addition, be ratified by a majority of the qualified voters voting on such proposition at any election,

for the acquisition by the city of the machinery or apparatus so leased, or provide for the acquisition of the machinery or apparatus producing the electric current, power, gas, or other product so contracted for by the city.

That Section 221 of the Charter of the City of Riverside be amended to read as follows:

Section 221. No suit shall be brought on any claim for money or damages against the City of Riverside or any Officer or Board of the city, until a demand for the same has been presented, as herein provided and rejected in whole or in part. Action on claims

If rejected in part, suit may be brought to recover the whole. Except in those cases where a shorter period of time is otherwise provided by law, all claims for damages against the city or an Officer or Board of the city, must be presented within three months after the occurrence from which the claimed damages arose, and all other claims or demands shall be presented within three months after the last item of the account or claim accrued. Nor shall suit be brought against said city, or any Board or Officer thereof, upon any claim or demand that has been in whole approved and audited as provided herein; provided, that nothing herein contained shall be construed so as to deprive the holder of any demand of his right to resort to writ of mandamus or other proceeding against the Council, or any Board or Officer of said city, to compel it or him to act upon such claim or demand, or to pay the same when so audited.

And we further certify that we have compared the foregoing amendments with the original proposal, submitting the same to the qualified electors of said City, and find that the foregoing is a full, true, correct and exact copy thereof. Certificate

IN WITNESS WHEREOF we have hereunto set our hands and caused the seal of the City of Riverside to be affixed hereto this 31st day of December, 1934.

E. B. CRIDDLE,
[SEAL] Mayor of the City of Riverside.
G. ALBERT MILLS,
City Clerk of the City of Riverside.

and

WHEREAS, Said proposed charter amendments have been and are now submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment in accordance with section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, that said amendments to said charter herein set forth as submitted to and ratified by the qualified electors of said city, be, and the same are hereby approved as a whole without alteration or amendment for, and as amendments to, and as part of the charter of said city of Riverside. Ratification

CHAPTER 8

Assembly Concurrent Resolution No. 1—Approving certain amendments to the charter of the city of Pasadena, a municipal corporation in the county of Los Angeles, State of California, voted for and ratified by the qualified electors of said city at a special municipal election held therein on the sixth day of November, 1934.

[Filed with Secretary of State January 17, 1935.]

City of Pasadena: Charter amendments.

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendments hereinafter set forth to the charter of the city of Pasadena, a municipal corporation in the county of Los Angeles, State of California, as set out in the certificate of the chairman of the board of directors of the city of Pasadena and the city clerk of said city, as follows:

Certificate

CERTIFICATE OF RATIFICATION BY ELECTORS OF THE CITY OF PASADENA OF CERTAIN CHARTER AMENDMENTS.

STATE OF CALIFORNIA }
County of Los Angeles }ss
City of Pasadena }

We, the undersigned Edward O. Nay, Chairman of the Board of Directors of the City of Pasadena, State of California, and Bessie Chamberlain, City Clerk of said City, do hereby certify and declare as follows:

That the City of Pasadena, a municipal corporation of the County of Los Angeles, State of California, now is and at all times herein mentioned was a city containing a population of more than 3500 inhabitants, and now having a population of over 50,000 inhabitants, and has been ever since the year 1901 and now is organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the majority of the qualified electors of said City at a special election held for that purpose on the 20th day of November, 1900, and approved by the Legislature of the State of California on the 29th day of January, 1901, (Statutes of 1901, page 884).

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the Board of Directors of the City of Pasadena, being the legislative body thereof, on its own motion, by Ordinance No. 3178 adopted on the 11th day of September, 1934, duly proposed to the qualified electors of the City of Pasadena certain amendments to the Charter of said City to be submitted to said qualified electors at a special election to be held in said City not less than forty (40) nor more than sixty (60) days after the publication of said ordinance in the official paper.

Said election was called, authorized and provided for by said Board of Directors by Ordinance No. 3192 adopted on the 26th day of September, 1934, which said ordinance called said special election for the submission of said amendments to be held in said City on the 6th day of November, 1934. Said amendments were and are and each of them was and is in words and figures as follows:

That Article 6 of the Charter of the City of Pasadena be amended to read as follows:

"ARTICLE 6.

POLICE AND FIRE DEPARTMENTS AND RETIREMENT SYSTEM.

Police Department.

SECTION 1. ORGANIZATION OF POLICE DEPARTMENT. The City Manager shall have the exclusive control and management of the Police Department of the city and shall have power:

First: To organize the said department, and change the organization from time to time, as in the judgment of the City Manager seems best.

Second: To appoint, promote, suspend, reduce, or dismiss any officer or member thereof.

Third: To prescribe rules and regulations for the government, discipline and equipment of the members and officers of the department to determine the powers and duties of such persons and to prescribe and enforce penalties for violations of any of such rules and regulations.

Fourth: To appoint upon the application of any person, firm or corporation, Special Police Officers who shall receive no pay from the city and who may be removed at any time by the City Manager; provided, however, that such Special Police Officers shall be subject to all the rules and regulations of the department.

Fifth: To appoint, at times of public emergency, Special Policemen who shall serve for such time as is designated in their appointment and who shall receive such compensation as may be fixed by the legislative body of the city. In case of absence of the City Manager, or his inability to act, power to appoint Special Policemen shall be vested in the Chief of Police, subject, however, to other provisions of this Section.

Sixth. To provide for the care, restitution, sale or destruction of such unclaimed property as may come into the possession of the department.

Seventh: To do any other acts which shall be necessary to the efficient operation of the Police Department of the city.

Chief of Police.

SECTION 2. CHIEF OF POLICE. In the organization of the Police Department the City Manager shall appoint, and shall have authority to remove, a Chief of Police who shall be quartered in headquarters to be provided by the city, which headquarters shall be open day and night. The Chief of Police shall devote his entire time to the discharge of the

duties of his office, and shall, under the direction of the City Manager, have control of the police force of the City. The Chief of Police shall discharge all duties required of him by this charter, by the ordinances of the city or by the rules and regulations of the department.

Members of force

SECTION 3. POLICE FORCE. In addition to the Chief of Police the City Manager, in the organization of the Police Department, shall provide for a permanent police force which shall consist of such number of policemen as the City Manager shall from time to time deem necessary to preserve the peace, protect the lives and property of the citizens, and enforce all laws and ordinances within the city.

Fire Department.

SECTION 4. ORGANIZATION OF FIRE DEPARTMENT. The City Manager shall have the exclusive control and management of the Fire Department of the city, and shall have power:

First: Except as otherwise provided in this charter, to organize the said department and change the said organization from time to time as in the judgment of the City Manager seems best.

Second: To appoint, promote, suspend, reduce, or dismiss any officer or member of the department.

Third: To prescribe rules and regulations for the government, discipline, equipment, and uniform of the members and officers of the department, to fix the powers, and duties, and to prescribe and enforce penalties for violations of any of such rules and regulations.

Fourth: To do any other act that shall be necessary to the efficient equipment and operation of the Fire Department of the city.

Chief of Fire Department.

SECTION 5. FIRE CHIEF. In the organization of the Fire Department the City Manager shall appoint a Chief, who shall devote his entire time to the discharge of the duties of his office, and under the direction of the provisions of this charter and the ordinances of the city, have control of the officers and men employed in the Fire Department.

Conduct of department.

SECTION 6. ADMINISTRATION OF FIRE DEPARTMENT. (a) The Chief, or other acting head of the department, shall divide the officers and men of the uniformed fire force, excepting officers or men occupying offices or positions necessitating straight daytime service into two or more working shifts or platoons, one to perform night service and the others to perform day service. In case the division is made into two platoons, the hours of day service shall not exceed ten, commencing at eight o'clock in the morning; the hours of night service shall not exceed fourteen, commencing at six o'clock in the afternoon, except that in cases of riot, serious conflagration, or other such emergency, the Chief, Assistant Chief or other officer in charge, shall have power to assign all the members of the department to continuous duty, or to continue any member on duty if necessary. No member of either platoon shall be required to perform continuous day or con-

tinuous night service for a longer consecutive period than one week, nor to be kept on duty continuously longer than ten hours in the day, fourteen hours in the night platoon, except in cases of riot, serious conflagration, or other such emergency as above provided. In case division is made into three platoons, eight hours to a platoon or shift shall be the limit of service, subject only to continuous service in emergency as hereinbefore provided. In either division into two platoons or more than two, the same platoon or shift shall not be assigned the same hours of labor for two consecutive weeks, nor until all other platoons have served the same hours for one week prior to such reassignment. Time allowed for meals shall not be computed as part of the hours constituting service. The Chief is charged with the immediate enforcement hereof as well as all rules and regulations of the Department relating to the Fire Department and its equipment, and shall be charged with the especial duty of superintending the extinguishment of fires, the protection of property thereby imperiled and the inspection of buildings and the contents thereof in the City of Pasadena, for the purpose of preventing fires and the spread thereof.

(b) Every officer and member of the Fire Department shall be entitled to at least one day off duty in every seven and an additional ten days' vacation in each calendar year, provided always, that days off and vacation shall be subject to the right of the Chief or other officer to order all members to continuous duty during an emergency, as hereinbefore provided; and provided further, that members assigned to duty with the department of other cities, for instruction purposes under agreement therewith, shall during such assignment conform to and be governed by the rules relating to discipline and command in such other department, although for all other purposes such service shall be held and deemed to be service in the Fire Department of the City of Pasadena. All provisions of this Charter in conflict herewith are hereby annulled and superseded hereby

SECTION 7. RETIREMENT SYSTEM ESTABLISHED. In order to continue in force, with such modifications as are set forth in this Article, provisions already existing for retirement and death benefits for members of the Fire and Police Departments of the City, the Pasadena Fire and Police Retirement System, hereinafter referred to as the Retirement System or the System, is hereby established The legislative body of the city may exclude from membership in the Retirement System persons employed on a temporary or part-time basis, but for the purpose of the Retirement System, persons serving a probationary period requisite to appointment to a regular position shall not be considered as on a temporary basis. The legislative body by a vote of not less than five (5) of its members, is hereby empowered to enact any and all ordinances necessary to carry into effect the provisions of this Article provided that the said legislative body, through the Retire- Retirement system.

ment Board, shall secure an actuarial report of the cost and effect of any proposed change in the benefits under the Retirement System, before the adoption of an ordinance to submit any proposed Charter amendment providing for such change.

Retirement board.

SECTION 8. RETIREMENT BOARD. The Retirement System shall be managed by a Retirement Board hereby created, which shall be the successor to and have the powers and duties of the Fire and Police Pension Board of the City of Pasadena, heretofore created and effective and now by this Article superseded by the Retirement Board. The Retirement Board shall consist of one member of the legislative body of the city to be selected by and to serve at the pleasure of said legislative body, two qualified electors of the city of Pasadena not connected with the government thereof, to be appointed by the legislative body, and two members elected under the supervision of the Retirement Board from the active members of the Retirement System, who shall not include persons retired under the Retirement System or under any other Municipal, County or State retirement or pension plan, provided that immediately after the effective date hereof, the chairman of the said legislative body shall appoint two members from such active members of the Retirement System to serve until the election of such two members, which shall not be more than six months after the effective date hereof, hereby defined as the first day of the July next following ratification of this amendment by the Legislature. One of such two members shall be a member of the Fire Department and one a member of the Police Department, and the election of each of such two members shall be confined to the group from which he must be chosen. The term of office of the four members, other than the member appointed from the legislative body of the city shall be four years, one term expiring each year, provided that immediately after the election of the two members from the Fire and Police Departments, they shall draw lots for terms of one, two, three and four years, respectively. The members of the Retirement Board shall serve without compensation. The Board shall appoint a secretary to hold office at its pleasure, and when necessary employ a consulting actuary.

The Retirement Board shall have the sole power and authority under such general ordinances as may be adopted by the legislative body, to hear and determine all facts pertaining to applications for and awards of any benefits under the Retirement System, or any matters pertaining to the administration thereof. Said Board shall have exclusive control of the administration and investment of such fund or funds as may be established, provided that all investments shall be confined to bonds issued, as general obligations, of the United States of America, the State of California, the City of Pasadena, or other political subdivisions of the State of California of the same, or higher, credit rating at the time of purchase as the City of Pasadena, and no bonds shall be purchased by

the Retirement Board for the investment of any such funds until the same have been approved by the City Attorney as meeting this requirement. Disbursement of retirement funds shall be made upon demands duly audited in the manner prescribed in this Charter for disbursement of public funds. The City Treasurer shall be the custodian of any such retirement funds, subject to the control of the Retirement Board as to the administration and investment of said funds.

Actuarial tables.

SECTION 9. ACTUARIAL TABLES, RATES AND VALUATIONS. The mortality, service and other tables and the rates of contribution for members as recommended from time to time by the actuary and the valuations determined by him from time to time and approved by the Retirement Board shall be final and conclusive and the Retirement System shall be based thereon. The total amount, as determined by the actuary and approved by the Retirement Board, of the contributions required during any fiscal year of the city under the Retirement System, shall be paid into the Retirement Fund by the city during such year. Liabilities accruing under the Retirement System because of service rendered to the city prior to the effective date hereof, and administrative costs under the System, shall be met by contributions to the Retirement Fund by the city, in addition to any amounts contributed to meet liabilities accruing because of service rendered by persons after becoming members of the System, provided that such prior service liabilities may be met by annual appropriations instead of by one appropriation for the total amount of the liabilities; and provided further, that such appropriation for any one year shall be not less than the amount disbursed during that year on account of prior service.

Liabilities

Contribution by city.

In addition to other contributions required of the city under the System, the city shall contribute to the Retirement Fund during each fiscal year a sum which, together with the members' contributions provided for in Section 14 of this Article, shall be equal to the liabilities accruing under the System because of service rendered during such year by all members of the System.

Investigation.

Periodically, at periods fixed by the legislative body, the Retirement Board shall make an actuarial investigation into the mortality, service and other experience under the System, and, further, shall make an actuarial valuation of the assets and liabilities of the System, and upon the basis of such investigation and valuation as interpreted by the actuary, any necessary revisions of the table of rates being used under the System shall be made by the Retirement Board.

Definitions.

SECTION 10. DEFINITIONS. "Compensation," as distinguished from benefits under the Workmen's Compensation, Insurance and Safety Act of the State of California, shall mean the gross remuneration prescribed by the city in cash, without deduction except for absence from duty, for time during which the individual receiving such remuneration is in the

Definitions. employ of the city in either or both the Fire and Police Departments.

"Service" shall mean time during which an individual is employed in either or both the Fire and Police Departments of the city for compensation. Absence from duty without compensation due to any cause other than disability retirement as hereinafter provided, shall not be deemed service for the city. The legislative body, however, may fix the number of months per year to be required for a year of service and proportionate parts thereof, but not more than one year shall be credited for all service in any year.

"Compensation earnable" shall mean the compensation as determined by the Retirement Board, which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates attached to the ranks or position held by him during such period, it being assumed that during any absence he was in the rank or position held by him at the beginning of the absence and it also being assumed that prior to becoming a member of the Fire or Police Department he was in the rank or position first held by him in such Department.

"Retirement allowance," "death allowance" or "allowance" shall mean equal monthly payments for life unless a different term of payment is provided by the context, provided that any person to whom or on whose account benefits are payable, may elect to have the actuarial equivalent of such benefits paid in different form, all subject to such restrictions, regulations and conditions as may be prescribed by the legislative body, but the action of the legislative body shall not prevent such benefits when elected by a member, from taking the form of cash refund annuities, as applied to the member's accumulated contributions only, or reversionary annuities, these terms to have the meaning commonly accepted in standard life insurance practice.

"Final compensation" shall mean the average monthly compensation earnable by a member during the ten years immediately preceding his retirement, or death before retirement.

"Employee" shall mean "officer or employee."

"Member" shall mean a member of the Retirement System unless clearly indicated otherwise.

"Interest" shall mean interest at the rate adopted by the Retirement Board.

The disability referred to herein as a basis for retirement shall mean disability of permanent duration, except disabilities determined by the Retirement Board, predicated upon best medical opinion, to be of an extended and indefinite duration.

For the purposes of the Retirement System, ages of both members and beneficiaries used in the calculation of allowances shall be taken to the next lower completed quarter year.

Any fire or police service performed outside the limits of the city by a member of the Retirement System under the

orders of a superior officer of any such member, shall be considered as performed within the scope of his employment, and any disability or death incurred therein shall be covered under the provisions of the Retirement System. Definitions.

For the purposes of the Retirement System "member of the Fire Department" or "member of the Police Department" shall include any officer or employee of either of such departments whose principal duties are to prevent and extinguish fires or to preserve the peace, prevent injury to life and property, or to suppress crime or disorder, and shall exclude persons whose principal duties are those of telephone operator, clerk or stenographer, machinist or mechanic, or other similar duties clearly not falling within the foregoing regular fire or police duties, even though such persons may be called upon occasionally to perform such regular fire or police duties; provided that the foregoing exclusions shall not apply to members of the Fire Department qualifying as firemen, hosemen or higher rank, or to members of the Police Department qualifying as patrolmen or higher rank, or male employees of the Police Department assigned to the Identification Department and subject to assignment to patrolmen's duties, who, at the date of the adoption of this Charter amendment, are assigned, or thereafter shall be assigned, to perform any of the above excluded duties. After the effective date hereof, the maximum age at which any person, except a person employed as Chief of the Fire Department or Chief of the Police Department, may become members of either the Fire or Police Department, shall be thirty years notwithstanding any of the other provisions of this Charter.

SECTION 11. RESTRICTIONS ON RETIRED PERSONS. No person retired for service or disability receiving a retirement allowance under the Retirement System shall serve in any appointive position in the service of the city, including memberships on Boards or Commissions, nor shall such person receive any payment for service, except in an elective office, rendered to the city after retirement, provided that service as an election officer or juror shall not be affected by this section. Pensioners not to hold appointive office.

Should any person employed in the Fire Department retire, and prior to attaining the age of sixty-two years, or should any person employed in the Police Department retire, and prior to attaining the age of sixty-five years, engage in a gainful occupation, the Retirement Board shall reduce that part of his monthly allowance which is provided by contributions of the city, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed his compensation at the time of retirement. Reduction of pension of employed pensioners.

SECTION 12. REDUCTION OF BENEFITS. That portion of any allowance or other benefit which is provided by contributions of the city, payable by the Retirement System because of the death or retirement of any member, shall be reduced, in the manner fixed by the legislative body, by the Reduction on account of workmen's compensation.

amount of any benefits payable to or on account of such member, under the Workmen's Compensation, Insurance and Safety Act of the State of California, because of his death or the disability resulting in his retirement. In like manner said portion shall be reduced by the amount of any pension, except pensions paid on account of service in the military or naval forces of the United States, paid to or on account of the death of such member, from funds of the United States, State of California or any political subdivision thereof.

Existing pensions continued

SECTION 13. EXISTING PENSIONS CONTINUED. Pensions existing in favor of or on account of members of the Fire or Police Departments, at the time of the effective date of this Article, shall be continued in force subject to change under the provisions of Section 14 hereof; such pensions, however, shall be paid by the Retirement System.

Membership in system.

SECTION 14. BENEFIT AND CONTRIBUTION REQUIREMENTS. Persons who shall be members of the Fire or Police Departments on the effective date hereof shall become members of the Retirement System upon such date, and persons who shall become members of the Fire or Police Departments after the effective date hereof, shall become members of the Retirement System forthwith, subject to the following provisions, in addition to the provisions contained in Sections 7 to 12, both inclusive, of this Article.

Retirement for age.

(a) Members of the Retirement system may retire for service at their option upon attaining an age of at least fifty-seven years if they be members of the Fire Department, or sixty years if they be members of the Police Department, but only after rendering at least twenty years of service to the city in either or both of said departments. Dismissal of a member from service for any cause, after he has qualified as to age and service for service retirement, shall not deprive him of the right to retire under the provisions of the sentence immediately preceding.

Retirement for disability.

Any member of the System shall be retired for disability, regardless of age or amount of service, if incapaciated for the performance of duty as the result of an injury or illness incurred in the performance of duty. Any member incapacitated for the performance of duty by reason of a cause not included under the provisions of the immediately preceding sentence, shall be retired regardless of age but only after ten years of service to the city in either or both of said departments.

Compulsory retirement.

Retirement shall be compulsory at the age of sixty-two years for members of the Fire Department and sixty-five years for members of the Police Department.

Retirement allowance.

(b) Upon retirement for service, a member shall receive a retirement allowance composed of the sum of two parts; one part being an amount derived by the application, upon the basis of tables and rates recommended by the actuary and approved by the Retirement Board, as provided in Section 9 of this Article, of twice the normal contributions plus accum-

ulated interest thereon, made by him and standing to his credit under the Retirement System, at the date of his retirement, and the other part, regardless of his age at retirement, being the same percentage of his final compensation for each year of service rendered by him in the Fire or Police Department prior to the effective date hereof, as the contributions of the member and the city are calculated to provide upon retirement for service at fifty-seven years of age if he be a member of the Fire Department, or sixty years of age if he be a member of the Police Department, or upon completion of twenty years of service at an age higher than fifty-seven years if he is a member of the Fire Department or sixty years if he be a member of the Police Department, for each year of service after said date. Upon the death of the retired member, two-thirds of the retirement allowance shall be continued throughout life or until remarriage, to his surviving wife, to whom he was married at least one year prior to his retirement, provided said wife is of the same age as said member. If said surviving wife is of a greater or less age than said member, then such portion of the retirement allowance shall be continued to her throughout her life or until her remarriage, as the amount which would have been necessary at retirement to provide for the continuance after said member's death of two-thirds of the entire allowance to a surviving wife of the same age as the said member, will provide when applied at the time of retirement, according to tables and rates recommended by the actuary and approved by the Retirement Board, to purchase a retirement allowance to begin at the death of the retired member and continue throughout the life of the surviving wife. If there be no surviving wife or if she die before any child of such deceased member shall have attained the age of sixteen years, then the allowance which would have been paid to her had she lived, shall be paid to his child or children under said age collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after attaining the age of sixteen years If payment of the allowance be stopped because of marriage of the widow or attainment of the age of sixteen years by a child before the sum of the monthly payments made shall equal the sum of the retired member's dependent contributions, with interest thereon, as it was at his retirement, then an amount equal to the difference between said sums shall be paid in one amount to the married widow, or if there be no widow, to the surviving children of the deceased member, share and share alike, provided that this sentence shall be of no effect if there be no wife at the time of retirement who qualifies for the continuance of an allowance to her after the death of the said member.

Widow.

Children.

Upon retirement for disability resulting from injury or illness incurred in performance of duty, a member shall receive a retirement allowance of fifty per centum of his final compensation. Upon the death of the retired member, the

Retirement for disability in line of duty.

Widow.

retirement allowance shall be continued, throughout life or until remarriage, to the surviving wife, to whom he was married at least one year prior to his retirement. If there be no surviving wife or if she die before any child of such deceased member shall have attained the age of sixteen years, then the allowance shall be continued to his child or children under said age collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after attaining the age of sixteen years. If payment of the allowance be stopped because of marriage of the widow or attainment of the age of sixteen years by a child before the sum of the monthly payments made shall equal the sum of the retired member's dependent contributions, with interest thereon, as it was at his retirement, then an amount equal to the difference between said sums shall be paid in one amount to the married widow, or if there be no widow, to the surviving children of the deceased member, share and share alike, provided that this sentence shall be of no effect if there be no wife at the time of retirement who qualifies for the continuance of an allowance to her after the death of the said member.

Children

Upon retirement for disability resulting from any cause not included in the immediate preceding paragraph, a member shall receive a retirement allowance of one and one-fourth per centum of his final compensation multiplied by the number of years of service in either or both the Fire or Police Departments credited to him, if such allowance exceeds one-fourth of his final compensation; otherwise one and one-fourth per centum of his final compensation multiplied by the number of years which would be creditable to him were his service to continue until his attainment of the age of fifty-seven years, but such allowance shall not exceed one-fourth of his final compensation.

Other disability

If the disability for which a member was retired shall cease, his allowance shall cease, and the Retirement Board shall recommend to the City Manager that he be reinstated to the rank or position of the same grade as that he occupied at the time of his retirement. If he be not reinstated, he shall be paid an amount equal to his accumulated contributions as they were at retirement, less the sum of the monthly payments of that portion of his allowance which was provided by his accumulated normal contributions and plus interest from the date of retirement on the balance remaining from time to time. Upon retirement at any time thereafter, he shall receive credit as service for the time during which he was retired for disability, the City making such contributions as may be necessary to meet the liability for such service as well as for the service rendered prior to disability retirement, less the accumulated contributions standing to his credit at retirement.

Allowance to cease with cessation of disability.

To the allowances provided in this section, shall be added the allowance which the additional contributions of the retir-

ing member will provide when applied in the same manner as his normal contributions.

(c) Upon the death, before retirement, of a member, the Retirement System shall be liable for a death benefit, which, if an amount be due under either paragraph (3) or paragraph (4) next following, and if there be a surviving wife or surviving children, shall be paid in monthly installments and to the surviving wife and children as prescribed therein, otherwise the amounts due under paragraphs (1) and (2) shall be paid as prescribed therein, and such death benefit shall consist of: Death benefit.

(1) His accumulated contributions to be paid to such person having an insurable interest in his life as he shall nominate by written designation duly executed and filed with the Retirement Board, and in addition thereto,

(2) An amount equal to his compensation earnable during the six months immediately preceding his death to be paid only to his surviving wife, his child or children or his dependent father or mother, and if in the opinion of the Retirement Board, death be the result of injury or illness incurred in the performance of duty, in addition thereto,

(3) An amount sufficient, when added to the amounts provided in (1) and (2) but excluding his accumulated additional contributions, to provide when applied according to tables and rates recommended by the actuary and approved by the Retirement Board, a monthly death benefit allowance, equal to one-half of his final compensation, to be paid to the surviving wife to whom said member was married at the time of sustaining the said injury, to continue throughout her life or until her remarriage; or if there be no widow, or if the widow die before any child of such deceased member shall have attained the age of sixteen years, then to his child or children under said age collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after attaining the age of sixteen years. If payment of the allowance be stopped because of marriage of the widow or attainment of the age of sixteen years by a child before the sum of the monthly payments made shall equal the sum of the amounts provided in the next preceding paragraphs (1) and (2), then an amount equal to the difference between said sums shall be paid in one amount to the married widow, or if there be no widow, to the surviving children of the deceased member, share and share alike. If, in the opinion of the Retirement Board, death be not the result of injury or illness incurred in the performance of duty, and if said member be qualified at the date of death for retirement for service under subsection (a) of this Section, then, in addition to the amounts provided in said paragraphs (1) and (2),

Death benefit.

(4) An amount sufficient, when added to the amounts provided in said paragraphs (1) and (2), but excluding his accumulated contributions, when applied according to the tables and rates recommended by the actuary and approved by the Retirement Board, to provide an allowance to be paid to the surviving wife to whom said member was married at least one year prior to his death, to be equal in amount to the allowance which would have been payable to her if the said member had retired for service at the time of his death and had died instantly thereafter, and to continue throughout her life or until her remarriage, or if there be no surviving wife, or if she die before any child of such deceased member shall have attained the age of sixteen years, then to his child or children under said age collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after attaining the age of sixteen years. If payment of the allowance be stopped because of marriage of the widow or attainment of the age of sixteen years by a child before the sum of the monthly payments made shall equal the sum of the amounts provided in the next preceding paragraphs (1) and (2), then an amount equal to the difference between said sums shall be paid in one amount to the married widow, or if there be no widow, to the surviving children of the deceased member, share and share alike.

Normal contributions.

(d) The normal contributions which shall be required as a deduction from the compensation of each member throughout his membership shall be such as, on the average for such member, if his service on full salary be uninterrupted and when accumulated with interest, added to the equal accumulated contributions of the city and applied according to the tables and rates recommended by the actuary and approved by the Retirement Board as hereinbefore provided, will provide a retirement allowance upon retirement for service at the age of fifty-seven years if he be a member of the Fire Department or sixty years if he be a member of the Police Department, or upon completion of twenty years of service at an age higher than fifty-seven years if he be a member of the Fire Department or sixty years if he be a member of the Police Department, equal to one-half of his final compensation, less that part of the retirement allowance set forth in the first sentence of subsection (b) of this Section 14, which is to be provided by contributions of the city on account of service rendered prior to the effective date hereof.

Dependent contributions

The dependent contributions which shall be required in the same manner as normal contributions of each male member throughout his membership in addition to the normal contributions, shall be such as would be necessary to provide upon the date of his service retirement at fifty-seven years of age if he be a member of the Fire Department or sixty years if he be a member of the Police Department, or upon completion

of twenty years of service at an age higher than fifty-seven years if he be a member of the Fire Department or sixty years if he be a member of the Police Department, when accumulated with interest and applied according to the tables and rates recommended by the actuary and approved by the Retirement Board, for the continuance after his death and throughout the life of a surviving wife whose age at such date is the same as the age of said member, of two-thirds of the retirement allowance provided by his accumulated normal contributions upon said retirement at fifty-seven years of age if he be a member of the Fire Department or sixty years if he be a member of the Police Department, or at said higher ages. If at the date of retirement for service or retirement for disability resulting from injuries received in perfomance of duty, said member has no wife who qualifies under this Charter for the continuance of an allowance to her after the death of said member, or upon retirement for disability resulting from other causes regardless of his marital condition, the said dependent contributions with accumulated interest thereon shall be paid to him upon said date, or at his option, applied in the same manner as his normal contributions, to provide for him a retirement allowance which shall be added to the retirement allowance provided by said normal contributions.

Members may make contributions in addition to and in the same manner as the normal and dependent contributions provided for in the two immediately preceding paragraphs, to provide additional benefits, but the city shall not contribute any amount on account of such member's additional contributions. Such additional contributions shall be administered in the same manner as the normal contributions.

(e) Should any person who is a member under the provisions of this Section be separated from service of the city through any cause other than death or retirement, then all of his contributions, with interest, shall be refunded to him. If he shall again become a member of the Retirement System, he shall deposit in the Retirement Fund, the amount refunded to him and his rate of contribution shall be based on the same age as it was before said refund.

(f) The contributions made under this section shall be credited to the individual account of the member from whose compensation they were deducted, and no amendment to this Charter or repeal thereof shall prevent the payment to the member or his beneficiary, of such contributions made prior to the effective date of such amendment, with interest, upon separation, by other than retirement, from service of the city as provided in this Section.

SECTION 15. ADDITIONAL TAX LEVY. If in any year the amount of the contributions by the city and the cost of administration of said retirement fund, as in this Article provided, together with all amounts appropriated for other municipal purposes in the budget of the city, shall exceed the amount in this Charter limited for the levy of taxes for any

Additional tax levy for retirement fund.

one year for all municipal purposes other than for the payment of principal or interest on any bonds of the city, or for school purposes, to-wit, One Dollar ($1.00) on each One Hundred Dollars ($100.00) worth of taxable property in said city, as shown by the assessment roll, the legislative body is hereby authorized, without the necessity of the approval of two-thirds of the qualified electors of the city therefor, to levy and collect for the purposes of the Retirement System a tax, in addition to the tax so limited in this Charter, not to exceed seven cents ($.07) on each One Hundred Dollars ($100.00) worth of taxable property in the city, as shown by the assessment roll."

and

as a separate proposal that Article 6½ of the Charter of the City of Pasadena be amended by adding thereto a new section to be designated Section 4½, to read as follows:

Bond redemption.

"SECTION 4½. ANNUAL CONTRIBUTION FOR BOND REDEMPTION. At the time of or before the adoption of the budget of the city for the fiscal years commencing July 1st, 1935, and ending June 30, 1939, as provided for in this Charter, the legislative body shall annually determine by ordinance the amount to be transferred from the Light and Power Fund in accordance with the provisions of this section. The sum so determined shall be transferred by said legislative body by ordinance on or before the first day of September next succeeding the time of such determination, to the general fund of the city. The sum thus transferred shall be expended for the payment of interest and/or principal on any bonds of the city which are or shall become wholly payable out of moneys received from general taxes of the city.

The amount to be so transferred shall constitute 8% of the gross income of the Municipal Light and Power Department received during the previous fiscal year from the sale of electric energy for use in the City of Pasadena; provided, however, that no greater sum shall be transferred than shall be required currently for the expenditures for said interest and/or principal as herein provided.

Notwithstanding anything herein contained, if the legislative body at the time of or before the adoption of the budget of the city as aforesaid, shall determine that the transfer of such amount from the Light and Power Fund will be detrimental to the proper functioning and administration of the said Municipal Light and Power Department during the current fiscal year, the legislative body may so find by ordinance, and, in such event, no transfer of such amount shall be made thereafter within the current fiscal year. If the legislative body shall determine that the transfer of a less amount than the 8% aforesaid will not be detrimental to the proper functioning and administration of the said Municipal Light and Power Department during the current fiscal year, the legislative body may so declare by ordinance, and shall thereupon make transfer, as aforesaid, of said less amount.

This amendment shall become effective upon its approval by the legislature of the State of California."

and

as a separate proposal that Article 10 of the Charter of the City of Pasadena be amended by adding thereto a new section to be designated Section 9, to read as follows:

"SECTION 9. Whenever the city shall have received any money from the federal government or from the State of California, or from any agency of either, it may, in the expenditure of such money, conform to all applicable requirements of federal or state laws, and of regulations and orders issued under the authority thereof, with respect to the awarding of contracts, hours of labor, employment preferences and other such matters covered thereby, notwithstanding any provisions of this Charter inconsistent therewith, and any such inconsistent provisions shall yield and be subordinate thereto with respect to such expenditure."

Conformity with Federal requirements concerning Federal funds.

That each of said proposed amendments on the 27th day of September, 1934, was published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, in the Pasadena Star-News, a daily newspaper of general circulation published in the said City of Pasadena, and the official newspaper of said City.

Certificate

That copies of said proposed amendments were printed in convenient pamphlet form and in type of not less than ten point, and copies thereof were mailed to each of the qualified electors of such City, and until the date fixed for the said election upon said amendments, and as required by Section 8 of Article XI of the Constitution, a notice was advertised and published in said Pasadena Star-News and Pasadena Post, the same being newspapers of general circulation in said City, that such copies might be had upon application therefor at the office of the City Clerk of the City of Pasadena.

That such copies could be had upon application therefor at the office of said City Clerk until the date fixed for said election.

That in accordance with the provisions of Section 8 of Article XI of the Constitution and of the Charter of the said City of Pasadena and said ordinances of the legislative body thereof, there was held in the said City of Pasadena on the 6th day of November, 1934, a special election, and that pursuant to the provisions of Section 8 of Article XI of the Constitution and the Charter and said ordinances, the said proposed Charter amendments and each of them were severally submitted to the qualified electors of said City for their ratification at said election, and that at said election a majority of the qualified electors voting thereon voted in favor of the ratification of said amendments, and each of them, and did ratify each of the said proposed amendments to the Charter of the said City hereinabove set out.

That in accordance with the provisions of the Charter of the City of Pasadena and said Ordinance No. 3192, said special election called to be held on the 6th day of November, 1934, was consolidated by the legislative body of said City with the general State election to be held in said City on said November 6, 1934.

That the Board of Supervisors of the County of Los Angeles in the manner provided by law and pursuant to the provisions of the Charter of said City did duly and regularly canvass the returns of said election, and on the 7th day of December, 1934, did duly certify to the Board of Directors of the City of Pasadena the result of the canvass of said returns at said special election so consolidated, and the said Board of Directors of said City by motion adopted December 11, 1934, did duly declare the result of said special election as determined from the canvass of the returns therefor to be that a majority of the qualified electors of said City voting on said amendments and each thereof had voted for and ratified each of said proposed amendments.

That we have compared the foregoing amendments with the original proposals submitting the same to the electors of said City, and find that the foregoing is a full, true, correct and exact copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the said City of Pasadena to be affixed hereto this 21st day of December, 1934.

EDWARD O. NAY,
Chairman of the Board of Directors
of the City of Pasadena.
BESSIE CHAMBERLAIN,
City Clerk.

WHEREAS, Certain proposed charter amendments have been and are now submitted to the Legislature of the State of California for approval or legislation as a whole, without power of alteration or amendment, in accordance with section 8 of Article XI of the Constitution of the State of California; now therefore, be it

Ratification.

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each has voted therefore and concurred therein, That said amendments to said charter herein set forth, as submitted to and ratified by the qualified electors of said city, be and the same are hereby approved as a whole, without alteration or amendment, and as amendments to and as part of the charter of the said city of Pasadena.

CHAPTER 9.

Assembly Concurrent Resolution No. 2—Approving eighteen certain amendments to the charter of the city of Los

Angeles, in the county of Los Angeles, State of California, voted for and ratified by the electors of such city at a special election held therein on the twenty-seventh day of September, 1934.

[Filed with Secretary of State January 17, 1935.]

City of Los Angeles Charter amendments

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of eighteen amendments, hereinafter set forth, to the charter of the city of Los Angeles, a municipal corporation, in the county of Los Angeles, State of California, as set out in certificate of the president of the council of the city of Los Angeles and the city clerk of said city as follows, to wit:

State of California }
County of Los Angeles } ss.
City of Los Angeles }

Certificate.

We, the undersigned, Howard W. Davis, President of the Council of the City of Los Angeles, State of California, and Robt. Dominguez, City Clerk of said city, do hereby certify as follows:

That the City of Los Angeles, a municipal corporation of the County of Los Angeles, State of California, now is and at all times herein mentioned was a city containing a population of more than three thousand five hundred inhabitants, and has ever since the first day of July, 1925, and is now, organized and acting under a freeholders charter adopted under and by virtue of section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of such city at a special election held for that purpose on the 6th day of May, 1924, and approved by the Legislature of the State of California by concurrent resolution filed with the Secretary of State on the 26th day of January, 1925 (Stats. 1925, p. 1024).

That in accordance with the provisions of section 8 of Article XI of the Constitution of the State of California, on its own motion, the Council of the City of Los Angeles, being the legislative body thereof, duly and regularly submitted to the qualified electors of said City of Los Angeles certain proposals for amendment of the Charter of said city to be voted upon by said qualified electors at a special election called and held for that purpose in said city on the 27th day of September, 1934, which said proposals were designated as proposed charter amendments numbers 1-A, 2-A, 3-A, 4-A, 5-A, 6-A, 7-A, 8-A, 9-A, 10-A, 11-A, 12-A, 13-A, 14-A, 15-A, 16-A, 17-A, 18-A, 19-A, 20-A, 21-A, 22-A, 23-A, 24-A, 25-A, and 26-A, respectively.

That said proposed amendments were, on August 17, 1934, published and advertised in accordance with section 8 of Article XI of the Constitution of the State of California, in the Los Angeles Daily Journal, a daily newspaper of general

Los Angeles city charter.

circulation, published in said city and the official paper of said city. That copies of said proposed amendments were printed in convenient pamphlet form and in type of ten-point and until the date fixed for the election hereinafter described, viz, from August 27, 1934 to September 27, 1934, both inclusive, and as required by law, a notice was advertised and published in said Los Angeles Daily Journal that such copies could be had upon application therefor at the office of the City Clerk of the City of Los Angeles.

That such copies could be had upon application therefor at the office of the City Clerk of said city until the date fixed for the election hereinafter described. That copies thereof were mailed to each of the qualified electors of said city as required by law.

That in accordance with the provisions of the Charter of the City of Los Angeles and Ordinance No. 74,101 adopted by the Council of said city at its meeting of September 12, 1934, approved by the Mayor on September 12, 1934 and published in said Los Angeles Daily Journal for five days prior to the holding of said election, a special municipal election was held in said city on the 27th day of September, 1934, which day was not less than forty nor more than sixty days after the completion of the publication and advertising of the proposed amendments aforesaid in the Los Angeles Daily Journal; and said Council of said city did by said Ordinance No. 74,101 order said special municipal election consolidated with a special recall election to be held in said city on the 27th day of September, 1934.

That pursuant to said charter and ordinance the said proposed amendments were submitted to the qualified electors of said city for their ratification at said election and that at said election a majority of the qualified electors voting thereon voted in favor of the ratification of and did ratify eighteen of the proposed amendments to the Charter of said city.

That the City Council of the said City of Los Angeles in accordance with the law in such cases made and provided did meet on the 5th day of October, 1934, at its usual time and place of meeting and duly canvassed the returns of said election as certified by the election boards and duly found, determined and declared that said proposed amendments to the Charter of the City of Los Angeles numbers 1-A, 6-A, 7-A, 10-A, 11-A, 12-A, 13-A, 14-A, 15-A, 16-A, 17-A, 18-A, 19-A, 20-A, 21-A, 22-A, 23-A and 24-A, and each and every one of them were ratified by a majority of the electors of said city voting thereon and that said proposed amendments numbers 2-A, 3-A, 4-A, 5-A, 8-A, 9-A, 25-A and 26-A received less than a majority of the votes of the qualified electors voting thereon and were not ratified.

The said amendments to the Charter so ratified by the electors of the City of Los Angeles are in words and figures as follows, to wit:

PROPOSED CHARTER AMENDMENT NO. 1-A

That Section 266 of the Charter be amended to read as follows:

Sec. 266. General municipal elections shall be held in said city on the first Tuesday of May of every odd numbered year, commencing with the year 1935. General elections

That Section 316 of the Charter be amended to read as follows:

Sec. 316. A primary nominating election shall be held on the first Tuesday in April, 1935, and on the first Tuesday in April of every second year thereafter, at which shall be nominated the candidates for the elective offices to be voted for at the general municipal election to be held on the first Tuesday in May next ensuing. The officers of election who shall be appointed for the primary nominating election shall be the officers of such general election, and such general election shall be held at the same places as far as possible, and the polls shall be opened and closed at the same hours, as may be provided for the primary nominating election. All ballots, blanks and other supplies to be used at any primary nominating election, and all expenses necessarily incurred in the preparation for or the conducting of such primary nominating election shall be paid out of the treasury of the city in the same manner, with like effect, and by the same officers, as in the case of other elections. Primary elections

PROPOSED CHARTER AMENDMENT NO. 6-A

That Section 425 of the Charter be amended to read as follows:

Sec. 425. In fixing the compensation to be paid to persons in the city's employ, the Council and every other authority authorized to fix salaries or wages, shall, in each instance, provide a salary or wage at least equal to the prevailing salary or wage for the same quality of service rendered to private persons, firms or corporations under similar employment, in case such prevailing salary or wage can be ascertained. Salaries and wages.

The provisions of that certain Act of the Legislature of the State of California entitled "An act to provide for the payment of not less than the general prevailing rate of wages on public works, and not less than the general prevailing rate of wages for legal holiday and overtime work on public works, providing for the ascertainment of such general prevailing rate by the public body awarding the contract and its insertion in the contract and call for bids for the contract, providing for the keeping of records of the wages paid all workers engaged in public work and the inspection of such records by the proper public officials, providing for a forfeiture for each calendar day, or portion thereof, any worker is paid less than the said rate and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof" (approved May 25, 1931, Statutes 1931, Stats 1931, Ch 397, adopted.

Chapter 397), as amended or as hereafter shall be amended, are hereby accepted and made applicable to the City of Los Angeles, its departments, boards, officers, agents and employees notwithstanding the exemption of said city therefrom created by Sections 6 and 8 of Article XI of the Constitution of the State of California with respect to municipal affairs.

PROPOSED CHARTER AMENDMENT NO. 7-A

That Section 268 of the Charter be amended to read as follows:

Board of Education.

Sec. 268. In the event of a vacancy in the office of member of the Board of Education said board shall fill the same by appointment, and in the event of a vacancy in any other elective office the Council shall fill the same by appointment. In each case the person so appointed shall hold office until the election and qualification of a person to fill the vacancy for the unexpired term, which election shall take place at the next succeeding primary nominating election or general municipal election, if any, occurring prior to the expiration of such term; and if no such election shall so occur, then such appointed person shall hold office for the unexpired term.

No person shall be eligible for any such appointment unless he shall possess the same residential qualifications as are required for nomination or election to such office. Any person so appointed to fill a vacancy in an elective office may be removed from office by the recall in the same manner as if he shall have been elected to said office.

PROPOSED CHARTER AMENDMENT NO. 10-A

That Section 103 of the charter be amended to read as follows:

Civil service.

Sec. 103. All applicants for office, places, or employments in said classified civil service shall be subject to examination, which shall be public, competitive and open to all citizens of the United States, with specified limitations as to residence, age, sex, health, habits, experience and moral character. An application fee in the sum of one dollar shall be charged and collected from each applicant for open competitive examination prior to the filing of any such application. Such examinations shall be practical in their character, and shall relate to those matters which will fairly test the relative capacity of the persons examined to discharge the duties of the position to which they seek to be appointed, and, when appropriate, shall include, or exclusively consist of, tests of physical qualifications, health and manual skill. No question in any examination shall relate to political or religious opinions or affiliations. No limitation or restriction whatsoever shall be imposed, excepting in the departments of fire and police, fixing a maximum age in excess of which persons shall be deprived from taking examinations for or being employed in the classified civil service. The board shall control all exam-

inations, and may, whenever an examination is to take place, obtain the assistance of a suitable person or number of persons to aid it in preparing for and conducting such examinations.

PROPOSED CHARTER AMENDMENT NO. 11-A

That Section 107 of the Charter be amended to read as follows:

Sec. 107. The board shall by its rules provide for the promotion in such classified civil service on the basis of ascertained merit and seniority in service and examination, and shall provide in all cases where it is practicable that vacancies shall be filled by promotion. All examinations for promotion shall be competitive among such members of lower ranks as desire to submit themselves to such examination and who have such experience, qualification or qualifications as may be required by the board as a prerequisite for taking such examination; and it shall be the duty of the board to submit to the appointing power for each promotion the names of not more than three applicants having the highest rating; but in fixing said rating an allowance of credits, to be stated at the time of the announcement of said examination, shall be made for past service. Names of candidates on the register of eligibles for promotion shall be stricken therefrom after they shall have remained thereon two years without re-examination. The board shall cause to be held promotional examinations at such intervals that there shall at all times be maintained a register of eligibles for promotional positions in the classified civil service in which there are vacancies. The method of examination, and the rules governing the same, and the method of certifying shall be the same as provided for applicants for original appointment, except as otherwise provided in this section.

Promotional examinations.

PROPOSED CHARTER AMENDMENT NO. 12-A

That Section 135 of the Charter be amended to read as follows:

Sec. 135. (1) The right of an officer or employee of the fire department to hold his office or position and to the compensation attached to such office or position is hereby declared to be a substantial property right of which he shall not be deprived arbitrarily or summarily, nor otherwise than as herein in this section provided. No officer or employee of the fire department shall be suspended, removed, deprived of his office or position, or otherwise separated from the service of the fire department, (other than by resignation) except for good and sufficient cause shown upon a finding of "guilty" of the specific charge or charges assigned as cause or causes therefor after a full, fair and impartial hearing before the Board of Rights, (except as otherwise specifically provided in paragraphs two (2) and seven (7) of this section). Such

Discharge or suspension of member of fire department

charges must be based upon some act committed or omitted by such officer or employee within one (1) year prior to the filing of the complaint referred to herein. No case of suspension with loss of pay shall be for a period exceeding six (6) months.

(2) Provided however, that the Chief Engineer may:

Temporary relief from duty.

(a) Temporarily relieve from duty any officer or employee of the fire department pending a hearing before and decision by the Board of Rights of any charge or charges pending against such officer or employee; or, he may

Suspension.

(b) Suspend such officer or employee for a total period not to exceed thirty (30) days with loss of pay and with or without reprimand, subject however, to the right of such officer or employee to a hearing before a Board of Rights. In the event the officer or employee suspended under this sub-paragraph, files his application with the Chief Engineer (within five (5) days after service upon him of notice of such suspension if he has been personally served or within ten (10) days if he has been served in any other manner as herein prescribed), for a hearing before and decision by a Board of Rights in the manner in this section provided, such suspension shall thereupon automatically become a temporary relief from duty pending hearing and decision by the Board of Rights. In the event, however, that such officer or employee so suspended under sub-paragraph (b) of paragraph two (2) hereof, fails to so apply for such hearing within the period prescribed, he shall be deemed to have waived such hearing and such suspension shall remain effective, unless the Chief Engineer requires that a hearing be had, as hereinafter provided.

Charges.

(3) In the event any order of relief from duty or order of suspension is made under either sub-paragraphs (a) or (b) of paragraph two (2), such order must contain a statement of the charges assigned as causes therefor, and the Chief Engineer must (within five (5) days after such order of relief from duty or order of suspension is served as in this section prescribed) file with the Board of Fire Commissioners, a copy of a verified written complaint upon which such order of relief from duty or order of suspension is based, with a statement that a copy of such order of relief from duty or order of suspension and copy of verified complaint was served upon the accused. Such complaint must be verified by the oath of the person making the same and must contain a statement in clear and concise language of all the facts constituting the charge made. In the event that the Chief Engineer fails to file the aforesaid statement and complaint within the five (5) day period heretofore prescribed, the aforesaid order of temporary relief from duty or order of suspension shall thereupon become void and of no effect and shall be automatically revoked, and the accused officer or employee restored to duty with the department without loss of pay and without prejudice, the same as if no order of relief from duty or order of suspension had been made.

(4) The service of any notice, order or process mentioned in this section, other than service of subpoena, may be made either by handing the officer or employee a copy thereof personally or by forwarding such copy by registered mail to his last known address of record with the fire department if after due diligence he cannot be found. Service of papers

(5) Within five (5) days after service upon him of copy of the aforesaid verified complaint if he has been personally served or within ten (10) days after service upon him of copy of the aforesaid verified complaint if he has been served in any other manner as herein prescribed, the accused officer or employee may file with the Chief Engineer, his written application for a hearing before and decision by a Board of Rights. Application for hearing

(6) The Board of Rights shall be constituted of three (3) officers of the rank of Battalion Chief or higher. Upon the filing of the request for hearing before a Board of Rights as hereinabove provided, the officer or employee shall draw six (6) cards from a box containing the names of all of the officers who are qualified to sit upon such board, (except the names of the accused, the accuser, the Chief Engineer and the Deputy Chief Engineer, and such other officer as may be otherwise prejudiced or otherwise disqualified by reason of being a material witness to the facts constituting the charges made) and shall select any three (3) of the six (6) names thus drawn to constitute the Board of Rights to hear and decide upon the charges against him, rejecting the three (3) not selected by replacing them in the box. The three (3) thus selected shall constitute the Board of Rights to hear and decide the matter. Board of Rights

(7) In the event the accused fails, in any case, to request a hearing before a Board of Rights as hereinabove provided within the period prescribed, the Chief Engineer may require a hearing to be had before a Board of Rights and may for that purpose, within five (5) days after the expiration of such period, draw three (3) names from such box to constitute such Board. Provided, however, that in any case where such Board of Rights has been constituted for the purpose of hearing as herein in this section provided and the accused, without reasonable excuse, fails, neglects or refuses to appear before the said Board of Rights in session for such trial or hearing at the time and place designated, the Chief Engineer may, at his discretion, either direct the Board of Rights to proceed with such trial or hearing in the absence of such accused, or he may, without such hearing, impose such penalty of suspension or removal as he deems fit and proper, and cause notice thereof to be served upon such officer or employee so suspended or removed in the manner herein prescribed, and file a statement of such action with the Board of Fire Commissioners within five (5) days thereafter; and, provided further, however, that in the event the accused and Chief Engineer both fail to draw and create such Board of Rights within the period prescribed in any case of temporary relief Proceeding when no hearing demanded

from duty pending hearing, then and in that event such temporary relief from duty shall be null and void and of no effect the same as if it had not been made.

Time of hearing.

(8) Upon the selection of the officers to constitute the Board of Rights, the said Chief Engineer shall appoint the time (not less than five (5) nor more than ten (10) days thereafter) and designate a place where such hearing is to be held, and shall cause notice thereof to be served upon accused in the manner herein prescribed.

The Board of Rights may at any stage of the proceedings, (after it has first met in session at the time and place designated) continue from time to time the hearing of the matter pending before them.

Powers of board.

(9) The officers so selected as herein prescribed shall constitute the Board of Rights (for the purpose of hearing and deciding upon the matter for which it was specially drawn) and shall have the power to administer oaths and affirmations in any investigation or proceeding pending before said Board; examine witnesses under oath, and compel the attendance of witnesses and the production of evidence before them, respectively, as the case may be, by subpoena to be issued in the name of the City of Los Angeles, and to be attested by the City Clerk of said city.

Subpenas.

(10) The City Clerk shall, upon demand of the officers constituting the said Board of Rights, issue such subpoena in the name of the city, and attest the same with the corporate seal thereof, and shall in such subpoena direct and require the attendance of the witnesses sought to be subpoenaed before the said Board, at the time and place in said subpoena specified; and it shall be the duty of the Chief of Police to cause all such subpoenas to be served by some member of the police department upon the person or persons required to attend as aforesaid; and it shall be the duty of the council upon the adoption of this charter amendment to provide suitable penalties for disobedience of such subpoenas, and the refusal of witnesses to testify as herein provided.

Duty of City Attorney.

(11) The City Attorney (or some duly authorized deputy) shall, upon request of the Board of Rights, sit with said Board of Rights during its session or hearing for the purpose of advising the said Board on any and all legal matters pertaining to this section.

Conduct of hearing

(12) At such hearing the accused shall have the right to appear in person and by counsel or representative, or both, and make defense to such charge and may produce witnesses to testify in his behalf and cross-examine witnesses against him. The accused shall have the right and privilege to select and name any officer of the department of any rank not higher than the rank of Captain (who is not otherwise disqualified by reason of prejudice or being a party to the action in any capacity) to act as his defense representative at such hearing. The Chief Engineer must immediately assign the officer so selected and named to act as such representative, and it is

hereby made the duty of such officer to use every legal means available and exercise the best efforts of which he is capable to defend the accused at such hearing. All testimony at such hearing shall be given under oath, reported by a stenographer and transcribed and the accused shall be entitled to a certified copy of such transcript without charge or payment of fee. The said Board of Rights shall, at the conclusion of the hearing, make its specific findings of "guilty" or "not guilty" (on each specific charge) which must be based upon the evidence adduced before it at such hearing and not otherwise and render and certify its decision in writing. If the accused is found "not guilty", said Board shall order his restoration to duty without loss of pay and without prejudice, and such order shall be self-executing and immediately effective. In case, however, that the accused is found "guilty", the said Board of Rights shall prescribe its penalty (by order in writing) of either suspension for a definite period not exceeding six (6) months with total loss of pay, and with or without reprimand; or reprimand without further penalty; or of removal from office or position; which decision and order must be certified in writing and a copy thereof immediately delivered to the Chief Engineer. The departmental personal history and records of the accused shall not be available to the Board of Rights except and only in such cases where the accused has been found guilty of any charge upon which he was heard or tried by the Board of Rights, then only for the purpose of determining a proper penalty to be prescribed; provided, however, that in prescribing such penalty the said Board must look to the nature and gravity of the offense of which the accused has been found guilty and may at its discretion review the departmental personal history and record of such accused; provided further however, that no item or entry in such record may be considered by the said Board except in the presence of the accused, nor unless such accused has been given a fair and reasonable opportunity to explain any such item or entry.

Duty of Chief Engineer after hearing.

(13) The Chief Engineer shall thereafter execute the order of the Board of Rights within five (5) days after delivery to him of such certified copy of decision and order, or, he may within five (5) days, at his decretion and in lieu of such order, impose a penalty upon such officer or employee less in severity than that ordered by the Board of Rights, but may not impose a greater penalty. In the case of a suspension or removal, the Chief Engineer shall cause a copy of his notice of suspension or removal (based upon the order of the Board of Rights or upon his modification thereof) to be served upon such officer or employee and shall file a statement of such action with the Board of Fire Commissioners within five (5) days thereafter.

Computation of time of suspension.

(14) In any case of penal suspension or removal prescribed by the Board of Rights (or by the Chief Engineer in case no hearing is had before a Board of Rights) the time of such

suspension shall be computed from the first day such officer or employee was so suspended or relieved from duty pending hearing before and decision by the Board of Rights, and such removal shall relate back to and be effective as of the date of such relief from duty pending hearing before and decision by the Board of Rights.

Member not to be tried twice for same offense

(15) No officer or employee of the fire department shall be twice tried for the same offense, except upon his request. In any case of exoneration of the accused after a hearing before the Board of Rights, such exoneration shall be without prejudice to such officer or employee.

Rehearing

(16) At any time within three (3) years after any case of removal as hereinabove provided, the officer or employee so removed may file his request with the Chief Engineer to be reheard or to be heard on the cause of his removal, together with his supporting affidavit specifically setting forth in clear and concise language the reasons or grounds therefor. The Chief Engineer must consider and decide upon such request and affidavit within thirty (30) days after such filing. If good reason or cause appears therefor, the Chief Engineer must, without unnecessary delay, cause a Board of Rights to be constituted in the manner hereinabove provided for the purpose of hearing and deciding upon the matter. The said Board of Rights shall proceed as hereinabove prescribed, and shall at the conclusion of the hearing render and certify its findings (independent of any previous findings by any other Board of Rights, or any other court, board or other tribunal, or any investigation or report of or discretion exercised by the Chief Engineer in such cases where no hearing was had before a Board of Rights), based upon the evidence adduced before it at such hearing and not otherwise, and shall make and certify its decision and order in writing, and shall deliver a copy thereof to the Chief Engineer. The Chief Engineer shall thereupon proceed in the same manner as is hereinabove provided for after decision by the Board of Rights.

Construction of provisions relating to board.

(17) If, as and when the Board of Fire Commissioners herein referred to should become abolished, then, and in that event, wherever in this section the Board of Fire Commissioners is named or referred to there shall be read into this section in place thereof, the name of the officer, board or other body created in its place to assume the functions, powers and duties of such Board of Fire Commissioners; or, in the absence of such specific provision, then there shall be read into this section the name of the officer, board or body to whom such powers or duties may be delegated, or who shall assume such powers or duties.

Section not to affect other remedies.

(18) This section shall not be construed to in any way affect any other rights any officer or employee may have to pursue or assert any and all other legal rights or remedies in relation to his office or position or to the compensations attached thereto, or to appeal to or be heard or tried by or before any court or other tribunal of competent jurisdiction,

whether such court or other tribunal now exists or may be hereafter created or established.

(19) Any person restored to duty or reinstated in his office or position after suspension or removal, as provided in and under any provision of this section, shall be entitled to receive full compensation from the city the same as if such suspension or removal had not been made, provided that such compensation shall not be for more than six (6) months salary.

Compensation upon restoration to duty.

That Section 202 of the Charter be amended to read as follows:

Sec. 202. (1) The right of an officer or employee of the police department to hold his office or position and to the compensation attached to such office or position is hereby declared to be a substantial property right of which he shall not be deprived arbitrarily or summarily, nor otherwise than as herein in this section provided. No officer or employee of the police department shall be suspended, removed, deprived of his office or position, or otherwise separated from the service of the police department, (other than by resignation) except for good and sufficient cause shown upon a finding of "guilty" of the specific charge or charges assigned as cause or causes therefor after a full, fair and impartial hearing before the Board of Rights, (except as otherwise specifically provided in paragraphs two (2) and seven (7) of this section). Such charges must be based upon some act committed or omitted by such officer or employee within one (1) year prior to the filing of the complaint referred to herein. No case of suspension with loss of pay shall be for a period exceeding six (6) months.

Discharge or suspension of member of police department.

(2) Provided however, that the Chief of Police may:

(a) Temporarily relieve from duty any officer or employee of the police department pending a hearing before and decision by the Board of Rights of any charge or charges pending against such officer or employee; or, he may

Temporary relief from duty.

(b) Suspend such officer or employee for a total period not to exceed thirty (30) days with loss of pay and with or without reprimand, subject however, to the right of such officer or employee to a hearing before a Board of Rights. In the event the officer or employee suspended under this sub-paragraph, files his application with the Chief of Police (within five (5) days after service upon him of notice of such suspension if he has been personally served or within ten (10) days if he has been served in any other manner as herein prescribed), for a hearing before and decision by a Board of Rights in the manner in this section provided, such suspension shall thereupon automatically become a temporary relief from duty pending hearing and decision by the Board of Rights. In the event, however, that such officer or employee so suspended under sub-paragraph (b) of paragraph two (2) hereof, fails to so apply for such hearing within the period prescribed, he shall be deemed to have waived such hearing and such suspension shall remain effective, unless the Chief

Suspension.

of Police require that a hearing be had, as hereinafter provided.

Charges.

(3) In the event any order of relief from duty or order of suspension is made under either sub-paragraphs (a) or (b) of paragraph two (2), such order must contain a statement of the charges assigned as causes therefor, and the Chief of Police must (within five (5) days after such order of relief from duty or order of suspension is served as in this section prescribed) file with the Board of Police Commissioners, a copy of a verified written complaint upon which such order of relief from duty or order of suspension is based, with a statement that a copy of such order of relief from duty or order of suspension and copy of verified complaint was served upon the accused. Such complaint must be verified by the oath of the person making the same and must contain a statement in clear and concise language of all the facts constituting the charge made. In the event that the Chief of Police fails to file the aforesaid statement and complaint within the five (5) day period heretofore prescribed, the aforesaid order of temporary relief from duty or order of suspension shall thereupon become void and of no effect and shall be automatically revoked, and the accused officer or employee restored to duty with the department without loss of pay and without prejudice, the same as if no order of relief from duty or order of suspension had been made.

Service of papers

(4) The service of any notice, order or process mentioned in this section, other than service of subpoena, may be made either by handing the officer or employee a copy thereof personally or by forwarding such copy by registered mail to his last known address of record with the police department if after due diligence he cannot be found.

Application for hearing.

(5) Within five days after service upon him of copy of the aforesaid verified complaint if he has been personally served or within ten (10) days after service upon him of copy of the aforesaid verified complaint if he has been served in any other manner as herein prescribed, the accused officer or employee may file with the Chief of Police, his written application for a hearing before and decision by a Board of Rights.

Board of Rights.

(6) The Board of Rights shall be constituted of three (3) officers of the rank of Captain or higher. Upon the filing of the request for hearing before a Board of Rights as hereinabove provided, the officer or employee shall draw six (6) cards from a box containing the names of all of the officers who are qualified to sit upon such board, (except the names of the accused, the accuser, the Chief of Police and the Assistant Chief of Police, and such other officer as may be otherwise prejudiced or otherwise disqualified by reason of being a material witness to the facts constituting the charges made) and shall select any three (3) of the six (6) names thus drawn to constitute the Board of Rights to hear and decide upon the charges against him, rejecting the three (3) not selected by

replacing them in the box. The three (3) thus selected shall constitute the Board of Rights to hear and decide the matter.

Proceedings when no hearing demanded.

(7) In the event the accused fails, in any case, to request a hearing before a Board of Rights as hereinabove provided within the period prescribed, the Chief of Police may require a hearing to be had before a Board of Rights and may for that purpose, within five (5) days, after the expiration of such period, draw three (3) names from such box to constitute such Board. Provided, however, that in any case where such Board of Rights has been constituted for the purpose of hearing as herein in this section provided and the accused, without reasonable excuse, fails, neglects or refuses to appear before the said Board of Rights in session for such trial or hearing at the time and place designated, the Chief of Police may, at his discretion, either direct the Board of Rights to proceed with such trial or hearing in the absence of such accused, or he may, without such hearing, impose such penalty of suspension or removal as he deems fit and proper, and cause notice thereof to be served upon such officer or employee so suspended or removed in the manner herein prescribed, and file a statement of such action with the Board of Police Commissioners within five (5) days thereafter; and, provided further, however, that in the event the accused and Chief of Police both fail to draw and create such Board of Rights within the period prescribed in any case of temporary relief from duty pending hearing, then and in that event such temporary relief from duty shall be null and void and of no effect the same as if it had not been made.

Time of hearing.

(8) Upon the selection of the officers to constitute the Board of Rights, the said Chief of Police shall appoint the time (not less than five (5) nor more than ten (10) days thereafter) and designate a place where such hearing is to be held, and shall cause notice thereof to be served upon accused in the manner herein prescribed.

Continuation.

The Board of Rights may at any stage of the proceedings, (after it has first met in session at the time and place designated) continue from time to time the hearing of the matter pending before them.

Powers of board

(9) The officers so selected as herein prescribed shall constitute the Board of Rights (for the purpose of hearing and deciding upon the matter for which it was specially drawn) and shall have the power to adminster oaths and affirmations in any investigation or proceeding pending before said Board, examine witnesses under oath, and compel the attendance of witnesses and the production of evidence before them, respectively, as the case may be, by subpoena to be issued in the name of the City of Los Angeles, and to be attested by the City Clerk of said city.

Subpenas

(10) The City Clerk shall, upon demand of the officers constituting the said Board of Rights, issue such subpoena in the name of the city, and attest the same with the corporate seal thereof, and shall in such subpoena direct and require the

attendance of the witnesses sought to be subpoenaed before the said Board, at the time and place in said subpoena specified; and it shall be the duty of the Chief of Police to cause all such subpoenas to be served by some member of the police department upon the person or persons required to attend as aforesaid; and it shall be the duty of the council upon the adoption of this charter amendment to provide suitable penalties for disobedience of such subpoenas, and the refusal of witnesses to testify as herein provided.

Duty of City Attorney

(11) The City Attorney (or some duly authorized deputy) shall, upon request of the Board of Rights, sit with said Board of Rights during its session or hearing for the purpose of advising the said Board on any and all legal matters pertaining to this section.

Conduct of hearing.

(12) At such hearing the accused shall have the right to appear in person and by counsel or representative, or both, and make defense to such charge and may produce witnesses to testify in his behalf and cross-examine witnesses against him. The accused shall have the right and privilege to select and name any officer of the department of any rank not higher than the rank of Lieutenant (who is not otherwise disqualified by reason of prejudice or being a party to the action in any capacity) to act as his defense representative at such hearing The Chief of Police must immediately assign the officer so selected and named to act as such representative, and it is hereby made the duty of such officer to use every legal means available and exercise the best efforts of which he is capable to defend the accused at such hearing. All testimony at such hearing shall be given under oath, reported by a stenographer and transcribed and the accused shall be entitled to a certified copy of such transcript without charge or payment of fee. The said Board of Rights shall, at the conclusion of the hearing, make its specific findings of "guilty" or "not guilty" (on each specific charge) which must be based upon the evidence adduced before it at such hearing and not otherwise and render and certify its decision in writing. If the accused is found "not guilty", said Board shall order his restoration to duty without loss of pay and without prejudice, and such order shall be self-executing and immediately effective. In case, however, that the accused is found "guilty", the said Board of Rights shall prescribe its penalty (by order in writing) of either suspension for a definite period not exceeding six (6) months with total loss of pay, and with or without reprimand; or reprimand without further penalty; or of removal from office or position; which decision and order must be certified in writing and a copy thereof immediately delivered to the Chief of Police. The departmental personal history and records of the accused shall not be available to the Board of Rights except and only in such cases where the accused has been found guilty of any charge upon which he was heard or tried by the Board of Rights, then only for the purpose of determining a proper penalty to be prescribed; provided, how-

ever, that in prescribing such penalty the said Board must look to the nature and gravity of the offense of which the accused has been found guilty and may at its discretion review the departmental personal history and record of such accused: provided further however, that no item or entry in such record may be considered by the said Board except in the presence of the accused, nor unless such accused has been given a fair and reasonable opportunity to explain any such item or entry.

Duty of Chief of Police after hearing

(13) The Chief of Police shall thereafter execute the order of the Board of Rights within five (5) days after delivery to him of such certified copy of decision and order, or, he may within five (5) days at his discretion and in lieu of such order, impose a penalty upon such officer or employee less in severity than that ordered by the Board of Rights, but may not impose a greater penalty. In the case of a suspension or removal, the Chief of Police shall cause a copy of his notice of suspension or removal (based upon the order of the Board of Rights or upon his modification thereof) to be served upon such officer or employee and shall file a statement of such action with the Board of Police Commissioners within five (5) days thereafter

Computation of time of suspension

(14) In any case of penal suspension or removal prescribed by the Board of Rights (or by the Chief of Police in case no hearing is had before a Board of Rights) the time of such suspension shall be computed from the first day such officer or employee was so suspended or relieved from duty pending hearing before and decision by the Board of Rights, and such removal shall relate back to and be effective as of the date of such relief from duty pending hearing before and decision by the Board of Rights.

Member not to be tried twice for same offense

(15) No officer or employee of the police department shall be twice tried for the same offense, except upon his request. In any case of exoneration of the accused after a hearing before the Board of Rights, such exoneration shall be without prejudice to such officer or employee.

Rehearing

(16) At any time within three (3) years after any case of removal as hereinabove provided, the officer or employee so removed may file his request with the Chief of Police to be reheard or to be heard on the cause of his removal, together with his supporting affidavit specifically setting forth in clear and concise language the reasons or grounds therefor. The Chief of Police must consider and decide upon such request and affidavit within thirty (30) days after such filing. If good reason or cause appears therefor, the Chief of Police must, without unnecessary delay, cause a Board of Rights to be constituted in the manner hereinabove provided for the purpose of hearing and deciding upon the matter. The said Board of Rights shall proceed as hereinabove prescribed, and shall at the conclusion of the hearing render and certify its findings (independent of any previous findings by any other Board of Rights, or any other court, board or other tribunal, or any investigation or report of or discretion exercised by the Chief of Police in such cases where no hearing was had before

a Board of Rights), based upon the evidence adduced before it at such hearing and not otherwise, and shall make and certify its decision and order in writing, and shall deliver a copy thereof to the Chief of Police. The Chief of Police shall thereupon proceed in the same manner as is hereinabove provided for after decision by the Board of Rights.

Construction of provisions relating to board.

(17) If, as and when the Board of Police Commissioners herein referred to should become abolished, then, and in that event, wherever in this section the Board of Police Commissioners is named or referred to there shall be read into this section in place thereof, the name of the officer, board or other body created in its place to assume the functions, powers and duties of such Board of Police Commissioners; or, in the absence of such specific provision, then there shall be read into this section the name of the officer, board or body to whom such powers or duties may be delegated, or who shall assume such powers or duties.

Effect on other remedies.

(18) This section shall not be construed to in any way affect any other rights any officer or employee may have to pursue or assert any and all other legal rights or remedies in relation to his office or position or to the compensations attached thereto, or to appeal to or be heard or tried by or before any court or other tribunal of competent jurisdiction, whether such court or other tribunal now exists or may be hereafter created or established.

Compensation upon restoration to duty.

(19) Any person restored to duty or reinstated in his office or position after suspension or removal, as provided in and under any provision of this section, shall be entitled to receive full compensation from the city the same as if such suspension or removal had not been made, provided that such compensation shall not be for more than six (6) months salary.

PROPOSED CHARTER AMENDMENT NO. 13-A

That a new section be added to the Charter to be numbered Section 37½ to read as follows:

Special assessment for elevated railway or subway.

Sec. 37½. No special assessment shall be levied or collected against property in the City of Los Angeles for the purpose of paying the cost or expense of the acquisition, construction, maintenance or operation of any subway or elevated railway.

PROPOSED CHARTER AMENDMENT NO. 14-A

That a new section be added to the Charter, to be numbered 227, and to read as follows:

Refunding of indebtedness

Sec. 227. In the exercise of the power to borrow money pursuant to the authorization contained in Section 224½ of this charter, the Board may, by appropriate contract, notwithstanding the provision of said section that such borrowed money shall be repaid in not more than twenty equal annual payments, provide for the repayment of the principal thereof in not more than twenty graduated amounts such that the aggregate of principal and interest to be paid in each year

shall be substantially equal, and may repay such indebtedness, or any part thereof, before maturity; and the Board is hereby authorized from time to time to provide for the refunding, extension or renewal of such indebtedness at or prior to maturity by the issuance, sale or exchange of new notes or other evidences of indebtedness in the same aggregate principal amount, of such denomination, maturing in such installments and at such time or times, and bearing such rate or rates of interest, and otherwise modified, as said Board in its discretion may deem expedient; provided, however, that no such refunding, extension or renewal of such indebtedness shall extend the time of payment of the last installment of principal and/or interest beyond twenty years from the original incurring of such indebtedness, nor provide for payments of the principal otherwise than in not more than twenty equal annual payments, or in not more than twenty payments, graduated in the manner hereinabove stated, (subject to the provision that no payments of principal need be required during the first three years following the date of any such loan) unless such refunding, extension or renewal shall be approved by a majority of the voters voting upon the proposition at an election at which such proposition shall be submitted, or shall be provided for by the issuance of bonds authorized by vote of the electors, pursuant to law.

PROPOSED CHARTER AMENDMENT NO. 15-A

That a new section be added to the Charter to be numbered 224¾, and to read as follows:

Conformity with Federal requirements concerning Federal funds

Sec. 224¾. Whenever the Department shall have borrowed money from the Federal Government pursuant to the authorization contained in the preceding section it may, in the expenditure of the money so borrowed, conform to all applicable requirements of Federal laws, and of regulations and orders issued under the authority thereof, with respect to the awarding of contracts, hours of labor, employment preferences and other matters covered thereby, notwithstanding any provisions of this Charter inconsistent therewith, and any such inconsistent provisions shall yield and be subordinate thereto with respect to such work.

PROPOSED CHARTER AMENDMENT NO. 16-A

That a new section be added to the Charter, to be numbered 226, and to read as follows:

Borrowing money for electric system

Sec. 226. The Board is hereby authorized to borrow money from the Federal Government or the State Government, or any duly authorized agency created by either of said governments and acting therefor, or from any other source, to provide and pay the consideration for, and expenses of, the acquisition by the Department of the electric system of the Los Angeles Gas and Electric Corporation, subject to the following provisions:

Resolution

(a) No part of the consideration for such acquisition shall be paid over to said corporation out of any money so borrowed unless and until the Board shall have adopted a resolution declaring its intention to make such payment, specifying the amount thereof, or the maximum and minimum limits of such amount, or the proposed method of determining the same, and such resolution shall have become effective. Such resolution shall be published in the same manner as is required for the publication of ordinances of the Council; and such resolution shall not in any event go into effect until the expiration of thirty days from its publication, and shall be subject to referendum in like manner and with like effect as provided in sections 282 to 289, inclusive, of this Charter, with reference to resolutions adopted by the City Council. The Board may also request the Council to submit such resolution to a vote of the qualified electors of the city in the same manner as provided with reference to resolutions of the City Council in section 280 of this Charter; and if such request shall be so made, the Council shall so submit such resolution in the same manner and with the same effect as provided in said section 280.

Hearing

(b) The Board shall, either prior to or concurrently with the adoption of the resolution provided for in paragraph (a) hereof, provide for the holding of a public hearing, either at its usual place of meeting or at some other suitable place, with reference to the proposal to acquire said electric system, which hearing shall be held prior to, or not more than ten days after, the adoption of the resolution provided for in paragraph (a) hereof.

(c) The Board shall not, prior to the taking effect of the resolution provided for in paragraph (a) hereof, enter into any contract with said corporation for the purchase of said electric system in which the obligation to pay such purchase price is not made subject to the adoption and taking effect of such resolution.

(d) The board shall not, prior to the taking effect of the resolution provided for in paragraph (a) hereof, enter into any contract with the lender of the money so to be borrowed in which the obligation of the Board to accept and receive such money is not made subject to the adoption and taking effect of such resolution

Power Revenue Fund

(e) The principal and interest of such borrowed money shall be paid from the Power Revenue Fund, and the principal shall be repaid in not more than twenty annual payments, which shall be equal, or so graduated that the aggregate of principal and interest to be paid in each year shall be substantially equal, but no payments of principal need be required during the first three years following the date of any such loan. Nothing herein contained shall be construed to prohibit the repayment of such indebtedness, or any part thereof, before maturity, either out of such revenue funds or out of the proceeds of refunding bonds, or other authorized evidences of indebtedness; and the Board is hereby authorized

from time to time to provide for the refunding, extension or renewal of such indebtedness at or prior to maturity by the issuance, sale or exchange of new notes or other evidences of indebtedness in the same aggregate principal amount, of such denomination, maturing in such installments and at such time or times, and bearing such rate or rates of interest, and otherwise modified, as said Board in its discretion may deem expedient; provided, however, that no such refunding, extension or renewal of such indebtedness shall extend the time of payment of the last installment of principal and/or interest beyond twenty years from the original incurring of such indebtedness, nor provide for payments of the principal otherwise than in not more than twenty equal annual payments, or in not more than twenty payments, graduated in the manner hereinabove stated, (subject to the provision that no payments of principal need be required during the first three years following the date of any such loan) unless such refunding, extension or renewal shall be approved by a majority of the voters voting upon the proposition at an election at which such proposition shall be submitted, or shall be provided for by the issuance of bonds authorized by vote of the electors, pursuant to law.

Application of section

None of the provisions of this section shall apply to any acquisition of such electric system if the consideration therefor shall be paid out of the proceeds of the sale of bonds authorized by vote of the electors, in the manner provided by law, for the purpose of providing for such acquisition.

PROPOSED CHARTER AMENDMENT NO. 17-A

That subdivision (7) of Section 2 of the Charter be amended to read as follows:

Acquisition of public utility.

(7) To acquire, construct, maintain, operate or sell, whether situated inside or outside the city or state, any improvement, service, business, utility, enterprise or property which could be acquired, constructed, maintained, operated or sold by any person, firm, corporation or municipality, acting under the laws of the State of California. Any such improvement, service, business, utility, enterprise or property may be acquired subject to mortgage or lien securing bonds or other indebtedness not exceeding in aggregate par value the valuation of the property so acquired, and in such case the par value of such bonds or other indebtedness shall be deducted from the said valuation of the property, and the excess, if any, of the valuation of the property over the par value of such bonds or other indebtedness shall be the purchase price to be paid to the owner by the city for said property, and the city, or any department thereof, may to the extent permitted by the Constitution of the State of California assume the obligations of the owner of such utility for the payment of such bonds or indebtedness.

PROPOSED CHARTER AMENDMENT NO. 18-A

That a new section be added to the Charter, to be numbered 431, and to read as follows:

Employment of former utility employees

Sec. 431. All persons employed in the operating service of any public utility hereafter acquired by the city, or any department thereof, at, and for at least one year immediately prior to, the date of such acquisition, may be retained and employed by the city, or such department, in their respective positions, as nearly as may be, and, so long as continuously so retained and employed in such positions, shall be exempt from the civil service provisions of this charter; provided, however, that no person not a citizen of the United States, shall be so retained and employed and that persons so retained and employed shall, within three months after such acquisition, conform to any residence requirements applicable to employees of said city, or department, in like positions.

PROPOSED CHARTER AMENDMENT NO. 19-A

That Section 386 of the Charter be amended to read as follows:

Contracts over $2,000

Sec. 386. The City of Los Angeles shall not be, and is not bound by any contract involving any expenditure of more than two thousand dollars ($2000.00), unless the Council, board, purchasing agent, or other officer or employee, as the case may be, authorized to make the same, shall have first caused notice to be published one or more times in a daily newspaper printed and published in said city, inviting proposals to perform the same, and specifying the amount of the bond to be given for the faithful performance of the contract, and thereafter shall have let said contract to the lowest and best regular responsible bidder furnishing security for its performance satisfactory to the Council, board, officer or employee, as the case may be. Bidders may be required to submit with their proposals detailed specifications of any machinery, equipment, apparatus, materials, supplies, or other things to be furnished, together with guarantees as to efficiency, performance, characteristics, operating cost, time of delivery, useful life, and other appropriate factors; and the determination as to which is the lowest and best regular responsible bidder may be made on the basis of the lowest ultimate cost of such machinery, equipment, apparatus, materials, supplies, or other things, in place and use; and where the same are to constitute a part of a larger project or undertaking, consideration may be given to the effect on the aggregate ultimate cost of such project or undertaking. The right to reject any and all proposals shall, in every case, be reserved. Every such proposal shall be accompanied by a check certified by a responsible bank in the City of Los Angeles, payable to the order of the City of Los Angeles for an amount not less than ten per cent of the aggregate sum of the bid, or by a satisfactory bond for the said amount, and so payable as a guarantee that the bidder will

enter into the proposed contract if the same be awarded to him. No bid shall be considered unless the same is accompanied by such check or bond. The bid of any party who has been delinquent or unfaithful in the performance of any former contract with the city shall be rejected. If the successful bidder fails within ten (10) days after the contract is awarded to him to enter into the same or to furnish the bond required for the faithful performance thereof, executed by the contractor and by a responsible surety company, or by two or more sufficient sureties approved by the Council, board, officer or employee, as the case may be, then the certified check accompanying his bid shall be presented for payment and collected, and the amount thereof paid into the general fund of the city, or in the case of contracts to be made by a department having control of its own funds, into the appropriate fund of such department, as determined by the Board of such Department; provided, however, that the provisions of this section requiring the publication of notice inviting proposals and the letting of contracts to the lowest bidder shall not apply to contracts for the performance of professional, scientific, technical or expert services of a temporary and occasional character, or for the furnishing of articles covered by letters patent granted by the Government of the United States, or for the leasing or purchasing of real property, when approved by a majority vote of the Council; and provided, further, that contracts, in writing or otherwise, may be let without advertising for or inviting bids when any repairs, alterations, work or improvement under the charge of any board or officer of the city shall be deemed of urgent necessity by said board or officer and such method of letting contracts therefor is approved by the Council and by the Mayor.

PROPOSED CHARTER AMENDMENT NO. 20-A

That Section 28 of the Charter be amended to read as follows:

Interest of officials in city contracts

Sec. 28. No member of the Council shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the city is a party. No city official shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the city is a party and which comes before said official, or the department of the government with which he is connected, for official action. Any contract or transaction hereinabove mentioned in which any officer of the city shall be or become financially interested shall become void at the election of the city, to be declared by resolution of the Council, or in the case of contracts made by departments having control of their own funds by resolution of the board in control of such department. No member of the Council or City official shall be deemed to be financially interested within the meaning of the foregoing provisions, in any contract made with a corporation by reason of the ownership of stock in such corporation unless said stock

so owned by him shall amount to at least three per cent of all the stock of such corporation issued and outstanding. No city official shall vote on or participate in any contract or transaction in which he is directly or indirectly financially interested, whether as a stockholder of the corporation or otherwise, and if as a stockholder, regardless of the amount of his stock holding. If any officer of the city shall, during the term for which he was elected or appointed, so vote or participate, he shall, upon conviction thereof, forfeit his office and be punished for misdemeanor.

PROPOSED CHARTER AMENDMENT NO. 21-A

That Section 219 of the Charter be amended to read as follows:

Disposal of water rights and power or power rights

Sec. 219. The city shall not sell, lease or otherwise dispose of its rights in the waters of said Los Angeles River, in whole or in part. No other water or water right, nor any of the following property, now or hereafter owned or controlled by the city, to-wit: electric energy, or the right to develop electric or other power by means of any water or water right now or hereafter owned or controlled by the city, shall ever be sold, leased or disposed of, in whole or in part, without the assent of two-thirds of the qualified voters of the city voting on the proposition at a general or special election, at which such proposition shall be lawfully submitted, and no water shall ever be sold, supplied or distributed to any person or corporation, other than municipal, for resale, rental or disposal to consumers or other persons. Neither shall any electric power ever be sold, supplied or distributed to any person or corporation other than municipal for resale, rental or disposal to consumers or other persons without the assent of two-thirds of the qualified voters of said city given, as aforesaid; provided, that nothing in this section contained shall be construed to prevent the ordinary sale and distribution by the city of water and electric energy to its inhabitants for their own use, or to prevent the supplying or distribution by the city of surplus water or surplus electric energy to consumers or municipal corporations outside of the city, as elsewhere in this charter provided; but nothing in this section or elsewhere in this charter shall prohibit the making by the Board of Water and Power Commissioners of temporary arrangements for interchange and/or sale of electric power to continue in effect for not longer than the period of four years from and after January 1, 1935.

PROPOSED CHARTER AMENDMENT NO. 22-A

That Section 222 of the Charter be amended to read as follows:

Water works and electric works

Sec. 222. The Board may provide for the cost of extensions and betterments of said Water Works and Electric Works from funds derived from the sale of bonds, general or

district, and/or from revenues received from said works to which such extensions and betterments pertain, and/or from the proceeds of loans contracted in accordance with the provisions of this Charter. Same.

Whenever in the exercise of such power to provide for the cost of extensions and betterments from such revenues, the board may deem it advisable to make any such extension or betterment which cannot be provided for out of the appropriations for a single fiscal year, it may at any time adopt a special budget and make special appropriations therefor specifying the amount of such appropriation for each fiscal year during which such extension or betterment is expected to be in progress, and when such special budget is so adopted said board may incur financial obligations and make expenditures as authorized thereby; provided, however, that if such special budget is made concurrently with or after the adoption of the annual departmental budget for any fiscal year, it shall not appropriate for expenditure in that year any sum which is not appropriated for the same purpose in such annual departmental budget, or which is not available for appropriation therefor from the unappropriated balance, or as otherwise provided in this charter; and provided further that no such special appropriation for a future fiscal year shall be made unless, on report of the General Manager of the Bureau having charge of the works to which such improvement or extension pertains, or the General Manager of the department, it shall find that the reasonably expected revenues of such works in each fiscal year for which such appropriation is made will be amply sufficient to permit of the making of such appropriation in addition to the following:

(1) Appropriations to cover the necessary expenses of operating and maintaining such works, and such payments of principal and interest on outstanding bonds as, under the provisions of section 223 of this charter, and findings or resolutions provided for therein, said board is required to apportion and set apart;

(2) Appropriations to cover all sums coming due in said year for principal and interest upon notes, certificates or other evidences of indebtedness issued under the provisions of Sections 224 and 224½ of this Charter;

(3) Appropriations to cover all appropriations made by any prior special budget; and

(4) Appropriations to cover all other reasonably anticipated expenses for said year.

Any such special budget shall be subject to modification or extension upon like report and finding, but said board shall not, either by such adoption, modification or extension, make any appropriations for any fiscal year later than three years after the fiscal year in which such special budget, modification or extension is so adopted. It shall be the duty of the board in adopting the annual departmental budget for each

fiscal year to include therein appropriations for each item appropriated for that year by any such special budget, as so adopted or modified.

PROPOSED CHARTER AMENDMENT NO. 23-A

That Subdivision Third of Section 221 of the Charter be amended to read as follows:

Powers of board.

Third: For the necessary expenses of constructing, extending and improving such works, including the purchase of lands, water rights and other property; also the necessary expenses of conducting and extending the business of the department pertaining to such works; also the necessary expenses of advertising for, soliciting for, and increasing the business of the Department and for promoting the sale of the products of said Department; also for reimbursment to another bureau on account of services rendered, or material, supplies, or equipment furnished; also for expenditures for purposes for which bonds, or evidences of indebtedness provided for in this Charter, shall have been authorized, subject to reimbursement as soon as practicable, from monies derived from the sale or issuance of such bonds or evidences of indebtedness.

That Section 390 of the Charter be amended to read as follows:

Limit on period contracts may run.

Sec. 390. Except as otherwise provided in this Charter, no Board or Commission of the City of Los Angeles shall make any contract obligating the City of Los Angeles, or any department of the city government to make payments of money or other valuable consideration for a period of time longer than three years from the date of any such contract, unless such contract shall have been first approved and authorized by Ordinance of the City of Los Angeles, provided, however, that this section shall not apply to contracts entered into with the United States Government, or other governmental agencies.

PROPOSED CHARTER AMENDMENT NO. 24-A

That Section 90 be amended to read as follows:

Department of Building and Safety.

Sec. 90. The Department of Building and Safety shall have the power and duty to enforce all ordinances and laws relating to the construction, alteration, repair, demolition, or removal of buildings or structures in the city, and to the installation, alteration, repair, use, and operation of all heating, plumbing, lighting, ventilating, refrigerating, electrical and mechanical appliances and equipment therein; provided, however, that jurisdiction over the construction, alteration, repair, removal or installation of elevators, escalators, console and/or stage lifts, incline cars, manlifts, manhoists, steam boilers, pressure vessels and all connections and appurtenances pertaining to proper functioning thereof may be vested in such Board or officer as may be determined by Ordinance.

That we have compared the foregoing amendments with the original proposals submitting the same to the electors of said city and find that the foregoing are full, true, correct and exact copies thereof and of each of them; we further certify that the facts set forth in the preamble preceding such amendments to said Charter are and each of them is true. Certificate.

That as to all of said amendments this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the corporate seal of the said City of Los Angeles to be affixed hereto this 31st day of December, 1934.

HOWARD W. DAVIS,
President of the Council of the City of Los Angeles
(SEAL) ROBT. DOMINGUEZ,
City Clerk of the City of Los Angeles.

and

WHEREAS, the said proposed amendments as ratified as hereinbefore set forth have been and are now duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration in accordance with section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring (a majority of all the members elected to each house voting therefor and concurring therein) That said amendments to the charter of the city of Los Angeles as proposed to, and adopted and ratified by the electors of the said city, and as hereinbefore fully set forth, be and the same are hereby approved as a whole, without amendment or alteration, for and as amendments to and as part of the charter of the said city of Los Angeles. Ratification

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CHAPTER 10.

Assembly Concurrent Resolution No. 5—Approving certain amendments to the charter of the county of San Diego, State of California, voted for and ratified by the qualified electors of said county at a general election held therein on the sixth day of November, 1934.

[Filed with Secretary of State January 17, 1935.]

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of amendments to said charter set out in the certificate of the chairman of the board of supervisors and the county clerk and ex officio clerk of the board of supervisors of the county of San Diego, to wit: County of San Diego: Charter amendments

State of California }
County of San Diego } ss

Certificate

Certificate of County Clerk of the County of San Diego, State of California, and Chairman of the Board of Supervisors of the County of San Diego, State of California, as to the Adoption and Ratification of Certain Amendments to the Charter of said County of San Diego, Submitted to the Qualified Electors of the Said County of San Diego on the sixth day of November, 1934.

PREAMBLE

Be it known that:

WHEREAS, The County of San Diego, State of California, has at all times mentioned herein, been and now is a body politic of the State of California, and is now and has been since the 1st day of July, 1933, organized and acting under and by virtue of a charter adopted under and by virtue of section seven and one-half of article eleven of the constitution of the State of California, which charter was duly ratified by the qualified electors of the said county at an election held for that purpose on the 8th day of November, 1932, and approved by the Legislature of the State of California on the 17th day of January, 1933; and

WHEREAS, On the 11th day of September, 1934 and the 21st day of September, 1934, the Board of Supervisors of said County of San Diego pursuant to the provisions of Section seven and one-half of article eleven of the constitution of said state duly proposed to the qualified electors of the said county certain amendments to the charter of the said county by submission of proposals for such amendments to said electors at the general election held on November 6th, 1934, and on the respective dates the said board of supervisors duly ordered said proposals to be submitted to the qualified electors of said county for ratification or rejection at said general election, and further duly ordered that the proposal of September 11th, 1934 should be forthwith published for ten times in the San Diego Evening Tribune, and that the proposal of September 21st, 1934 should be forthwith published for ten times in the San Diego Union, each being a newspaper of general circulation, printed, published and circulated in said County, and in said proposals said proposed amendments and each of them were set forth in full and at length and were and are in the words and figures hereinafter set forth; and

WHEREAS, Thereafter, the said proposal of September 11th, 1934 was duly published in full and at length in said San Diego Evening Tribune for ten times on the following

dates, to wit: September 13, 14, 15, 17, 18, 19, 20, 21, 22, and 24, 1934 and that the said proposal of September 21st, 1934 was duly published in full and at length in the said San Diego Union for ten times on the following dates, to wit: September 22, 23, 24, 25, 26, 27, 28, 29, 30, and October 1, 1934 and that said publications were made as often during said time as said newspapers were regularly published; and said general election at which said proposals were submitted to the vote of the qualified electors of said county was not less than thirty days nor more than sixty days after publication of said proposals as aforesaid; and

San Diego County charter

WHEREAS, Immediately subsequent to said publication, the said Board of supervisors duly prescribed the form and titles to be printed on the general election ballot to be used at said general election for submission of said proposals, which said form and titles are hereinafter set forth, and in which said form and under which said titles said proposals appeared on said ballot; and

WHEREAS, Subsequent to said publication and at least twenty-five days prior to November 6th, 1934, the county clerk of said county duly filed in his office a notice of election in which, among other things and in addition to all other matters required by law, it was stated that said proposals, and each of them, would be submitted to the qualified electors of said county at said general election on November 6, 1934, and said clerk caused a copy of said notice to be posted in a prominent place in his office; and

WHEREAS, Not more than twenty-five days nor less than fifteen days prior to said November 6th, 1934, the county clerk of said county caused to be mailed to each qualified elector within said County of San Diego, inclosed in an envelope a sample ballot, containing the propositions to be voted upon, and each of them, and said ballot was in the form required by law and contained all matters and things required by law to be contained therein, and

WHEREAS, At said general election said proposals, and each of them, were duly submitted to the vote of the qualified electors of said County and appeared on the general ballot at said election in the following form, to wit:

AMENDMENTS TO THE CHARTER OF THE COUNTY OF SAN DIEGO.

1. Shall the Charter of the County of San Diego be amended by adding thereto a new Article to be named and numbered Article XVII, creating for said County a Department of Civil Service and Personnel. Said Article containing 18 sections number 76 to 93, both numbers inclusive?	YES ——— NO

San Diego County charter.

	Shall Section 43 of Article X of the Charter of the County of San Diego, now providing for the creation by the Board of Supervisors of a Department of Public Welfare administered by a Board of Public Welfare, consisting of 9 members, of which 5 members shall be County Supervisors and 4 members appointed by the Board of Supervisors, be amended so as to provide for the creation by	YES
2.	the Board of Supervisors of a Department of Public Welfare to be administered by a Board of Public Welfare consisting of 7 members, one of whom shall be a County Supervisor to be appointed by the Board of Supervisors; one member to be appointed by the San Diego County Medical Society; one member by the Merchant's Association of San Diego, Incorporated; one member by the Board of Directors of the Community Chest of San Diego; one member by the San Diego Federated Trades and Labor Council; one member by the 9th District of the California Congress of Parents and Teachers and a 7th member appointed by a majority vote of the six members appointed as above mentioned?	NO

WHEREAS, Said ballot contained all matters and things required by law to be stated and contained thereon, and said ballot in all respects duly complied with law; and said proposals and each of them, were duly and regularly submitted to said qualified electors in strict compliance with law, and after full compliance with each and every provision of law relating to the amendment of county charters; and

WHEREAS, The returns of said general election held in the County of San Diego on the 6th day of November, 1934, at which election said proposals, and each of them, were duly submitted to the vote of the qualified electors of said County, were made to and canvassed by the board of supervisors of the County of San Diego, and it appeared therefrom and was so declared by the said board of supervisors that thirty-six thousand two hundred sixty-three votes were cast in favor of said proposed Amendment No. 1 and that twenty thousand thirty-eight votes were cast against said proposed Amendment No. 1; that thirty-one thousand eleven votes were cast in favor of said proposed Amendment No. 2 and that twenty-four thousand, eight hundred three votes were cast against said proposed Amendment No. 2; and it appeared therefrom and was so declared by said board of supervisors that a majority of the qualified electors of said County of San Diego voting thereon at said general election voted in favor of each of said proposed amendments numbered 1 and 2 above set forth and said Board of Supervisors thereupon ordered and declared

that said proposed amendments numbered 1 and 2 and each of them were ratified; and

WHEREAS, said amendments so ratified by the electors of said County of San Diego at said general election held on November 6th, 1934, are now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment in accordance with the provisions of section seven and one-half of article eleven of the constitution of the State of California;

NOW THEREFORE, the undersigned, Tom Hurley, Chairman of the Board of Supervisors of the County of San Diego, State of California, and J. B. McLees, County Clerk and ex-officio clerk of the Board of Supervisors of the County of San Diego, State of California, authenticating their signatures with the official seal of said Board of Supervisors of the County of San Diego, do hereby certify that said amendments to said charter of said County, and each of them, so ratified by the majority of the electors voting thereon at said general election held on the 6th day of November, 1934, as submitted to said electors, are in words and figures as follows, and are and shall, if so approved by said legislature be in the words and figures following, to wit:

PROPOSED AMENDMENT TO THE CHARTER OF THE COUNTY OF SAN DIEGO, NO. 1 ARTICLE XVII.

The Charter of the County of San Diego is hereby amended by adding a new Article which is hereby incorporated therein and made a part of said Charter; which said Article is as follows:

"Article XVII. Department of Civil Service and Personnel. Sec. 76: There is hereby created the Department of Civil Service and Personnel, which shall be administered by a Civil Service Commission consisting of three members, not more than two of whom shall be of the same sex, and each of whom shall have been a resident and elector of San Diego County for five years next preceding his (or her) appointment, and the name of each such Commissioner must appear upon the County Assessment Roll at the time of appointment. The Board of Supervisors shall, within two weeks after this Article shall take effect, appoint three electors as members of said Commission, to take office as soon as appointed and qualified; one of whom shall be designated by the Board of Supervisors to serve until the first Monday after the first day in January, 1937, at noon; one to serve until the first Monday after the first day in January, 1939, at noon; and one to serve until the first Monday after the first day in January, 1941, at noon.

Department of Civil Service and Personnel

Commissioners

Before the first Monday in January in each alternate year, beginning with 1937, the Board of Supervisors shall appoint one person as successor to the Commissioner, whose term shall then expire, to serve for a term of six years. Any vacancy in the office of Commissioner shall be filled by the Board of

Supervisors for the unexpired term. Each Commissioner shall serve until his successor is duly appointed and shall have qualified. No Commissioner shall hold any other salaried or non-salaried public office, whether appointive or elective, and is hereby disqualified from election to, or appointment by the Board of Supervisors, to any office provided for by this Charter or hereafter established by the Board of Supervisors during the time he shall serve as such commissioner, and for one year thereafter.

Removal of Commissioner.

"The Board of Supervisors may, by a four-fifths vote of all the members of the Board, remove any or all of said Commissioners during his or their terms in office, but only upon stating in writing the reasons for such removal, said statement to be recorded in the Minutes of the Board of Supervisors and a copy served on the Commissioner or Commissioners, and allowing him or them an opportunity to be publicly heard in his or their defense.

"Sec. 77: Immediately upon appointment the Commission shall elect one of its members as President, who shall call meetings of the Commission as often as may be necessary, but at least once each month. None of the members of said Commission shall receive any salary nor any compensation of any nature. Neither shall any of them receive any mileage or expenses unless by special authorization of the Board of Supervisors, and then only when on necessary business for the County. The Commission shall appoint a Director of Personnel and such other employees as may be necessary. All such employees shall be in the classified service. The Director of Personnel shall also act as Secretary of the Commission and Chief Examiner. The Commission shall make an annual report to the Board of Supervisors.

Salary and mileage.

Unclassified service.

"Sec. 78: The Civil Service of the County is hereby divided into the Unclassified and the Classified service. The Unclassified Service shall consist of:

(a) All officers elected by the People and their Chief Deputies and all confidential or special investigators employed by any of said elective officers.

(b) The Assistant District Attorney and the Chief Deputy District Attorney and not to exceed three confidential or special investigators in said office, to be designated by the District Attorney.

(c) The Under-Sheriff and not to exceed three confidential investigators or deputies in the office of the Sheriff, to be designated by the Sheriff.

(d) All appointive Boards and Commissions.

(e) Members of the County Board of Education.

(f) The Law Library Trustees.

(g) Members of the Civil Service Commission.

(h) Superintendents, Principals and Teachers in the public schools.

(i) All persons serving the County without compensation.

(j) All Justices of the Peace.

(k) Any officer or employees whose appointment is contingent upon approval or confirmation by the State of California.

Classified service

The Classified Service shall comprise all positions not specifically included by this Charter in the Unclassified Service; provided, however, that in event of the creation of a new position or in the case of a vacancy in any position requiring peculiar and exceptional qualifications of a scientific, professional or expert character, upon satisfactory evidence that competitive examinations to qualify applicants for said positions are impracticable, and that the position can best be filled by the selection of a person of recognized attainments, competitive, examinations may be suspended by the Commission, but no such suspension shall be general in its application to such position and all such cases of suspension shall be reported, together with the reasons therefor, to the Board of Supervisors.

Duties of Commission

"Sec. 79: The Commission shall prescribe, amend and enforce rules for the Classified Service, which shall have the force and effect of law; shall keep minutes of its proceedings and records of its examinations and shall, as a Board or through a single Commissioner, make investigations concerning the enforcement and effect of this article and of the rules and efficiency of the service. Such rules shall provide:

Rules: Standardization and classification.

(a) For the standardization and classification of all positions in the classified service. This classification into groups and sub-divisions shall be based upon and graded according to the duties and responsibilities of such positions, and shall be so arranged as to permit and encourage the filling of the higher grades through transfers and promotions. All salaries of employees in the classified service shall be uniform for like service in each grade, as the same shall be classified and standardized by the Commission. No such standardization or classification of salaries shall become final until approved by the Board of Supervisors in the annual appropriation ordinance and no such salaries shall be paid except in accordance with such standardization and classification. The Board of Supervisors shall not approve of any such standardization or classification of salaries until at least thirty days after it shall have been submitted to the Board of Supervisors by the Commission, and shall have been considered at not less than two meetings of said Board. For the purpose of making the first standardization and classification, the Board of Supervisors shall, upon request of the Commission, furnish to the Commission such assistance as may be necessary.

Examinations

(b) For the preparation and holding of open competitive examinations in order to test the relative fitness of all applicants for appointment to the classified civil service, and to create eligible lists of all successful candidates in the order of their standing, such lists to remain in force two years. At least ten days' public notice shall be given of all such examinations. The head of the office, board or commission having the appointing power shall be consulted by the Civil Service Commission

in preparing such examinations, and all questions or portions of any such examination relating to the special qualifications and knowledge required to fill any position shall be compiled by the Civil Service Commission or its Chief Examiner and in part upon such topics as shall be suggested by the head of the office, board or commission, for whose use any eligible list is to be created by any such examination.

Temporary appointments

(c) For temporary and emergency appointments, when persons on the eligible lists are not immediately available, or where there is no eligible list from which such a position can be filled.

Certification of eligibles.

"Sec. 80: Whenever positions in the classified civil service are to be filled, the head of the department, office, board or commission, in which any vacancies occur, shall notify the Civil Service Commission of that fact and the Commission shall thereupon certify for each such vacancy the names and addresses of the three candidates standing highest upon the eligible list for the class or grade to which such position belongs, and the appointing authority shall appoint under probation one of the three persons certified to him, for each such position. Every employee must serve a probationary period of six months.

Employees blanketed in

"Sec. 81: All appointive officers and employees of the County of San Diego or any subdivision thereof at the time this Article shall take effect, excepting those in the unclassified service as hereinbefore set forth in this Article, and who shall have been such for the six months prior thereto, including copyists in the office of the County Recorder and all other employees, whether paid on a piece work basis or otherwise, shall be confirmed in such positions and shall be certified by the Civil Service Commission without examination and shall hold said positions until discharged, reduced, promoted or transferred in accordance with the provisions of this Charter relating to Civil Service.

All employees now authorized by law to be employed in any county office for a portion of each year, or during certain seasons each year, who shall have been in the employ of the County of San Diego for two successive seasons immediately prior to the time this Article takes effect, shall be included in the classified civil service and shall be forthwith certified by the Commission and shall be eligible for appointment to such seasonal positions without examination so long as they shall remain upon the certified or eligible list of the Commission.

Veterans' preference

"Sec. 82: Any person who has been engaged in the military or naval service of the United States during a war as defined in Section 3612 of the Political Code of California, and who has been honorably discharged from such service, who shall enter any competitive civil service examination shall be given a preferential credit of five percentum of the maximum rating for such position, which, added to his actual rating on such examination, shall constitute his total rating.

"Sec. 83. The Commission shall provide for a merit system in all county departments and offices and covering all persons in the classified service and vacancies in positions shall be filled so far as possible by promotions from among persons holding positions in a lower grade in the department, office or institution in which the vacancy exists. Promotions shall be based upon merit and competition and upon the superior qualifications of the person promoted as shown by his record of efficiency; provided, however, that no person shall be transferred, promoted or reinstated to a position in another class where higher essential qualifications or tests are required unless such qualifications and tests shall first have been met by the person so promoted, transferred or reinstated. Promotions

"Section 84: Any appointing authority or officer shall have the right to dismiss any person in the classified service during the six months' probationary period if such person is not deemed, by said officer, satisfactory or competent to fulfill the duties of the position to which such probationer has been certified, and the employee so dismissed shall not have the right to a hearing before the Civil Service Commission, but unless charges are filed against such person as hereinafter provided, such probationer may be retained upon the eligible list at the discretion of the Commission and shall be eligible for certification to some other department. Dismissal of probationary employees

"Sec. 85: The tenure of every person holding a position under the provisions of this article shall be during good behavior, but any such person may be removed, demoted, suspended without pay or with reduced pay, transferred to another position in the same class, reprimanded, or restored to his position with such pay as may be equitable under a procedure in conformity with the provisions of this article and the rules of the Civil Service Commission for any of the following causes: Incompetency, inefficiency, insubordination, dishonesty, intemperance, immorality, profanity, discourteous treatment of the public or other employees, wilful disobedience, violation of the provisions of this article or of the rules and regulations of the Commission, or for any other failure of good behavior or any other act or acts which are incompatible with or inimical to the public service. Causes for removal, suspension, etc.

"Section 86: Any officer or employee in the classified civil service may be removed, suspended or reduced in rank or compensation by the appointing authority, after appointment and after the probationary period has been served, by an order in writing stating specifically the reasons therefor. Said order shall be filed with the Civil Service Commission and a copy thereof shall be furnished to the person to be removed, suspended or reduced. Such employee may reply in writing to said order within ten days from the date of filing said order with the Civil Service Commission. Any person removed, suspended or reduced in rank or compensation may, within five days after presentation to him of the order of removal, suspension or reduction as hereinbefore provided, appeal Order of removal, suspension or reduction. Reply. Appeal

Hearing

to the Civil Service Commission from such order. The Commission shall, within two weeks from the filing of said appeal, commence the hearing thereof, and shall, without delay, fully hear and determine the matter, and either affirm, modify or revoke such order. The appellant shall be entitled to appear personally, produce evidence, and to have counsel and a public hearing. The finding and decision of the Commission shall be certified to the official from whose order the appeal is taken, and shall forthwith be enforced and followed by him. Any citizen of the county may likewise file charges against any employee or officer in the classified service, in the manner hereinbefore set forth, and the same procedure shall be followed by the Commission.

Political contributions.

"Sec. 87: No officer or employee in the classified service of the County shall directly or indirectly make, solicit or receive, or be in any manner concerned in making, soliciting or receiving any assessment, subscription, or contribution for any political party, or for or on behalf of any candidate for public office. No person holding a position in the classified civil service shall circulate petitions for or on behalf of any political candidate or party, nor act as an officer or active member of any campaign committee or organization for the purpose of promoting the election of public officials. Any person in the classified service who shall be a candidate for or accept the nomination for any public office shall first resign his position, provided, however, that the name of such person shall remain upon the eligible list. Any employee violating the provisions of this section shall be removed from the classified service.

Investigations.

"Sec. 88: The Commission, for the purpose of carrying into effect the civil service provision of this Charter, shall have power to investigate the conduct and operation of any department or board, and to subpoena and require the attendance of witnesses and the production of records, books and papers, and to administer oaths. Any person failing to obey its subpoena or refusing to testify or produce records, books or papers required of him shall be deemed to be in contempt, and the Commission shall have power to take such proceedings in the punishment thereof as may be taken by boards of supervisors as provided by the laws of the State of California.

Qualifications of persons in classified service

"Sec. 89: No person shall be certified to any position in the classified civil service, or employed or appointed to any position or office in the unclassified service, unless such person is a native born or fully naturalized citizen of the United States; provided, however, that the prohibitions of this section shall not apply to the employment as a member of the faculty or teaching force in public schools of this county of any person who has declared his intention to become a citizen of the United States, nor of any native born woman of the United States who has married a foreigner or to any specialist or expert temporarily employed by any department of the county and engaged in special investigation, or in any emergency when it is necessary to protect life, health or property against fire, flood or other calamity arising from natural causes.

"No money shall be paid out of the County Treasury and no salary warrants shall be issued or approved by the auditor and controller for the payment of salaries or wages to any person employed in or by any county office or department, unless such person shall be a native born or fully naturalized citizen of the United States and shall have filed an affidavit thereto with the County Auditor and Controller, subject, however, to the exceptions contained in this section. The term "Person who has declared his intention to become a citizen" shall not include any person who fails to secure his certificate of naturalization within six months after the time he is entitled by law to secure the same.

Payroll certification.

"Sec. 90: The Auditor and Controller shall withhold payment of any salary or compensation for services from any person holding or performing the duties of a position in the classified service, unless the payroll or claim for such salary or compensation shall bear the certificate of the Civil Service Commission that the persons named therein have been appointed or employed and are performing service in accordance with the provisions of this article and of the rules established thereunder.

Discrimination

"Sec. 91: No person in the classified civil service or seeking admission thereto, shall be appointed, reduced or removed, or in any way favored or discriminated against because of his color or creed or political opinions or affiliations.

Constitutionality.

"Sec. 92: If any portion of this Charter relating to Civil Service should be held to be unconstitutional, the Board of Supervisors shall, by ordinance, provide for such additional legislation as may be required to supplement this article in order to provide for a civil service system for the county.

"Sec. 93: This article shall take effect on the first day of July, 1935, after its approval by the Legislature of the State of California."

PROPOSED AMENDMENT TO THE CHARTER OF THE COUNTY OF SAN DIEGO, NO. 2.

Department of Public Welfare

Section 48, Article 10, to be amended as follows: "The Board of Supervisors shall create a Department of Public Welfare, which department shall be administered by a Board of Public Welfare, consisting of seven (7) members, to be appointed in the following manner: One (1) member to be a County Supervisor to be appointed by the Board of Supervisors; one (1) member to be appointed by the San Diego County Medical Society; one (1) member to be appointed by the Merchants Association of San Diego, Incorporated; one (1) member to be appointed by the Board of Directors of the Community Chest of San Diego; one (1) member to be appointed by the San Diego County Federated Trades and Labor Council; one (1) member to be appointed by the Ninth District of the California Congress of Parents and Teachers; these six members shall appoint a seventh and remaining member by a majority vote. In no case shall there be more than one (1) County Supervisor on the Board of Public Wel-

fare. The member appointed by the Board of Supervisors shall serve for one (1) year; the member appointed by the San Diego County Medical Society shall serve for one (1) year; the member appointed by the Merchants Association of San Diego, Incorporated shall serve for two (2) years; the member appointed by the Board of Directors of the Community Chest of San Diego shall serve for two (2) years; the member appointed by the San Diego County Federated Trades and Labor Council shall serve for four (4) years; the member appointed by the Ninth District of the California Congress of Parents and Teachers shall serve for four (4) years; the remaining member appointed by the six (6) other members shall serve for a period of three (3) years. Upon the expiration of the term of each member his or her successor shall be appointed in the manner indicated above for a term of four (4) years. Upon the resignation or death of a member, his or her successor shall be appointed by the original appointing body for the unexpired term. The members, other than the County Supervisor, shall have a general knowledge of welfare work and shall serve without compensation."

Certificate

We further hereby certify that the facts set forth in the preamble of this certificate preceding said amendments to said Charter are and each of them is true; and for and on behalf of said County of San Diego, we being duly authorized do hereby request the Legislature of the State of California to approve said amendments to said Charter, and each of them, as a whole, and to take such other and further steps and proceedings as may be necessary to perfect such approval.

IN WITNESS WHEREOF we have hereunto set our hands and affixed the official seal of said Board of Supervisors of the County of San Diego, State of California, this twenty-ninth day of December, 1934.

TOM HURLEY,
Chairman of the Board of Supervisors of the County of San Diego, State of California.

Attest:

(SEAL)

J. B. McLEES,
County Clerk and Ex officio Clerk of the Board of Supervisors of the County of San Diego, State of California.

WHEREAS, Said proposed amendments to the charter of the county of San Diego, so ratified by the majority of the electors voting thereon at said general election held on the sixth day of November, 1934, and each of them, have been submitted to the Legislature of the State of California for approval and ratification as a whole, without power of alteration or amendment in accordance with the provision of section 7½ of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate concurring, a majority of all the members elected to each house voting for the adoption of this resolution and concurring therein, That said amendments to the charter of the county of San Diego, and each of them, as proposed, adopted and ratified by the electors of the said county of San Diego and as hereinbefore set forth, be and the same are hereby approved as a whole, without amendment or alteration, and as amendments to and as a part of the charter of the county of San Diego. Ratification

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CHAPTER 11.

Assembly Joint Resolution No. 9—Relative to memorializing the President and Congress to carefully consider and enact legislation to provide for a working week of not more than five days of six hours each, without any corresponding reduction in the present compensation or salary.

[Filed with Secretary of State January 17, 1935.]

WHEREAS, There exists not only in our own State of California, but also in every State of this great Nation, a condition of unemployment, which is depriving millions of our citizens of an opportunity to engage in productive effort; and Thirty-hour week

WHEREAS, This condition, by destroying the purchasing power of so many citizens hurts them economically, physically and morally, and will tend to harm, in the same way, the Nation of which they are a component part; and

WHEREAS, Those citizens who are working, by sharing the benefits of steady employment could aid those citizens less fortunate and at the same time enhance their own prosperity and the prosperity of our country; now, therefore, be it

Resolved by the Assembly and the Senate of the State of Californina, jointly, That the President and the Congress of the United States is hereby respectfully urged to carefully consider and enact legislation to provide for a working week of not more than five days of six hours each, without any corresponding reduction in the present compensation or salary; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and member of the House of Representatives from California in the Congress of the United States, and that such Senators and members from California are hereby respectfully urged to support such legislation.

CHAPTER 12.

Senate Concurrent Resolution No. 8—Approving an amendment to the charter of the city of San Diego, a municipal corporation in the county of San Diego, State of California, voted for and ratified by the electors of said city of San Diego at a special municipal election held therein on the nineteenth day of December, 1933.

[Filed with Secretary of State January 18, 1935.]

City of San Diego: Charter amendment.

WHEREAS, Proceedings have been had and taken for the proposal, adoption, and ratification of a certain amendment, hereinafter set forth, to the charter of the city of San Diego, a municipal corporation in the county of San Diego, State of California, as set out in the certificate of the mayor and city clerk of said city of San Diego, as follows, to wit:

STATE OF CALIFORNIA,
County of San Diego, } ss.
City of San Diego.

Certificate.

We, the undersigned, Rutherford B. Irones, mayor of the city of San Diego, and Allen H. Wright, city clerk of said city, do hereby certify and declare as follows:

The city of San Diego, in the county of San Diego, State of California, contains a population of over one hundred thousand inhabitants, and has been ever since the year 1931, and is now, organized and existing under and pursuant to the provisions of a freeholders' charter adopted in accordance with and by virtue of the provisions of section eight of article eleven of the constitution of the State of California, which charter was duly ratified by the qualified electors of said city at the general election held in said city on the seventh day of April, in the year 1931, in manner, form and substance as required by law, and was thereafter duly approved by joint resolution of the Legislature of the State of California, adopted on the fifteenth day of April, 1931.

The legislative body and authority of said city, being the council thereof, did on its own motion, by resolution passed and adopted by said council on the twenty-third day of October, 1933, pursuant to section eight of article eleven of the constitution of the State of California, duly propose to the qualified electors of the city of San Diego, a certain amendment to the charter of said city.

The said council did, by resolution duly passed and adopted on the twenty-third day of October, 1933, proclaim and fix the nineteenth day of December, 1933, as the date upon which the said amendment so proposed would be submitted to the qualified electors of said city.

The said council did, by resolution number 60918, passed by said council on the twenty-third day of October, 1933, submit said amendment so proposed as aforesaid to the qualified electors of said city for their approval at a special election held in said city on the nineteenth day of December, 1933.

San Diego city charter.

The amendment so proposed and submitted to the electors of said city for their approval by said resolution number 60918 was, on the twenty-ninth day of October, 1933, and within fifteen days after the passage and adoption of said resolution submitting said amendment, published once in The San Diego Union, the official newspaper of said city of San Diego.

The council of the city of San Diego caused copies of the amendment so proposed and submitted to the electors of said city to be mailed to each of the qualified electors of said city of San Diego.

The said council also caused copies of said amendment to be printed in convenient pamphlet form, and from the second day of November, 1933, until the nineteenth day of December, 1933, being the date fixed for the election upon such charter amendment, did advertise a notice in The San Diego Union, a paper of general circulation published in the city of San Diego, that such copies of said amendment in pamphlet form might be had upon application therefor at the office of the city clerk in the city hall of said city.

Said amendment was submitted, pursuant to the terms of resolution number 60918 of the council to the qualified voters of said city at a special election held in said city on the nineteenth day of December, 1933, being not less than forty nor more than sixty days after the completion of the advertisement of said amendment in The San Diego Union, the official paper of the city of San Diego.

The said council did on the second day next succeeding the date of said election then and there proceed to canvass the returns of said election, and said canvass was continued from day to day until all absent voter ballots were received and canvassed, and duly declared the result thereof, and did thereby find and determine that the certain charter amendment so proposed and submitted to the electors of said city by said resolution number 60918, was duly and regularly ratified by a majority of the qualified voters voting on such amendment.

The said charter amendment so ratified by the qualified voters of the city of San Diego at said election is in words as follows, to-wit:

Amend Section 27, Article V, of the Charter of The City of San Diego, so as to read as follows:

City Manager

"Section 27. THE CITY MANAGER. The Council shall elect a Manager within sixty (60) days from the first meeting in May, under this Charter, who shall be the chief executive and administrative officer of the City. The Manager shall be chosen by the Council solely on the basis of his proven executive and administrative qualifications. The Manager need not, when elected, be a resident of the City or State, but must be a citizen of the United States. He shall, upon his election, immediately become a resident of the City. No member of the Council shall, during the time for which he was

elected, or for one (1) year thereafter, be eligible to hold the position of Manager. The Manager shall be elected for an indefinite term, but may be removed at the pleasure of the Council; provided, however, that the Manager shall not be removed unless five (5) members of the Council shall vote in favor of such removal. Before the Manager may be removed he shall, if he shall so demand, be given a written statement of the reasons alleged for his removal and the right to be heard publicly thereon at a meeting of the Council prior to the final vote on the question of his removal, but pending and during such hearing the Council may suspend him from office. At least two weeks shall be given the Manager between notice and hearing for the preparation of his answer to the reasons for removal. The action of the Council in suspending or removing the Manager shall be final and conclusive on everyone, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the Council. He shall receive a salary to be fixed in the annual appropriation ordinance. The salary set in the appropriation ordinance shall not be reduced while the Manager holds office, but may be subject to increase by the Council at its discretion. The Manager shall designate one of his subordinates as Assistant Manager, who shall serve as Manager in case of the absence or disability of the Manager.

In the event of a vacancy in the office of City Manager, the Council shall fill the same within sixty (60) days after the vacancy occurs; provided, however, that it shall require the affirmative vote of five (5) members of the Council to elect a person to the office of Manager."

RUTHERFORD B. IRONES
[SEAL] Mayor of the City of San Diego.
ALLEN H. WRIGHT
City Clerk of The City of San Diego

and

Certificate

WHEREAS, The said proposed amendment is now submitted to the Legislature of the State of California for approval or rejection without power of alteration or amendment in accordance with section 8 of article XI of the Constitution of said state; now, therefore, be it

Ratification

Resolved by the Senate of the State of California, the Assembly concurring, a majority of all the members elected to each house voting therefor and concurring therein, That said amendment to the said charter herein set forth as proposed and submitted to and adopted and ratified by the qualified electors of said city, be, and the same is, hereby approved as a whole, without amendment or alteration, for and as an amendment to and as part of the charter of said city of San Diego.

CHAPTER 13.

Senate Joint Resolution No. 3—Relating to the action of the President of the United States in lifting the tariff on hay and live stock feed from Canada, and the action by the Secretary of Agriculture in signing an agreement authorizing an "Agency for deficiency distribution" for the distribution in the United States of hay and live stock feed from Canada.

[Filed with Secretary of State January 21, 1935.]

Importation of hay and stock feed

WHEREAS, There is a shortage of hay and live stock feeds in certain Eastern and Middle Western States of the United States; and

WHEREAS, By Presidential proclamation the tariff on hay and live stock feeds from Canada has been lifted;

WHEREAS, The Secretary of Agriculture has signed an agreement authorizing an "Agency for deficiency distribution" which has been organized for the purpose of bringing Canadian feed stuffs into the United States; and

WHEREAS, A reduction in freight rates on railroads in Canada and from Canada and likewise in the United States for the purpose of transporting these Canadian feed stuffs has been secured; and

WHEREAS, There is in existence in California and other Pacific Coast States a surplus of hay, barley and other feed stuffs; and

WHEREAS, These domestic feed stuffs can be equitably and economically moved into the drought areas to the benefit of American citizens; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California most respectfully urges and petitions the President of the United States and the Secretary of the United States Department of Agriculture to postpone any action looking toward the importation of feed stuffs from Canada until the surplus feed stuffs produced by citizens of the United States have been equitably and efficiently distributed into the drought areas, after which distribution of domestic grown surpluses there will be sufficient time to give serious consideration to the importation of feed stuffs from foreign countries; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States and to the Secretary of Agriculture of the United States.

CHAPTER 14.

Senate Joint Resolution No. 1—Relative to memorializing Congress to provide compensation, in lieu of taxes, for certain lands of the United States within the borders of the several States.

[Filed with Secretary of State January 21, 1935.]

Compensation in lieu of taxes on United States land within State.

WHEREAS, The United States Government has withdrawn and set apart within permanent National parks or forests, enormous tracts of land, approximately nineteen million acres in the State of California alone; and

WHEREAS, Among other reasons, this has been made possible by the owners of timber land trading in their "cut-over" lands to the government for selected "cuttings"; and

WHEREAS, The United States Government pays no taxes on such lands resulting in throwing a heavy tax burden on privately owned property in the same political subdivision; now, therefore, be it

Resolved by the Senate and Assembly, jointly, That Congress is urgently requested to appropriate sufficient money so that a sum of five cents per acre per year may be paid, in lieu of taxes, to the political subdivisions in which such lands belonging to the United States are situated; and be it further

Resolved, That a copy of this resolution be sent to the President of the United States, the Vice President, the Speaker of the House of Representatives and each of the members from California of the Senate and House of Representatives of the United States.

CHAPTER 15.

Senate Concurrent Resolution No. 7—Approving an amendment to the charter of the city of San Diego, a municipal corporation in the county of San Diego, State of California, voted for and ratified by the electors of said city of San Diego at a special municipal election held therein on the sixth day of November, 1934.

[Filed with Secretary of State January 21, 1935.]

City of San Diego: Charter amendments

WHEREAS, Proceedings have been had and taken for the proposal, adoption, and ratification of a certain amendment, hereinafter set forth, to the charter of the city of San Diego, a municipal corporation in the county of San Diego, State of California, as set out in the certificate of the mayor and city clerk of said city of San Diego, as follows, to wit:

STATE OF CALIFORNIA,
County of San Diego,
City of San Diego. } ss.

We, the undersigned, Rutherford B. Irones, mayor of the city of San Diego, and Allen H. Wright, city clerk of said city, do hereby certify and declare as follows: Certificate

The city of San Diego, in the county of San Diego, State of California, contains a population of over one hundred thousand inhabitants, and has been ever since the year 1931, and is now, organized and existing under and pursuant to the provisions of a freeholders' charter adopted in accordance with and by virtue of the provisions of section eight of article eleven of the constitution of the State of California, which charter was duly ratified by the qualified electors of said city at the general election held in said city on the seventh day of April, in the year 1931, in manner, form and substance as required by law, and was thereafter duly approved by joint resolution of the Legislature of the State of California, adopted on the fifteenth day of April, 1931.

The legislative body and authority of said city, being the council thereof, did on its own motion, by resolution passed and adopted by said council on the seventeenth day of September, 1934, pursuant to section eight of article eleven of the constitution of the State of California, duly propose to the qualified electors of the city of San Diego, a certain amendment to the charter of said city. San Diego city charter

The said council did, by resolution duly passed and adopted on the seventeenth day of September, 1934, proclaim and fix the sixth day of November, 1934, as the date upon which the said amendment so proposed would be submitted to the qualified electors of said city.

The said council did, by resolution number 62093, passed by said council on the seventeenth day of September, 1934, submit said amendment so proposed as aforesaid to the qualified electors of said city for their approval at a special election held in said city on the sixth day of November, 1934.

The amendment so proposed and submitted to the electors of said city for their approval by said resolution number 62093 was, on the nineteenth day of September, 1934, and within fifteen days after the passage and adoption of said resolution submitting said amendment, published once in The San Diego Union, the official newspaper of said city of San Diego.

The council of the city of San Diego caused copies of the amendment so proposed and submitted to the electors of said city to be mailed to each of the qualified electors of said city of San Diego.

The said council also caused copies of said amendment to be printed in convenient pamphlet form, and from the nineteenth day of September, 1934, until the sixth day of November, 1934, being the date fixed for the election upon such charter amendment, did advertise a notice in The San Diego Union, a paper of general circulation published in the city of San Diego, that such copies of said amendment in pamphlet form might be had upon application therefor at the office of the city clerk in the city hall of said city.

Said amendment was submitted, pursuant to the terms of resolution number 62093 of the council to the qualified voters of said city at a special election held in said city on the sixth day of November, 1934, being not less than forty nor more than sixty days after the completion of the advertisement of said amendment in The San Diego Union, the official paper of the city of San Diego.

The said council did on the second day next succeeding the date of said election then and there proceed to canvass the returns of said election, and said canvass was continued from day to day until all absent voter ballots were received and canvassed, and duly declared the result thereof, and did thereby find and determine that the certain charter amendment so proposed and submitted to the electors of said city by said resolution number 62093, was duly and regularly ratified by a majority of the qualified voters voting on such amendment.

The charter amendment so ratified by the qualified voters of the city of San Diego at said election is in words as follows, to-wit:

Amend the Charter of The City of San Diego by adding a new section to Article VII thereof, to be numbered 77a, which said section shall read as follows:

Tax levy for Balboa Park zoo

"Section 77a. The Council shall levy annually, in addition to all other taxes provided for in this Charter, not less than two cents ($0.02) on each one hundred dollars ($100.00) of the assessed valuation of the real and personal property within the city, to be used exclusively for the maintenance in Balboa Park of zoological exhibits."

RUTHERFORD B. IRONES,
[SEAL] Mayor of The City of San Diego.
ALLEN H. WRIGHT,
City Clerk of The City of San Diego.

and

WHEREAS, The said proposed amendment is now submitted to the Legislature of the State of California for approval or rejection without power of alteration or amendment in accordance with section 8 of Article XI of the Constitution of said State; now, therefore, be it

Ratification

Resolved by the Senate of the State of California, the Assembly concurring, a majority of all the members elected to each house voting therefor and concurring therein, That said amendment to the said charter herein set forth as proposed and submitted to and adopted and ratified by the qualified electors of said city be, and the same is, hereby approved as a whole, without amendment or alteration, for and as an amendment to and as part of the charter of said city of San Diego.

CHAPTER 16.

Senate Concurrent Resolution No. 6—Approving certain amendments to the charter of the city of Alameda, a municipal corporation in the county of Alameda, State of California, voted for and ratified by the qualified electors of said city at a general and special municipal election held therein on the sixth day of November, 1934.

[Filed with Secretary of State January 21, 1935.]

City of Alameda Charter amendments

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendments hereinafter set forth to the charter of the city of Alameda, a municipal corporation in the county of Alameda, State of California, as set out in the certificate of the mayor and city clerk of said city, as follows, to wit:

STATE OF CALIFORNIA,
COUNTY OF ALAMEDA, } ss.
CITY OF ALAMEDA.

Certificate

We, the undersigned, WILLIAM F. MURRAY, Mayor of the City of Alameda, and D. ELMER DYER, City Clerk of said City, do hereby certify and declare as follows:

That the City of Alameda, a municipal corporation in the County of Alameda, State of California, is now and at all times herein mentioned was, a city containing a population of more than three thousand five hundred inhabitants, and less than fifty thousand inhabitants, and has ever since the 25th day of January, 1917, and is now, organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8, of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city at an election duly held for that purpose on the 9th day of January, 1917, and approved by the Legislature of the State of California by a concurrent resolution approved by the Legislature of the State of California on the 25th day of January, 1917, (Statutes 1917, page 1752).

That pursuant to, and in accordance with, the provisions of Section 8, Article XI of the Constitution of the State of California, there was filed with the City Clerk of the said City of Alameda, on the 1st day of September, 1934, a petition for the submission of seven proposals for amending the Charter of said City of Alameda, and requiring the submission of such proposals to the electors of said City, which said proposals were designated as Proposal No. 1, Proposal No. 2, Proposal No. 3, Proposal No. 4, Proposal No. 5, Proposal No. 6 and Proposal No. 7 respectively.

That within the time required by Section 8 of Article XI of the Constitution of the State of California, the City Clerk of the City of Alameda duly verified the signatures attached to said petition, and attached thereto his certificate of suf-

Alameda city charter

ficiency, certifying that the same was signed by qualified registered electors of said City equal in number to more than 15% of the total votes cast in said City at the last preceding general state election, and presented the same to the legislative body of the City of Alameda, to-wit, the City Council of said City.

That pursuant to resolution duly adopted by the City Council of said City of Alameda the said proposed charter amendments were published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, on the 25th day of September, 1934, in the Alameda Times-Star, a daily newspaper of general circulation published in said City of Alameda, and the official newspaper of said City, and in each edition thereof, during the day of said publication.

That copies of said proposed charter amendments were printed in convenient pamphlet form and in type of not less than ten point, and an advertisement that copies thereof could be had upon application therefor at the office of the City Clerk of the City of Alameda was published in said Alameda Times-Star, a daily newspaper of general circulation in said City, on the 25th day of September, 1934, and on each day thereafter until the day fixed for said special and general municipal election, all as required by Section 8 of Article XI of the Constitution of the State of California.

That copies of said proposed charter amendments could be had upon application therefor at the office of said City Clerk until the day fixed for the said general and special municipal election.

That Article XI of the Charter of the City of Alameda provided that a general municipal election be held on Tuesday, November 6, 1934, in said City.

That the Council of the City of Alameda, being the legislative body of said City, by its resolutions Nos. 1870 and 1876, did order the holding of an election for the purpose of submitting to the qualified electors of said City said proposals to amend the Charter of said City, pursuant to the provisions of Section 8, Article XI of the Constitution of the State of California, on the 6th day of November, 1934, in said City of Alameda, said day being at least forty days after the completion of the advertising of the proposed charter amendments in said official newspaper of said city, and not more than sixty days after the completion of said advertising, and did provide in said resolutions for the submission of the proposed amendments to the charter of said City to the qualified electors of said City for their ratification at such municipal election; and said City Council of said City and the Board of Supervisors of the County of Alameda did, in the manner provided by law, order said special municipal election and said general municipal election consolidated with the general state election to be held in said City on said 6th day of November, 1934; in said resolutions calling the said special municipal election and said general municipal election, the City Council of the

said City of Alameda did authorize the Board of Supervisors of the County of Alameda to canvass the returns of said special municipal election and said general municipal election.

That thereafter said general municipal election and said special municipal election, and said general state election, were duly and regularly held on Tuesday, November 6, 1934, and the Board of Supervisors of said County of Alameda did, in the manner provided by law, duly and regularly canvass the returns of said elections, and did on the 19th day of November, 1934, duly certify to the Council of said City of Alameda the result of the canvass of said returns at said general and special municipal elections, and the Council of said City did, by Resolutions Nos. 1888 and 1889, adopted November 20, 1934, duly declare the result of said general and special municipal elections as determined from the canvass of the returns thereof.

That the Council of said City of Alameda did by said Resolution No. 1889 declare that the said proposed amendments to the Charter of the City of Alameda, being Proposals Nos. 1 to 7 inclusive, and each and every one of them, were ratified by a majority of the qualified electors of said City voting thereon.

That said amendments to the Charter so ratified by the qualified electors of the City of Alameda, at said general and special municipal election, are in words and figures as follows, to-wit:

PROPOSAL NO. 1

That Section 9, Article II of the Charter of the City of Alameda be amended to read as follows:

Sec. 9. City Clerk. The duties of the City Clerk shall be as are prescribed by the council and provided by law. He shall hold office until removed by a majority vote of the council. City Clerk

PROPOSAL NO. 2

That Section 6, Chapter II, Article III of the Charter of the City of Alameda be amended to read as follows:

Sec. 6. There shall be a city attorney, who shall be appointed by the council, and who shall be an elector of the City at the time of his appointment, and who shall be an attorney and counselor-at-law duly admitted to practice by the Supreme Court of the State. He shall actually have been engaged in the practice of his profession for a period of at least four years next before his appointment. He shall hold office until removed by a majority vote of the council. City Attorney

PROPOSAL NO. 3

That Section 1, Article VII of the Charter of the City of Alameda be amended to read as follows:

City Manager

Sec. 1. The council shall appoint a City Manager. He need not be a resident of the State of California at the time of his appointment. His salary shall be fixed by the City Council, but shall not be more than five thousand dollars per annum. He shall hold office until removed by a majority vote of the council.

PROPOSAL NO. 4

That Sections 7, 8, 9 and 10 of Article VII of the Charter of the City of Alameda be repealed, and a new Article added to the Charter of the City of Alameda, to be known as Article VIIa, and to read as follows:

Board of Police and Fire Commissioners

Sec. 1. The Board of Police and Fire Commissioners shall consist of three members, who shall serve without compensation. The members shall be elected, and shall hold office for four years, and until their successors are elected and qualified. Said Board shall be elected at the same times and in the same manner as the members of the City Council, and shall be subject to recall as in this charter provided. In the case of the Board first elected, the one receiving the highest vote shall hold office until the third succeeding general city election at which councilmen are chosen, the one receiving the second highest vote shall hold office until the second succeeding general city election, and the other one shall hold office until the next general city election at which councilmen are chosen, and until their successors are elected and qualified. Anything in this charter to the contrary notwithstanding, an election shall be held within sixty days after ratification of this amendment by the State Legislature, for the purpose of electing the three members of this board.

Vacancies.

Sec. 2. Vacancies. Any vacancy occurring in the Board shall be filled by the vote of the remaining members of the board, and any person appointed to fill such vacancy shall hold office only until the next general municipal election, at which time a person shall be elected to serve for the remainder of such unexpired term.

In case all positions on said Board shall be vacant at the same time, a commission consisting of the Police Judge, the Auditor and Tax Collector, shall, by a majority vote, make the appointments and fill all such vacancies. Said commission shall make such appointments within thirty (30) days after such vacancies occur.

Duties of Board.

Sec. 3. The Board of Police and Fire Commissioners shall have entire control and management of the police and fire departments in the City of Alameda, subject only to the provisions of Section 7, Article II of this charter.

Said Board shall appoint the chiefs of the respective departments from the membership of said respective departments, and said chiefs, so appointed, shall hold office at the pleasure of said Board.

All other members of said respective departments shall be appointed by said Board subject to the provisions of this Article.

Said Board shall, from time to time, make rules to carry out the purposes of this Article and for examinations and appointments in accordance with its provisions.

Examination of employees

All applicants for employment in said departments shall be subject to examination, which shall be public, competitive and free to all citizens of the United States, with specified limitations as to the residence, age, sex, habits, health, experience and moral character. Such examinations shall be practical in their character, and shall relate to those matters which will fully test the relative capacity of the persons examined to discharge the duties of the position to which they seek to be appointed. The Board shall control all examinations, and may, whenever an examination is to take place, obtain the assistance of a suitable person or persons to aid in preparing for and conducting such examination; provided, however, that all members of the respective departments who are in the City service at the time this amendment goes into effect shall be retained in their respective positions, subject to the provisions of this Article, but any such person may be demoted, if, in the opinion of the Commissioners, such action be for the good of the public service; and provided, further, that any person who shall have been dismissed or discharged from membership in either department within three years prior to the effective date of this amendment for any reason except for cause, shall be eligible for reappointment without examination and without being required to comply with any specified limitations as hereinabove set forth.

Notice of examinations

Sec. 4. Notice of the time, place and general scope of the examinations shall be given by the Board by publication for two weeks preceding such examination in a newspaper printed in said city and such notice shall also be posted by said Board in a conspicuous place at the City Hall and in its office two weeks before such examination.

Register

Sec. 5. From the examinations made by the Board, it shall prepare a register of the persons whose general average standing upon examination for such class is not less than the minimum for such class fixed by the rules of said Board, and who are otherwise eligible and such persons shall take rank upon the register as candidates in the order of their relative excellence as determined by their examination without reference to priority of the date of examination.

Promotion

Sec. 6. The Board shall, by its rules, provide for the promotion of the members of said Police and Fire Departments on the basis of ascertainment and seniority in service and examination, and shall provide, in all cases where it is practicable, that vacancies shall be filled by promotion. All examinations for promotion shall be competitive among such members of lower ranks as desire to submit themselves to such examination and who have such experience, qualification or

qualifications as may be required by the Board as a prerequisite for taking such examination.

Leaves of absence, transfer and reinstatement

Sec. 7. The Board shall, by its rules, provide for (a) leaves of absence, (b) the transfer from one position to a similar position in the same class, (c) reinstatement to list of eligibles of persons who have become separated from service or have been reduced in rank in the service, other than persons who have been removed for cause.

Duties of chiefs

Sec. 8. Subject to the general supervision of said Board, the respective chiefs shall have command of and control of their respective departments, and shall have the power to suspend, for cause, any member of their respective departments; provided, however, that in the event that the Chief of either the Police or Fire Department shall suspend, for cause, any member of his department, he shall report the cause, in writing, to the Board with certification that a copy of such statement has been served upon the person so suspended, personally, or by leaving a copy thereof at his last known place of residence if he cannot be found. Within fifteen (15) days after such statement shall have been filed, the said Board, upon its own motion, may, or upon written application of the person so suspended, filed with said Board within five (5) days after service upon him of such statement, shall proceed to investigate the grounds for such suspension. If, after such investigation, said Board finds, in writing, that the grounds stated for such suspension were insufficient or were not sustained, and also finds in writing, that the person so suspended is a fit and suitable person to fill the position from which he was suspended, said Board shall order said person so suspended to be reinstated or restored to duty. If the said Board finds the grounds stated for such suspension were sufficient, it may discipline the offending person or may remove the offending person from the department of which he is a member, but no such person shall be removed from such department except for notorious or consecutive insubordination or neglect of duty, or upon conviction of a felony.

Compensation upon reinstatement

If said Board shall order that any person suspended by the Chief of either the Police or the Fire Department be reinstated or restored as above provided, the person so suspended shall be entitled to receive compensation from the city the same as if he had not been suspended by the Chief of said department.

The decision of the said Board upon all matters of suspension, discipline and dismissal shall be final.

Service records.

Sec. 9. The Board shall, by its rules, provide for the establishment of and govern the keeping of service records of all members of said departments, which records may be used as one of the bases for (a) promotion as provided by this Article; (b) lay-offs, through reduction in number of the said departments.

Sec. 10. Any member of the Board shall have the power to administer oaths in matters pertaining to the work of the Board. Oaths.

Sec. 11. Any false statement wilfully made under oath either in any application or other paper filed with the Board or in any proceeding before the Board or in any investigation conducted by or under the jurisdiction of the Board, or in any proceeding arising under this Article, shall be punishable as a misdemeanor. False statements

Sec. 12. Any officer or other person who shall wilfully or corruptly, by himself or in cooperation with one or more other persons, defeat, deceive or obstruct any person to his right of examination, or corruptly or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined hereunder, or aid in so doing, or wilfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined or to be examined, of being employed, appointed or promoted, shall be guilty of a misdemeanor and punished therefor. Obstruction and falsification of examination

Sec. 13. No applicant for appointment in either of said departments, either directly or indirectly, shall pay or promise to pay any money or other valuable thing to any person whatever for or on account of his appointment, and no officer or member of said departments shall pay, or promise to pay, either directly or indirectly, any money or other valuable thing whatever, for or on account of his promotion. The commission of any act prohibited by this section shall be a misdemeanor and punishable as such. Payments by applicants

Sec. 14. Any person holding a position in either of said departments who wilfully violates any of the provisions of this Article shall, after hearing by said Board, be subject to being suspended, removed from membership in said departments, or otherwise disciplined. Violation

PROPOSAL NO. 5

That Sections 1 to 12, inclusive, of Article X of the Charter of the City of Alameda be repealed, and that there be added to said Article 10 the following Sections 1 to 18, inclusive:

Sec. 1. There is hereby created a department of the City Government under the name of the Department of Public Utilities. Said department shall be under the control and management of a board of five commissioners, and which shall be known as the Board of Public Utilities Commissioners. Said Board shall be elected at the same times and in the same manner as the members of the City Council and shall hold office for four years and until their successors are elected and qualified, and shall be subject to recall as in this charter provided. In the case of the Board first elected, the three receiving the highest vote shall hold office until the second Department of Public Utilities

succeeding general city election at which councilmen are chosen, and the other two shall hold office until the next such succeeding election and until their successors are elected and qualified. Anything in this charter to the contrary notwithstanding, an election shall be held within sixty days after ratification of this amendment by the State Legislature, for the purpose of electing the five members of this Board. The present members of the Board of Public Utilities shall hold office only until their successors are elected and qualified.

The Board shall hold regular meetings on the second Thursday of every month at eight o'clock P.M. in the office of the Department of Public Utilities. It shall serve without compensation, but necessary expenses incurred by them shall be a proper charge against the city, and when certified by the city auditor, shall be paid.

Vacancies in Board.

Sec. 1a. Any vacancy occurring on the Board shall be filled by a majority vote of the remaining members.

Organization of Board

Sec. 2. As soon as practicable after the first day of July in each year, the Board shall organize by electing one of its members president and one vice-president, which officers shall hold office until their successors are elected, unless their membership on the Board sooner expires. The election of each succeeding president and vice-president shall be held at the meeting of the Board during the last week in July of each year. The Board may fill for the unexpired term any vacancy occurring in the office of the president or vice-president. All meetings shall be in a public office of the Board, with reasonable provision for attendance by the public.

Employees of Board

Sec. 3. The Board shall appoint a secretary, not a member of the board, and one chief accounting employee who may be secretary. The secretary shall keep a record of the proceedings and transactions of the Board, specifying therein the names of the Commissioners at all meetings and giving the ayes and noes upon all votes. He shall post and publish all orders, resolutions and notices which the Board shall order to be posted or published, and shall perform such other duties as are herein, or may be by order of the Board, imposed upon him.

Powers

Sec. 4. The Board of Public Utilities shall have power (subject to the provisions of this charter and to such ordinances of the city as are not in conflict with the grants of power made to this department of the city government elsewhere in this charter), to supervise, control, regulate and manage the department and to make and enforce all necessary and desirable rules and regulations therefor and for the exercise of the powers conferred upon the department by this charter. It shall have such additional powers and perform such other duties as may be granted or imposed elsewhere in this Charter, or by ordinance not in conflict with the provisions of this Charter. No grant of power by this Charter to this department of the city government shall be construed to restrict the power of the Council to enact ordinances under

the police power of the city except as otherwise specifically provided in this charter.

Sec. 4a. The Board of Public Utilities shall have power to do work for other departments of the city at cost. It shall control all allied activities, such as the police telephone and telegraph systems, fire alarm system, police flash light system, and, subject to the ordinances made by the city council, shall control the inspection and supervision of electrical wires and appliances for furnishing light, heat or power in, under, over or upon the streets and buildings of the city of Alameda.

Resolutions

Sec. 5. The power conferred by this Charter upon the Board shall be exercised by order or resolution adopted by a majority of its members and recorded in the minutes with the ayes and noes at length. Such action shall be attested by the signature of the president or vice-president, or two members of the Board, and by the signature of the secretary of the Board.

Powers of Department of Public Utilities

Sec 6. The Department of Public Utilities shall have the power to use a corporate seal, to sue and be sued, and to have perpetual succession; it shall have the power and duty:

1. To acquire, construct, operate, maintain, extend, manage, and control works and property for the purpose of supplying the city and its inhabitants with water and electric energy, gas, transportation, telephone and telegraph service, ice, or other systems of providing and distributing refrigerating means, materials and service, or any of them, and with any other public utility, and to acquire and take, by purchase, lease, condemnation, or otherwise, and to hold, in the name of the city, any and all property situated within or without the city, and within or without the state, that may be necessary or convenient for such purpose. To borrow money for any or all of such purposes on terms and conditions prescribed by said Board, said indebtedness to be payable only out of the revenue fund pertaining to the municipal works for or on account of which such indebtedness was created.

2. To regulate and control the use, sale, and distribution of water, electric energy, gas, transportation and any other utility owned or controlled by the city; the collection of rates therefor and the granting of permits for connection with said water or electric works or gas or transportation or other utilities; and to fix the rates to be charged for such connection; and to fix, by contract or otherwise and for a term deemed reasonable by the Board, the rates charged for water or electric energy, or transportation or any other utility for use within or without the city and to prescribe the time and the manner of payment of the same; provided that, except as hereafter otherwise prescribed, such rates shall be of uniform operation as near as may be, and shall be fair and reasonable taking into consideration, among other things, the nature of the use, the quantity supplied, and the value of the service; provided further, that the rates inside the city may be less, but not

Powers of department.

greater, than the rates outside the city for the same or similar uses.

3. To supply and distribute, at rates fixed as hereinbefore provided, any surplus water or surplus electric energy or surplus gas or surplus of any other utility owned or controlled; and to fix, by contract or otherwise, the rates to be charged for public utilities for use without the city, and to prescribe the time and manner of the same.

4. In the discretion of the Board, to divide the work of the department into as many bureaus as the number of public utilities it controls, and to discontinue such bureaus and to consolidate the work of any such. In case such division is made the Board shall have the power to appoint a general manager for each such bureau, in lieu of one general manager for the entire department. Each such general manager shall be the chief engineer of his department, and shall be directly responsible to the Board, and shall have the same powers and duties as the department general manager in relation to the affairs of such bureau and in relation to the Board. A majority vote of the members of the whole Board shall be necessary to remove such department general manager or a bureau general manager.

5. In the event that all or any portion of a utility is acquired by the Department of Public Utilities under a contract providing for the payment in whole or in part of the purchase price thereof out of revenues to be obtained from said utility, then, at its option, to appoint an agent, corporate or individual, to have charge of and to manage the said utility, so far as may be permitted by law, pending the time that the revenues of the utility shall pay the full purchase price thereof. In the event of the appointment of such agent by contract, the provisions of sections affecting the powers and duties of the Manager and of the Manager of such utility, shall be suspended as to such utility during the term of such contract.

6. To sue and be sued, and to require the services of the City Attorney in all cases to which the Board or Department is a party, provided, that the Board may employ other attorneys to assist the City Attorney.

7. To lease, for a term not exceeding five years, any or all of the lands under its control for agricultural or other purposes, which shall not conflict with the beneficial uses of said lands by the city for the purposes for which they are held by the Board; and except as otherwise provided in this Charter, to sell, from time to time, such personal property, placed under its control, as shall not be longer necessary or suitable for the use of such department. The Board shall have the right, in conjunction with the joint use of pipe lines, poles, or pole facilities, with other utilities owning and maintaining pipe lines, poles or pole facilities, to buy, sell or lease fractonal interests in pipe lines, poles or pole facilities owned or controlled by said other utilities or by said Board. No real property nor any rights or interests in real property held by said

Board shall be sold, leased, or otherwise disposed of, or in any manner withdrawn from its control, save as above provided, unless by written instrument duly authorized by ordinance of the city and a resolution of the Board, and duly executed by the city and the Board.

No water or water rights nor any of the following property now or hereafter owned or controlled by the city, to-wit, gas, electric energy, or the right to develop electric or other power by means of any water or water right now or hereafter owned or controlled by the city, shall ever be sold, leased or disposed of, in whole or in part, without the assent of two-thirds of the qualified voters of the city voting on the proposition at a general or special election, at which such proposition shall be lawfully submitted, and no water shall ever be sold, supplied or distributed to any person or corporation, other than municipal, for resale, rental or disposal to consumers or other persons. Neither shall any electric power or gas ever be sold, supplied or distributed to any person or corporation other than municipal for resale, rental or disposal to consumers or other persons without the assent of two-thirds of the qualified voters of said city given, as aforesaid; provided, that nothing in this section contained shall be construed to prevent the ordinary sale and distribution by the city of water, gas and electric energy, to its inhabitants for their own use, or to prevent the supplying or distribution, by the city, of surplus electric energy or gas to consumers or municipal corporations outside of the city, as elsewhere in this Charter provided.

8. To control, and order, except as otherwise in this Charter provided, the expenditure of all money received from the sale or use of water, or from any other source in connection with the operation of said water works, and all money received from the sale or use of electric energy or from any other source in connection with the operation of said electric works, and all money received from the sale or use of gas or of transportation or of any other public utility, or from any other source in connection with the operation of any of said public utilities; provided that all money pertaining to each of said utilities shall be deposited in the city treasury to the credit of a special fund created for each of said utilities; and the money so deposited in each special fund shall be kept separate and apart from other money of the city and shall be drawn only from said fund upon demands authenticated by signature of the chief accounting employee of said Board. Any interest or increment received on the money in any such special fund shall be paid into such special fund and become a part thereof.

Sec. 7. None of the money in or belonging to any of said special revenue funds shall be appropriated or used for any purpose except the following purposes pertaining to the municipal works from or on account of which such money was received, to-wit: Expenditures

1. For the necessary expenses of operating and maintaining such works.

Expenditures

2. For the payment of the principal and interest or either due or coming due under contract or upon outstanding bonds, notes, certificates or other evidence of indebtedness issued against revenue of such works, or bonds or other evidences of indebtedness, general or district, heretofore or hereafter issued for the acquisition of such works or parts thereof.

3. For the necessary expenses of constructing, extending and improving such works, including the purchase of lands, water rights and other property; also the necessary expenses of conducting and extending the business of the department pertaining to such works; also for reimbursement to another bureau on account of services rendered, or material, supplies, or equipment furnished; also for expenditures for the purpose for which bonds, or evidences of indebtedness shall have been authorized, subject to reimbursement as soon as practicable from moneys derived from the sale or issuance of such bonds or evidences of indebtedness.

4. For defraying the expenses of any pension system applicable to the employees of the department that shall be established by the city.

5. For establishing and maintaing a reserve fund to insure the payment at maturity of the principal and interest on all bonds and all other contract obligations now outstanding or hereafter issued or made for the purchase of municipal works and such other reserve funds pertaining to such works as the Board may provide for by resolution. The money set aside and placed in such fund or funds so created shall remain in said fund or funds until expended for the purposes thereof, and shall not be transferred to any other fund of the city. Any interest or increment received on the money in any such special fund shall be paid into such special fund and become a part thereof.

6. Any balance may be appropriated for use in any ensuing fiscal year or years, or be transferred to the general fund of the city with the consent of the Board of Public Utilities, and not otherwise.

Acquisition of utilities.

Sec. 8. The Board may provide for the cost of acquisitions of a public utility and/or extensions and/or betterments of said public utility from funds derived from the sale of bonds, secured by revenues, general or district, and/or from revenues received from said works to which such acquisition extensions and betterments pertain, and/or from the proceeds of loans contracted in accordance with the provisions of this Charter.

Appropriations

Whenever in the exercise of such power to provide for the cost of acquisition of a public utility and/or extensions and/or betterments from such revenues, the Board may deem it advisable to make any such acquisition, extension or betterment which cannot be provided for out of the appropriations for a single fiscal year, it may at any time adopt a special budget and make special appropriations therefor specifying the amount of such appropriation for each fiscal year during which the cost of such acquisition, extension or betterment is

expected to be paid, and when such special budget is so adopted said Board may incur financial obligations and make expenditures as authorized thereby; provided that no such special appropriation for a future fiscal year shall be made unless, on report of the general manager of the bureau having charge of the works to which such improvement or extension pertains, or the general manager of the departments, it shall find that the reasonably expected revenues of such works in each fiscal year for which such appropriation is made will be amply sufficient to permit of the making of such appropriation in addition to the following:

1. Appropriations to cover the necessary expenses of operating and maintaining such works, and such payments of principal and interest on outstanding bonds, as, under the provisions of this Charter, and findings or resolutions provided for therein, said Board is required to apportion and set apart;

2. Appropriations to cover all sums coming due in said year for principal and interest upon bonds, notes, certificates or other evidences of indebtedness issued under the provisions of this Charter;

3. Appropriations to cover all appropriations made by any prior special budget; and

4. Appropriations to cover all other reasonably anticipated expenses for said year.

Any such special budget shall be subject to modification or extension upon like report and finding. It shall be the duty of the Board in adopting the annual departmental budget for each fiscal year to include therein appropriations for each item for which an appropriation for that year has been made by any such special budget.

Apportionment of funds

Sec. 9. The Board shall each year apportion and set apart out of the revenue fund in the city treasury pertaining to each such municipal works an amount or amounts sufficient to pay at maturity all sums coming due in said year for principal and interest, upon all outstanding bonds and/or other obligations issued for the purposes of the works, to which such revenue fund pertains, and also all sums coming due in said year for principal and interest upon all outstanding district bonds, issued for such purposes or such part of the last mentioned sums as can be paid from moneys in said fund not appropriated to other purposes and the Board finds are not required to meet outstanding obligations or liabilities payable out of said fund, including the principal and interest of general bonds; and/or other obligations; and said amounts shall be transferred forthwith into a special fund in the city treasury, to be designated by name indicating the nature or purpose of such special fund, and the money in such special fund shall be subject to apportionment by the Controller or Auditor as may be required to make such payments on the principal and interest of said bonds and/or other obligations, and for no other purpose. Any interest or increment received

on the money in any such special fund shall be paid into such special fund and become a part thereof. The foregoing provisions of this section shall apply to all such bonds now outstanding or hereafter issued; except as in this section provided said Board may, in its discretion, apply the moneys in such revenue funds to such purposes permitted by this Charter, and in such order and such amounts, as in the exercise of such discretion it shall determine. Balances remaining unexpended in said revenue funds, and all sums receivable into said fund from unpaid bills of consumers and other similar sources at the close of any fiscal year, shall be available for appropriations for, and expenditures in, succeeding fiscal years in like manner and for like purposes as revenues received during such succeeding years.

General manager.

Sec. 10. The Board shall appoint and shall have the power to remove the general manager who shall be the chief administrative officer and who shall not be subject to any civil service provisions of this Charter. Such general manager shall not be a member of the Board nor shall he have been a member within one year prior to his appointment. Failure on the part of the general manager to comply with the instructions of the Board, or incompetency, dishonesty, discourtesy, or neglect of duty on his part, as determined by the Board, shall constitute adequate grounds for his removal by said Board, provided that the person affected shall be given previous written notice of the grounds of the proposed removal and opportunity to be heard by the Board.

Duties of general manager

Sec. 11. Subject to the provisions of this Charter, the rules of the department and the instructions of his Board, said general manager shall have the power and duty:

1. To administer the affairs of the department as its chief administrative officer.

2. To appoint, discharge, suspend, or transfer the employees of the department, other than the secretary of the Board and the chief accounting employee of the department, and to issue instructions to said employees, other than the secretary and the chief accounting employee, in the line of their duties. All subject to the civil service provisions of this Charter.

3. To expend the funds of the department in accordance with the provisions of the budget appropriations or of appropriations made subsequent to the budget.

4. To recommend to the Board prior to the beginning of each fiscal year an annual departmental budget covering the anticipated revenues and expenditures of the department, conforming so far as practicable to the forms and dates provided in this Charter in relation to the general city budget.

5. To certify all expenditures of the department to the chief accounting employee.

6. To exercise such further powers in the aministration of the department as may be conferred upon him by the Board

Report

Sec. 12. The General Manager of such department, at least once a month, shall file with the Board a written report on the work of the department.

Sec. 13. The Board shall provide suitable quarters, equipment and supplies for the department. It shall create the necessary positions in said department, authorize the necessary deputies, assistants and employees and fix their salaries and duties, and fix the salary of the general manager of the department, and may require bonds of any or all such employees for the faithful performance of their duties. Quarters, supplies, etc. Employees

Sec. 14. Wherever in this Charter provision is made for the discharge of specific duties by a specific appointee, the appointing power of such appointee may designate an employee or employees in the same department with full power to act in place of such appointee in case of his temporary absence or other inability to act; and in other cases upon the written request of such appointee. Discharge of specific duties.

Sec. 15. The Board shall, prior to the beginning of each fiscal year, adopt an annual departmental budget and make an annual departmental budget appropriation, covering the anticipated revenues and expenditures of said department. Such budget shall conform as far as practicable, to the forms and times provided in this Charter for the general city budget. Such budget shall contain a sum to be known as the "unappropriated balance," which sum shall be available for appropriation by the Board later in the ensuing fiscal year to meet contingencies as they may arise. A copy of such budget, when adopted, and of every resolution subsequently adopted making appropriation from said unappropriated balance, shall promptly be filed with the Mayor and Controller or Auditor. No expenditure shall be made or financial obligations incurred by such department except as authorized by the annual departmental budget appropriation, or appropriations made subsequent to said annual budget, or as otherwise provided in this Charter. Provided, however, and anything contained in this Charter to the contrary notwithstanding, the Board shall have power, at any time, to pledge said unappropriated balance, or to contract with reference thereto, for any of the purposes set forth in this Charter. Budget.

Sec. 16. No money shall be drawn from any fund under the control of such department, except upon warrants authenticated by the signature of chief accounting employee of the department, who shall be directly appointed by the Board and shall be directly responsible to it in the discharge of his duties. The Board shall file with the Controller or Auditor a notice giving the name and signature of the chief accounting employee authorized to sign its demands as aforesaid. Warrants

The Board by resolution may authorize a temporary substitution in the case of the absence or inability to act of the person whose signature is herein required. A copy of any such resolution of substitution shall be filed with the Controller or Auditor.

Sec. 17. Any action by said department authorizing the acquisition or sale of real property, approving of contracts which obligate the city for a longer period of time than one Contracts over $2,000.

year, or which involves values in excess of Two Thousand Dollars ($2000), or which involves a rule of general application to be followed by the public, shall be taken by the Board by order or resolution. Every order or resolution adopting a rule of general application to be followed by the public shall be published once in a daily newspaper and shall take effect upon such publication.

Borrowing money

Sec. 18. (1) The Board is hereby authorized to borrow money on the security of revenue bonds to defray the expenses of construction work in the department.

The principal and interest of such borrowed money shall be paid from the revenue fund pertaining to the municipal works for or on account of which such indebtedness was created, and the principal shall be repaid in not more than forty (40) years, but no payments of principal need be required during the first three (3) years following the date of any such loan.

2. The Board is hereby authorized to make contracts providing for expenditure or incurring financial obligations to be paid in whole or in part in succeeding fiscal years, for or on account of the acquisition of any public utility, and of extensions and improvements of the works under the control of said department, all payments under said contracts to be made out of the revenue fund pertaining to the municipal works for or on account of which such indebtedness was created.

PROPOSAL NO. 6

That Section 20, Article XIII of the Charter of the City of Alameda be amended to read as follows:

Discharge of employees

Sec. 20. Unless otherwise provided by this Charter, any officer or board authorized to appoint any deputy, clerk, assistant, or employee, shall have the right to remove the person so appointed. Members or appointees on boards or commissions created or appointed by the Mayor or City Council, may be removed by a majority vote of said council.

PROPOSAL NO. 7

That Section 34, Article XIII of the Charter of the City of Alameda be amended to read as follows:

"Majority of council"

"Four-fifths of council"

Sec. 34. The expressions "majority of the council" or "council majority" shall be interpreted as requiring the affirmative vote of three members of the council. The expressions "four-fifths vote of the whole council" or "four-fifths of the council", or "four-fifths of all the members", shall be interpreted as requiring the affirmative vote of four members of the council.

Certificate

And we further certify that we have compared the foregoing amendments with the original proposals filed and submitted to the qualified electors of the City of Alameda as aforesaid, and find that the foregoing is a full, true and exact copy thereof

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of said City of Alameda to be affixed hereto this 12th day of January, 1935.

WILLIAM F. MURRAY,
[SEAL] Mayor of the City of Alameda,
D. ELMER DYER,
City Clerk of the City of Alameda.

and

WHEREAS, Said proposed Charter amendments have been and are now submitted to the Legislature of the State of California, for approval or rejection as a whole, without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California, now therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, a majority of all the members elected to each house voting therefor, and concurring therein, That said amendments to said charter, herein set forth, as submitted to and ratified by the qualified electors of said city, be, and the same are hereby, approved as a whole, without alteration or amendment, for and as amendments to, and as part of, the charter of said city of Alameda. Ratification.

CHAPTER 17.

Assembly Joint Resolution No. 12—Relative to memorializing Congress to enact proposed legislation directing repeal of section 15 of the Black-McKellar Act.

[Filed with Secretary of State January 21, 1935.]

WHEREAS, California and the entire Pacific Coast now enjoy safe, fast and efficient air transportation service through the coast division of an airplane carrier system which carries the mail; and Air mail

WHEREAS, Unless repealed by Congress before March 1, section 15 of the Black-McKellar Act will require that said system give up its mail contract leading to service abandonment; and Repeal of Sec. 15, Black-McKellar Act

WHEREAS, There has been introduced in Congress by Representative Frank H. Buck, California, legislation to repeal section 15 of the Black-McKellar Act; and

WHEREAS, Business and the traveling public of the Pacific Coast require an airplane transportation service of proven dependability and, to that end, has urged in numerous resolutions by public bodies the repeal of section 15 of the Black-McKellar Act; now therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, That the Legislature of the State of Cali-

fornia does hereby petition the Congress of the United States to repeal prior to March 1, 1935, section 15 of the Black-McKellar Act; and further be it

Resolved, That duly authenticated copies of this resolution be sent forthwith to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States and to the members of Congress from the State of California.

CHAPTER 18.

Assembly Joint Resolution No. 8—Memorializing Congress to grant consent to taxation by the several states of certain interstate sales.

[Filed with Secretary of State January 23, 1935.]

Sales tax on interstate transactions

WHEREAS, Necessity for property tax relief is imperative in California as well as in other states throughout the Union; and,

WHEREAS, Twenty-six states in an effort to afford property tax relief and to provide revenue for essential functions of government have enacted laws imposing taxes based upon or measured by sales of tangible personal property purchased and delivered in such states; and,

WHEREAS, No less than sixty-five per cent of the population of the United States now resides in states with such laws; and,

WHEREAS, By virtue of judicial interpretation of the Federal Constitution, the states may not levy without the consent of Congress taxes based upon or measured by sales moving in interstate commerce; and,

WHEREAS, As a result of such an interpretation there is a discrimination in favor of interstate sales as against intrastate sales; and,

WHEREAS, Such discrimination if permitted to continue will tend to divert business from normal channels in California and elsewhere throughout the Union, thus subjecting local merchants to unfair competition; and,

WHEREAS, It is of vital importance to the welfare of the people of the United States that all things be done to promote the stability of local business in order that the financial structure of California and other states throughout the Union may be preserved; and,

WHEREAS, It rests within the power of Congress to permit the states to levy nondiscriminatory taxes upon sales in interstate commerce; and,

WHEREAS, The Honorable Pat Harrison, Senator from Mississippi, introduced a measure at the second session of the Seventy-third Congress designed to afford the states relief in this matter, and reading as follows:

S. 2897

AN ACT

To regulate interstate commerce by granting the consent of Congress to taxation by the several States of certain interstate sales.

Harrison Bill (S. 2897)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all taxes or excises levied by any State upon sales of tangible personal property, or measured by sales of tangible personal property, may be levied upon, or measured by, sales of like property in interstate commerce, by the State into which the property is moved for use or consumption therein, in the same manner, and to the same extent, that said taxes or excises are levied upon or measured by sales of like property not in interstate commerce and no such property shall be exempt from such taxation by reason of being introduced into any State or Territory in original packages, or containers, or otherwise: *Provided,* That no State shall discriminate against sales of tangible personal property in interstate commerce, nor shall any State discriminate against the sale of products of any other States: *Provided further,* That no State shall levy any tax or excise upon, or measured by, the sales in interstate commerce of tangible personal property transported for the purpose of resale by the consignee: *Provided further,* That no political subdivision of any State shall levy a tax or excise upon, or measured by, sales of tangible personal property in interstate commerce. For the purposes of this Act a sale of tangible personal property transported, or to be transported, in interstate commerce shall be considered as made within the State into which such property is to be transported for use or consumption therein, whenever such sale is made, solicited, or negotiated in whole or in part within that State.

SEC. 2. Receivers, liquidators, referees, and other officers of any court of the United States are required to pay all taxes and licenses levied by any State or subdivision thereof the same as corporations, partnerships, concerns, persons, or association of persons are required to pay the same.

and,

WHEREAS, Said measure was passed by the Senate on March 15, 1934, but was not voted upon by the House of Representatives and hence did not become law; and

Passage of Harrison Bill (S. 2897)

WHEREAS, Need for such legislation is imperative in order to correct grave injustice in California and in all other states throughout the Union where taxes are based upon or measured by sales of tangible personal property; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Congress of the United States be, and it is hereby memorialized, to give relief to the State of California and all other states imposing taxes based upon or measured by sales of tangible personal property by immediately providing for the regulation of interstate com-

merce through granting consent to taxation by the several states of certain interstate sales as provided by the measure (S. 2897) introduced by Senator Harrison during the second session of the Seventy-third Congress; and be it further

Resolved, That copies of this resolution be sent to the presiding officers of the legislative bodies of all other states of the United States, with the request that they transmit similar memorials to Congress, and that copies of this resolution be transmitted to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to each of the members from California of the Senate and the House of Representatives of the United States, and to the Honorable Pat Harrison, United States Senator from Mississippi, author of the measure which would afford the states relief in this important matter.

CHAPTER 19.

Senate Concurrent Resolution No. 13—Relative to the relief of overcrowded conditions in the State prisons and the construction of additional prison facilities.

[Filed with Secretary of State January 23, 1935.]

New State prison in southern California

WHEREAS, The present State prisons located at San Quentin and Folsom are now the most congested in the United States, and are insufficient in size and inadequate in equipment properly to care for the prisoners confined therein; and

WHEREAS, The population of said prisons is annually increasing; and

WHEREAS, The transportation of prisoners sentenced from the southern counties in this State to and from the prisons is difficult and hazardous and involves a very considerable expense to the State of California; and

WHEREAS, The overcrowded condition of said prisons greatly increases the problems of discipline and the hazards of riots and escapes; and

WHEREAS, Said overcrowded condition makes it impossible properly to segregate the prisoners, or to separate youthful first offenders from hard and degenerate types of criminals, and greatly hinders the work of rehabilitation of the prisoners confined in said prisons; and

WHEREAS, Lack of space and lack of sufficient modern equipment makes it impossible to keep the prisoners adequately and healthfully employed; and

WHEREAS, It is imperative that the conditions now existing in said prisons be alleviated; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Governor of the State of California be and he is requested and authorized to conduct an investigation to determine the advisability of locating a

State prison in one of the southern counties of the State, and to estimate the cost of construction thereof and other related matters; and for that purpose to consult with any State agency and to require and receive from such State agencies any information or data he may require; and be it further

Resolved, That the Governor of the State of California enter into negotiations with the United States government and appropriate agencies thereof for the purpose of securing Federal aid in the construction of additional prison facilities and particularly for the purpose of constructing a prison in one of the southern counties of the State.

CHAPTER 20.

Senate Joint Resolution No. 4—Relative to memorializing the Federal Relief Administrator and the California Relief Administrator to give preference to the construction of relief projects which will result in benefits of a permanent character.

[Filed with Secretary of State January 23, 1935.]

Construction of relief projects of permanent value

WHEREAS, It is a matter of common knowledge that an emergency exists relative to the present dire need of men for employment; and

WHEREAS, The financing of relief projects is, in a great degree, made possible only by the issuance of bonds, the retirement of which, in most cases, will require many years; and

WHEREAS, Future generations will and should profit by and enjoy the benefits of projects which result in improvements which are lasting and permanent in their character; and

WHEREAS, Expenditures of moneys in the erection and construction of projects which are permanent in their character will relieve the present unemployment situation to the same degree and extent as will the expenditure of moneys which result only in temporary benefit; and

WHEREAS, The construction of such projects involves the purchase and use of large quantities of materials and supplies, the furnishing of which will give employment to the classes of labor hardest hit by present conditions: now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Federal Relief Administrator and the California Relief Administrator are hereby respectfully urged to give preference to the construction of roads, river and harbor improvements, flood control systems, drainage and irrigation systems, public school buildings, State institutional buildings, permanent exposition buildings, permanent civic center buildings, self help cooperatives, subsistence farms,

and similar projects, the benefits from which will accrue to future generations, and the furnishing of materials for which will be of present benefit; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the Federal Relief Administrator, Harry L. Hopkins, and to the California Relief Administrator.

CHAPTER 21.

Senate Joint Resolution No. 6—Relative to accepting amendments to permit from the government of the United States for the construction of approach roads and toll areas over certain rights of way leading to the Golden Gate Bridge in the Presidio of San Francisco Military Reservation, and relating to the retrocession by the Congress of the United States of jurisdiction over said rights of way and toll areas as relocated.

[Filed with Secretary of State January 24, 1935.]

Acceptance of amendments to grant of Federal permit to Golden Gate Bridge and Highway District

WHEREAS, On February 13, 1931, the Secretary of War pursuant to authority in him vested by section 6 of the act of Congress approved July 5, 1884 (23 Stat. 104), granted to the Golden Gate Bridge and Highway District a right of way for the extension, maintenance and operation of a State road across the Presidio of San Francisco Military Reservaton, California, and across the Fort Baker Military Reservation, including space for toll booths and facilities for regulating traffic, and also the right to erect, operate and maintain the ends of the Golden Gate Bridge with cable anchorages, upon the said military reservations; and

WHEREAS, Said grant has been accepted by the Golden Gate Bridge and Highway District and also by the Legislature of the State of California under the terms of Senate Joint Resolution No. 11, of the forty-ninth session of the Legislature of the State of California; and

WHEREAS, The said permit and grant were amended by amendments dated April 1, 1931, May 1, 1933, and July 21, 1933, which said three amendments have been accepted by the Golden Gate Bridge and Highway District and approved and accepted by joint resolutions of the Legislature of the State of California; and

WHEREAS, On the nineteenth day of March, 1934, the Secretary of War did grant to the Golden Gate Bridge and Highway District a further modification of said permit as amended, and being a modification providing for the enlargement of the toll area theretofore granted under the original permit in the Presidio of San Francisco Military Reservation, which said amendment and modification of the date last mentioned is hereby expressly referred to; and

WHEREAS, It was in said last named modification and amendment, expressly provided that the amendments and modifications therein contained should not become effective and the original permit of February 13, 1931, should remain unchanged thereby, unless and until the said Golden Gate Bridge and Highway District should have accepted said amendment, and unless and until the State of California should have, with respect to said amendment, taken the same formal action which it was required to take with respect to the original permit, and which is set forth in paragraph 11 and subparagraphs 11a, 11b and 11c of that instrument, as a condition precedent to the taking effect thereof; now, therefore, be it Same

Resolved by the Senate and Assembly of the State of California, jointly, That said modification and amendment dated the nineteenth day of March, 1934, to said permit dated February 13, 1931, as amended by amendments dated April 1, 1931, May 1, 1933, and July 21, 1933, granted by the Secretary of War to the Golden Gate Bridge and Highway District, be and the same hereby is, together with each, all, every and singular the terms, conditions, limitations, reservations and requirements therein contained, accepted by and on behalf of the State of California; and be it further

Resolved, That the State of California does hereby make application to the Congress of the United States for a retrocession of jurisdiction over the rights of way and toll area as relocated and amended by said modification dated the nineteenth day of March, 1934, in lieu of and superseding the application for retrocession of jurisdiction over the right of way heretofore granted across the Presidio of San Francisco Military Reservation in the original permit of February 13, 1931, in case said relocation of the right of way and toll area is finally granted to the Golden Gate Bridge and Highway District; and be it further

Resolved, That the State of California will, in case such retrocession of jurisdiction is granted by Congress, accept such retrocession of jurisdiction, and will assume the responsibility of managing, controlling, policing, and regulating traffic thereon, all subject to the following limitations and to such other limitations as Congress may prescribe:

(a) That nothing in said permit contained shall be construed to give to the State of California or any of its agents, authority at any time to regulate traffic of military personnel or vehicles upon the said bridge or roads. All traffic upon said roads and upon said bridge shall be free from any tolls, charges or any form of obstruction by State or other agencies, against military and naval personnel and their dependents, civilians of the army and navy traveling on government business under military authority, and government traffic.

(b) That whenever in the judgment of the Secretary of War or his authorized representative any emergency exists which justifies it, he may assume exclusive control and man-

agement of said bridge and roads and may then in his discretion prohibit, limit or regulate traffic thereon.

(c) That nothing in said permit contained shall be construed to confer upon the State courts the right to try persons subject to military law for crimes or offenses committed on said roads, or upon said bridge within the boundaries of the respective military reservations involved, but the courts of the United States or military tribunals as now or hereafter provided by law, shall retain exclusive jurisdiction to try such persons for such offenses. Be it further

Resolved, That the State of California does hereby agree to make such relocated right of way and toll area in the Presidio of San Francisco Military Reservation in said amended permit described a part of the system of public highways of the State; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the Secretary of War, to each house of Congress, and to the Senators and Representatives in Congress of the State of California.

CHAPTER 22.

Senate Concurrent Resolution No. 9—Relative to the adjournment of the Legislature for the constitutional recess, and to the reassembling of the Legislature after said recess, and fixing the date for said adjournment and said reassembling.

[Filed with Secretary of State January 24, 1935.]

Recess of Legislature, Jan. 26-March 4, 1935

WHEREAS, Section 2 of Article IV of the Constitution of the State of California requires that, after the Legislature has been in session for a period not exceeding thirty days a recess must be taken by both houses for a period of not less than thirty days; therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the fifty-first session of the Legislature of the State of California shall adjourn for said recess at three o'clock p.m. on January 26, 1935, and shall reassemble at eleven o'clock a.m. on March 4, 1935.

CHAPTER 23.

Senate Joint Resolution No. 7—Relative to authorizing the Governor to appoint a representative to confer with the representative of other oil producing States and the United States.

[Filed with Secretary of State January 26, 1935.]

Interstate agreement on oil conservation

WHEREAS, A subcommittee of the House Committee on Interstate and Foreign Commerce, acting pursuant to H. Res. 441, seventy-third Congress, has recommended to the Congress that the enactment of Federal legislation for regulation of the oil industry be withheld temporarily to give an opportunity for the oil-producing States to effect an interstate agreement for the conservation of oil and stabilization of production thereof, and

WHEREAS, It is preferable that the States, through the exercise of their police powers in cooperation with each other and the Federal government, shall meet this problem rather than surrender their sovereign function in favor of centralized Federal control.

Resolved, by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California does hereby authorize the Governor to appoint a representative to meet with representatives of the Governors of other petroleum-producing States, and of the United States, for the purpose of formulating a compact among such States effecting the following objectives:

(a) Establishment of a joint State and Federal fact-finding agency to consist of one representative of each compacting State appointed by the Governor and one representative of the United States as Congress or the President shall direct. Said agency shall make periodic findings, of the demand for petroleum to be produced within the United States or withdrawals from storage, and for petroleum and products thereof to be imported.

(b) Voluntary regulation of production by each compacting State within its own borders in accordance with said determination of the joint fact-finding agency, to the extent that and in such manner as the laws of each State may authorize.

(c) Formulation by the joint agency of uniform conservation measures and tax laws which it shall recommend to the compacting States.

No compact made under the authority of this act shall bind this State unless and until:

(a) Said compact shall be ratified by the Legislature of this State, and Congress shall consent thereto:

(b) Congress shall make provision for the limitation of importations of petroleum and the products thereof, including natural asphalt.

(c) Congress shall provide for the control of interstate movements of petroleum produced or withdrawn from storage

in violation of the compact or of the laws and valid regulations of the several States, and products of such petroleum:

(d) Any act of the Legislature of the State of California approving said compact shall likewise provide for its administration, and shall include in the provisions for the administration of the compact the creation of a commission to administer the compact, which commission shall be fairly representative of the various interests of the oil industry, with due provision for the protection of the public interest.

CHAPTER 24.

Senate Concurrent Resolution No. 11—Approving certain amendments to the charter of the city of Piedmont, a municipal corporation in the county of Alameda, State of California, voted for and ratified by the qualified electors of said city at a special municipal election, held therein on the sixth day of November, 1934.

[Filed with Secretary of State January 26, 1935.]

City of Piedmont Charter amendments

WHEREAS, Proceedings have been had and taken for the proposal, adoption, and ratification of certain amendments hereinafter set forth in the charter of the city of Piedmont, a municipal corporation in the county of Alameda, State of California, as set out in the certificate of the president of the city council and the city clerk of said city of Piedmont as follows, to wit:

State of California,
County of Alameda, } ss.
City of Piedmont.

Certificate

We the undersigned, Oliver Ellsworth, President of the City Council of the City of Piedmont, State of California, and Weare C. Little, City Clerk of said City do hereby certify and declare as follows:

That the City of Piedmont is a Municipal Corporation in the County of Alameda, State of California, now is and at all times herein mentioned was, a city containing a population of more than thirty-five hundred (3500) and less than fifty thousand (50,000) inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States, and is now organized, existing and acting under a freeholder's Charter, adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which Charter was duly ratified by the qualified electors of said City at an election duly held for that purpose February 27, 1923, and approved by the legislature of the State of California by concurrent resolution filed with the Secretary of State on the fifteenth day of March, 1923 (statutes 1923, page 1564).

That in the pursuance of Section Eight of Article Eleven of the Constitution of the State of California, on its own motion, the Council of the City of Piedmont being the legislative body of said City, by and in pursuance of a certain resolution passed by the City Council on the twentieth day of September, 1934, duly submitted to the qualified electors of said City of Piedmont certain proposals for the amendment of the Charter of said City, to be voted on by said qualified electors at a special municipal election held in said City on the sixth day of November, 1934, which said proposals were and are in words and figures following, to-wit:

TEMPORARY LOANS.

Shall the City Charter of the City of Piedmont be amended by adding a new Section thereto, to be known and designated as Section 37-A in words and figures following, to-wit:

Borrowing money in anticipation of revenue

SECTION 37-A. TEMPORARY LOANS. When funds shall be needed for the immediate requirements of the City in any fiscal year in accordance with appropriations made for such fiscal year, which payments may be made in advance of the receipt of income for such fiscal year, and when funds therefor can not be made available as hereinbefore in this section authorized, the City Council, shall have power, by ordinance, to borrow funds on notes or other evidence of indebtedness on behalf of the City in aggregate amount not to exceed twenty-five (25) per centum of the estimated tax receipts for such current fiscal year. All such notes or other evidence of indebtedness shall be offered at public sale by the City Council after not less than two days of advertising, not less than three days after the last day on which such advertising is published. Each such sale shall be made to the bidder offering the lowest rate of interest or whose bid represents the lowest net cost to the City; provided, however, that the rate of interest to be paid shall not exceed the sum of six (6) per centum per annum. The repayment of any sum so borrowed from any person, firm or corporation pursuant to the authority of this section, shall constitute a first lien and charge against the taxes collected during the half of the fiscal year in which said money was borrowed and shall be repaid to the person, firm or corporation from the first moneys received from said taxes. All such notes issued for funds borrowed prior to December 31st in any fiscal year to be repaid not later than said December 31st, and all other such notes for other funds borrowed in any fiscal year shall be repaid not later than the 15th day of May of such fiscal year, the intention of this paragraph of this section being that the making of said loans shall be solely for the purpose of anticipating receipt of income. The City Council, in preparing the budget estimate, shall include therein a separate amount sufficient to meet the interest to be paid on any funds borrowed under authority of this section.

Shall Section 36 of the City Charter of the City of Piedmont be amended to read in words and figures following, to-wit:

Taxation

SECTION 36. TAXATION. The Council by ordinance shall provide a system for the assessment, levy, collection and equalization of taxes, and that all sales for delinquent taxes shall be made to the City of Piedmont. Should the Council fail to fix the tax rate within the time prescribed, then the tax rate of the previous year shall constitute the rate for the current year.

Certificate.

That said proposed amendments were published and advertised in accordance with the provisions of Section 8, Article XI, of the Constitution of the State of California and in accordance with the provisions of the Charter of the City of Piedmont in the "Oakland Tribune", which was then and there a newspaper of general circulation within said City of Piedmont and in all the editions thereof issued during the day of publication, there being no official newspaper within the said City of Piedmont.

That the Council of the City of Piedmont, a legislative body of said City, by its certain resolution passed on the twentieth day of September, 1934, did order the holding of a special municipal election of said City of Piedmont on the sixth day of November, 1934, and did provide in said resolution for the submission of the proposed amendments to the Charter to the qualified electors of said city for their ratification at such election.

That said election was duly called and held on the sixth day of November, 1934, and at said election a majority of qualified electors, voting thereon, voted in favor of and the ratification of, and did ratify each of the proposed amendments to the Charter of the City of Piedmont hereinabove set forth.

That the returns of said election were in accordance with the law in such cases made and provided, duly and regularly canvassed and certified to, and it was duly found, determined, and declared by the proper officers thereunto duly and properly authorized that a majority of the qualified electors voting thereon had voted for and in favor of and ratified each of said proposed amendments to said Charter as hereinabove set forth, and we and each of us further certify that we have compared the foregoing enclosed and ratified amendments to the Charter of the City of Piedmont with the original proposals, submitting the same to the electors of said City at the election held on the sixth day of November, 1934, and find that the foregoing is a true, full, correct, and exact copy thereof.

In witness whereof we have hereunto set our hands and caused the seal of said City of Piedmont to be affixed hereto this twenty-seventh day of November, 1934.

OLIVER ELLSWORTH,
President of the City Council and
ex officio mayor.
WEARE C. LITTLE,
City Clerk of the City of Piedmont.

WHEREAS, Said proposed amendments so ratified as hereinbefore set forth have been and are now duly passed and submitted to the Legislature of the State of California for approval or rejection without power of alteration in accordance with section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Ratification

Resolved by the Senate of the State of California, the Assembly thereof concurring, The majority of all the members elected to each house voting therefor and concurring therein, that said amendments to the charter of the city of Piedmont as proposed to and adopted and ratified by the electors of said city, and as hereinbefore fully set forth, be, and the same are hereby approved as a whole without amendment or alteration for and as amendments to and as a part of the charter of said city of Piedmont.

CHAPTER 25.

Senate Concurrent Resolution No. 15—Calling for the general observance of Cabrillo Day and authorizing the Governor of the State of California to make appropriate proclamations with respect thereto.

[Filed with Secretary of State January 26, 1935.]

"Cabrillo Day" as anniversary of discovery of California

WHEREAS, John Rodriguez Cabrillo, a native of Portugal, discovered California on Thursday, September 28, 1542, while in the service of the King of Spain by entering the harbor of San Diego; and

WHEREAS, The discovery of California by Cabrillo was an event of world-wide importance, and the anniversary of such event is of particular interest to the people of the State of California; now, therefore, be it

Resolved by the Senate, the Assembly concurring, as follows: That the people of the State of California are called upon to observe "Cabrillo Day" on the twenty-eighth day of September of each year, by appropriate patriotic observances, and the Governor of the State of California is hereby requested to issue a proclamation to the people of this State, each year, calling their attention to the anniversary of the discovery of California by John Rodriguez Cabrillo.

CHAPTER 26.

Assembly Concurrent Resolution No. 13—Requesting the State Board of Equalization of the State of California to submit an approximate valuation of all utility properties which are to be placed upon the local county tax rolls.

[Filed with Secretary of State January 26, 1935.]

Valuation of public utility property by Board of Equalization

WHEREAS, The problem of taxation is superior in the interests of the members of the Legislature of the State of California, as well as the citizens of this State; and,

WHEREAS, The properties of all utilities are being evaluated by the State Board of Equalization, and are to be placed upon the local county tax rolls; and,

WHEREAS, The Constitution of the State of California provides for the levying and assessment of an ad valorem tax upon all property within the State in order to meet any State deficits that may exist; and,

WHEREAS, The Legislature has by resolution set the 26th day of January, 1935, as the day of adjournment, and the time remaining is but a short period; now, therefore, be it

Resolved by the Assembly, and the Senate of the State of California concurring therein, That the Clerk of the Assembly be directed to convey this resolution to the members of the State Board of Equalization, and to the secretary of such board, respectfully requesting and urging them to transmit to the Assembly and the Senate of the State of California, at the earliest possible moment, such an approximate valuation of the utility properties of the State of California; and, be it further

Resolved, That any additional information in the possession of the State Board of Equalization, which will be of material assistance to the Assembly and the Senate of the State of California, relating to this request, be transmitted by the Board of Equalization in like manner, together with such statement of the approximate valuations of utilities, so that the members of the Legislature may become more conversant with the approximate revenue that may be expected in the event an ad valorem tax is placed upon utility properties in the State of California.

CHAPTER 27.

Assembly Concurrent Resolution No. 15—Approving certain amendents to the charter of the City and County of San Francisco voted for and ratified by the electors of said City and County of San Francisco at an election held therein on the sixth day of November, 1934.

[Filed with Secretary of State January 26, 1935.]

City and County of San Francisco. Charter amendments

WHEREAS, The City and County of San Francisco, State of California, contains a population of over five hundred thousand inhabitants, and has been ever since the eighth day of January, in the year one thousand nine hundred thirty-two, and is now organized and acting under a freeholders' charter adopted under and by virtue of section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city and county at an election held for that purpose on the twenty-sixth day of March, one thousand nine hundred thirty-one, and approved by the Legislature of the State of California on the thirteenth day of April, one thousand nine hundred thirty-one (Statutes of 1931, page 2973); and

Certificate

WHEREAS, The legislative authority of said city and county, namely the board of supervisors thereof, duly proposed to the qualified electors of the City and County of San Francisco eleven certain amendments to the charter of said City and County of San Francisco by the submission of eleven proposals, numbered from 1 to 11, inclusive, entitled as follows, to wit:

Charter Amendment No. 1.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the charter of said city and county by amending section 161 thereof, relating to continuous service.

Charter Amendment No. 2.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the charter of said city and county by amending section 65 thereof, relating to the preparation and filing of annual, quarterly and monthly reports by the controller.

Charter Amendment No. 3.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the charter of said city and county by amending section 72 thereof, relating to the adoption of the annual budget and the annual appropriation ordinance, the

San Francisco charter.

quarterly allotment of estimated revenues and the curtailment of expenditures if estimated revenues are not realized.

Charter Amendment No. 4.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the charter of said city and county by amending section 24 thereof, relating to permits and inspections.

Charter Amendment No. 5.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the charter of said city and county by amending section 13 thereof, relating to action of the board of supervisors by and publication of, ordinances and resolutions.

Charter Amendment No. 6.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the charter of said city and county by amending section 108 thereof, relating to repair of accepted streets.

Charter Amendment No. 7.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the charter of said city and county by amending section 87 thereof, relating to limitation on claims for damages.

Charter Amendment No. 8.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the charter of said city and county by amending section 145 thereof, relating to qualifications and tests, and veterans' preference.

Charter Amendment No. 9.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the charter of said city and county by amending section 11 thereof, relating to suspension and removal of elected and appointive officials.

Charter Amendment No. 10.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the charter of said city and county by amending section 69 thereof, relating to budget estimates.

Charter Amendment No. 11.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the charter of said city and county by amending sections 71 and 73 thereof and by repealing the fifth paragraph of section 151 thereof, and by adding a new section thereto, to be known as section 70.2 thereof, relating to the salaries, wages and compensations of the officers and employees of the said city and county and to deductions from said salaries, wages and compensations during the period of emergency described and declared therein; and San Francisco charter

WHEREAS, Said legislative authority, in accordance with the provisions of section 8 of Article XI of the Constitution of the State of California, and within fifteen (15) days of said proposal, caused said eleven proposed amendments to said charter to be published, once in the official newspaper of the said City and County of San Francisco and each edition thereof issued or published on the date of said publication, to wit, in "The San Francisco News," a newspaper of general circulation in the City and County of San Francisco and the official newspaper of said city and county; and

WHEREAS, Said legislative body caused copies of said charter amendments to be printed in convenient pamphlet form and in type of not less than ten point, and caused copies thereof to be mailed to each of the qualified electors of said City and County of San Francisco, and until the day fixed for the election upon said charter amendments, advertised in said "The San Francisco News," a newspaper of general circulation in the City and County of San Francisco, a notice that copies of said charter amendments could be had upon application therefor at the office of the board of supervisors; and

WHEREAS, The said legislative authority of said city and county, ordered placed upon the ballot at a general election to be held in the City and County of San Francisco on the sixth day of November, 1934, the said eleven several proposals to amend the charter of the City and County of San Francisco; and

WHEREAS, Said general election was held in said City and County of San Francisco on the sixth day of November, 1934, which day was more than forty days and less than sixty days from the completion of the publication of said proposed charter amendments for one day in said "The San Francisco News" and each edition thereof as hereinbefore set forth; and

WHEREAS, On the thirteenth day of November, 1934, and thereafter at meetings duly convened in accordance with law, the board of supervisors of said city and county duly and regularly canvassed the returns of said general election and duly declared the results thereof, said board being by law authorized to canvass the returns of said general election; and

WHEREAS, Thereafter, to wit on the twenty-sixth day of November, 1934, said board of supervisors duly approved the

"official statement of votes cast at the general election held in the City and County of San Francisco, State of California, on Tuesday, the sixth day of November, 1934, for charter amendments; and

WHEREAS, At said general election so held on the sixth day of November, 1934, eight of said proposed amendments were ratified by a majority of the electors of said city and county voting thereon, to wit: Charter amendments numbered 1, 2, 3, 5, 6, 7, 9 and 10, and that the other amendments received less than a majority of the votes of the electors voting thereon and were not ratified; and

WHEREAS, The said eight charter amendments so ratified by the electors of the City and County of San Francisco, are now submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment in accordance with the provisions of section 8 of Article XI of the Constitution of the State of California, and are in words and figures as follows, to wit:

CHARTER AMENDMENT No. 1

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said City and County by amending Section 161 thereof, relating to Continuous Service.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said City and County of San Francisco at the general election to be held on the 6th day of November, 1934, a proposal to amend Section 161 of the Charter of said City and County as follows:

CONTINUOUS SERVICE

Continuous service of officer or employee

Section 161. Continuous service shall be defined by the board of supervisors, but the absence of any officer or employee of the city and county from service caused by reason of the service of such officer or employee in the military or naval forces of the United States in any war in which the United States has engaged shall not be deemed to be such absence from service as shall break the continuity of service required of such officer or employee to entitle him to a pension or retirement allowance as provided under the retirement system, but the period of such absence in such military or naval service shall be deemed service for the city and county.

Ordered Submitted—Board of Supervisors, San Francisco, September 21, 1934.

Ayes: Supervisors Brown, Colman, Gallagher, Havenner, Hayden, McSheehy, Ratto, Roncovieri, Schmidt, Shannon, Uhl.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN, Clerk.

CHARTER AMENDMENT No. 2

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said City and County by amending Section 65 thereof, relating to the preparation and filing of annual, quarterly and monthly reports by the Controller.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said City and County at the general election to be held on the sixth day of November, 1934, a proposal to amend the charter of said City and County as follows:

CONTROLLER'S REPORTS

Report by controller

Section 65. The controller shall annually make a complete financial report which shall be audited and distributed as provided in section 68 of this charter. The controller shall also make a quarterly report not later than the 25th day of the month succeeding the last preceding quarter, showing a summary statement of revenues and expenditures for the preceding quarter and for that portion of the fiscal year ending on the last day of such preceding quarter. Such statement shall include all general and funding accounts and shall be detailed as to assets, liabilities, income, expenditures, appropriations and funds, in such manner as to show the financial conditions of the city and county and of each department, office, bureau or division thereof, for that portion of the fiscal year to and including the preceding quarter, and with comparative figures for the similar period in the preceding fiscal year. The controller shall at the same time prepare statements showing at the end of each quarter the cash position of the city and county (and the unencumbered balance in each fund). He shall also prepare quarterly for each of the several funds a summary of the resources available and estimated to be collectible, obligations authorized and estimated to be expendible, and surplus in such a manner as to show the estimated cash position of each fund at the end of the fiscal year. He shall also prepare monthly and transmit to all department heads concerned, reports showing the allowances, expenditures, encumbrances and unencumbered balances of each revenue and expenditure appropriation. A copy of each such quarterly report and special fiscal reports as requested, shall be transmitted to the mayor, the board of supervisors, the chief administrative officer, and kept on file in the controller's office.

Ordered Submitted—Board of Supervisors, San Francisco, September 21, 1934.

Ayes: Supervisors Brown, Colman, Gallagher, Havenner, Hayden, McSheehy, Ratto, Roncovieri, Schmidt, Shannon, Uhl.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN, Clerk.

CHARTER AMENDMENT No. 3

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the charter of said City and County by amending Section 72 thereof, relating to the adoption of the annual budget and the annual appropriation ordinance, the quarterly allotment of estimated revenues and the curtailment of expenditures if estimated revenues are not realized.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said City and County at the general election to be held on the sixth day of November, 1934, a proposal to amend the charter of said City and County as follows:

ADOPTION OF THE BUDGET AND THE APPROPRIATION ORDINANCE.

Budget

Section 72. Not later than the first day of May in 1932, and in each year thereafter, the mayor shall transmit to the board of supervisors the consolidated budget estimates for all departments and offices of, and the proposed budget for, the city and county for the ensuing fiscal year, including a detailed estimate of all revenues of each department and an estimate of the amount required to meet bond interest, redemption and other fixed charges of the city and county, and the revenues applicable thereto. He shall, by message accompanying such proposed budget, comment upon the financial program incorporated therein, the important changes as compared with the previous budget, and bond issues, if any, as recommended by him.

The mayor shall submit to the board of supervisors, at the time that he submits said budget estimates and said proposed budget, a draft of the annual appropriation ordinance for the ensuing fiscal year, which shall be prepared by the controller. This shall be based on the proposed budget and shall be drafted to contain such provisions and detail as to furnish an adequate basis for fiscal and accounting control by the controller of each revenue and expenditure appropriation item for the ensuing fiscal year. Upon submission it shall be deemed to have been regularly introduced, and together with the proposed budget, shall be published as required for ordinances.

Details of budget

The detail of the proposed budget to be published shall be as follows:

1. The total cost for conducting each department, bureau, office, board or commission for the ensuing fiscal year, segregated according to basic objects of expenditure for each.

2. A detail schedule of positions and compensations, showing any increases or decreases in any department or office.

3. A detail schedule of items for capital outlay.

4. The aforementioned consolidated estimates and schedules shall also include by items contained therein the following information:

(a) Expenditures for the last complete fiscal year.

(b) Estimated expenditures for the current fiscal year.

(c) Proposed increases or decreases as compared with the budget allowances for the current fiscal year.

Printed copies

The board of supervisors shall provide printed copies of the mayor's budget message and proposed budget thus prepared, including comparative expenditures and revenues for the current and preceding fiscal years and other information transmitted therewith, for official use and public demand as requested.

Hearings

The board of supervisors shall fix the date or dates, not less than five days after publication as in this section provided, for consideration of and public hearings on the proposed budget and proposed appropriation ordinance.

Increases and decreases

The board of supervisors may decrease or reject any item contained in the proposed budget, but shall not increase any amount or add any new item for personal services or materials, supplies, or contractual services, for any department, unless requested in writing so to do by the mayor, on the recommendation of the chief administrative officer, board, commission or elective officer, in charge of such department.

Capital expenditures

The board of supervisors may increase or insert appropriations for capital expenditures and public improvements.

Appropriation ordinance.

After public hearing, and not earlier than the 15th day of May, nor later than the first day of June, the board shall adopt the proposed budget as submitted or as amended and shall pass the necessary appropriation ordinance. If the appropriation ordinance as submitted by the mayor is amended by the supervisors, the appropriation ordinance shall be readvertised prior to final reading or passage, in the manner required for ordinances.

Veto.

Any item in such appropriation ordinance except for bond interest, redemption or other fixed charges, may be vetoed in whole or in part by the mayor within ten days of receipt by him from the clerk of the board of supervisors of the ordinance as passed by the board, and the board of supervisors shall act on such veto not later than the 20th day of June.

Schedule of allotments

The several items of expenditure appropriated in each annual appropriation ordinance, being based on estimated receipts, income or revenues which may not be fully realized, it shall be incumbent upon the controller to establish a schedule of allotments, monthly or quarterly as he may determine, under which the sums appropriated to the several departments shall be expended. The controller shall revise such revenue estimates monthly. If such revised estimates indicate a shortage the controller shall hold in reserve an equivalent amount of the corresponding expenditure appropriations set forth in any said annual appropriation ordinance until the collection of the amounts as originally estimated is assured, and in all cases where it is provided by this charter that a specified or minimum tax shall be levied for any department the amount of the appropriation in any annual appropriation

ordinance derived from taxes shall not exceed the amount actually produced by the levy made for said department. The controller in issuing warrants or in certifying contracts or purchase orders or other encumbrances, pursuant to section 86 of this charter, shall consider only the allotted portions of appropriation items to be available for encumbrance or expenditure and shall not approve the incurring of liability under any allotment in excess of the amount of such allotment. In case of emergency or unusual circumstance which could not be anticipated at the time of apportionment, an additional allotment for a period may be made on the recommendation of the department head and that of the chief administrative officer, board or commission and the approval of the controller. After the allotment schedule has been established or fixed, as heretofore provided, it shall be unlawful for any department or officer to expend or cause to be expended a sum greater than the amount set forth for the particular activity in the said allotment schedule so established, unless an additional allotment is made, as herein provided.

Subject to the restrictions hereinbefore in this section included, the several amounts of estimated revenue and proposed expenditures contained in the annual appropriation ordinance as adopted by the board of supervisors shall be and become appropriated for the ensuing fiscal year to and for the several departments, bureaus, offices, utilities, boards or commissions, and for the purposes specified, and each department for which an expenditure appropriation has been made shall be authorized to use the money so appropriated for the purposes specified in the appropriation ordinance, and within the limits of the appropriation. The appropriation ordinance shall constitute the authority for the controller to set up the required revenue and expenditure accounts. Appropriation items for bond interest, bond redemption, fixed charges and other purposes not appropriated to a specific department shall be subject to the administration of and expenditure by the chief administrative officer for the respective purposes for which such appropriations are made.

Ordered Submitted—Board of Supervisors, San Francisco, September 21, 1934.

Ayes: Supervisors Brown, Colman, Gallagher, Havenner, Hayden, McSheehy, Ratto, Roncovieri, Schmidt, Shannon, Uhl.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN, Clerk.

CHARTER AMENDMENT No. 5

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said City and County by amending Section 13 thereof, relating to action of the Board

of Supervisors by, and publication of, ordinances and resolutions.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said City and County at the general election to be held on the sixth day of November, 1934, a proposal to amend the Charter of said City and County as follows:

ACTION BY RESOLUTION OR ORDINANCE

Board to act by resolution or ordinance

Section 13. Action by the Board of Supervisors shall be by ordinance or resolution in writing introduced by a member or by a committee of said board and passed or adopted by a majority of all the members of the board at each reading. Every legislative act shall be by ordinance. The enacting clause of all ordinances shall be, "Be it ordained by the people of the City and County of San Francisco." Every ordinance and resolution, except ordinances making appropriations, shall be confined to one subject which shall be clearly expressed in the title, and ordinances making annual or supplemental appropriations shall be confined to the subject of appropriations. Any ordinance enacting or revising and re-enacting a complete municipal code for the city and county, which code shall supersede or repeal all general ordinances prior thereto, shall be construed to be confined to a single subject.

Enacting clause

Subject expressed in title

If any subject is embraced in an ordinance and is not expressed in the title thereof, the ordinance shall be void only as to so much thereof as is not expressed in the title. Any ordinance may be amended by an ordinance amending the particular sections thereof.

Readings

An ordinance shall be passed by the board of supervisors only. after reference to and report thereon from committee, unless it be an ordinance prepared and reported out by committee, and after two readings and votes at separate meetings of the board, which meetings shall be at least ten days apart: provided, however, that as to an emergency measure as defined in section 16, reference to committee or the readings and votes at separate meetings may be waived by a three-fourths vote of all members of the board. The existing or impending emergency as defined in such ordinance shall be declared by specific section in such emergency ordinance. No other resolution shall be adopted by the board of supervisors on the date of its introduction and without reference to committee, except by the unanimous consent of the supervisors present. The annual appropriation ordinance shall be passed only after two readings, not less than five days apart, and the second or final passage shall be not less than fifteen days after the introduction of each such ordinance.

Franchises

No ordinance granting a franchise shall be finally passed within ninety days of its introduction.

Publication

Except as otherwise provided in this charter, or by ordinance, notice of the title or the purport and subject matter of each proposed ordinance which is introduced and referred

to committee shall be published within three days after its presentation to the board and a copy of such proposed ordinance shall be kept available for inspection in the office of the clerk of the board. All ordinances shall be published upon passage for second reading. Emergency ordinances shall be published immediately on passage. Ordinances passed to codify, rearrange and publish existing ordinances, as provided for in section 17, shall not require publication. The term "published" as used in this charter shall mean publication in the official newspaper as required by charter. The official newspaper is hereby defined to be a daily newspaper of general circulation, published in the city and county and which has a bona fide daily circulation of at least 8,000 copies.

Voting.

The vote on all ordinances and resolutions upon each reading shall be by ayes and noes. The vote by ayes and noes on all measures shall be recorded in the journal of the proceedings of the board.

Ordered Submitted—Board of Supervisors, San Francisco, September 21, 1934.

Ayes: Supervisors Brown, Colman, Gallagher, Havenner, Hayden, McSheehy, Ratto, Roncovieri, Schmidt, Shannon, Uhl

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN, Clerk.

CHARTER AMENDMENT No. 6

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said City and County by amending Section 108 thereof, relating to repair of accepted streets.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said City and County of San Francisco at the general election to be held on the 6th day of November, 1934, a proposal to amend Section 108 of the Charter of said City and County as follows:

REPAIR OF ACCEPTED STREETS

Repair of streets

Section 108. When any roadway of a street or portion thereof for not less than one continuous block has been paved in accordance with the specifications of the department of public works, and is in good condition, and sewer, gas and water pipes have been laid therein, the same shall be accepted by the supervisors by ordinance on the written certificate of the city engineer, and thereafter such portion of the roadway of said street shall be kept in repair and improved by the city and county. It shall be the duty of the owner of any property fronting on a public street to keep the sidewalk in front thereof in good repair and condition and the Board of Supervisors is hereby empowered to provide by ordinance for the repair of

such sidewalks in all cases where the owner fails and neglects to repair the same.

Nothing herein contained shall relieve any railway company from making repairs to the roadway of any street in conformity with the terms of its franchise or as provided by law.

Ordered Submitted—Board of Supervisors, San Francisco, September 21, 1934.

Ayes: Supervisors Brown, Colman, Gallagher, Havenner, Hayden, McSheehy, Ratto, Roncovieri, Schmidt, Shannon, Uhl.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN, Clerk.

CHARTER AMENDMENT No. 7

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said City and County by amending Section 87 thereof, relating to limitation on claims for damages.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said City and County of San Francisco at the general election to be held on the 6th day of November, 1934, a proposal to amend Section 87 of the Charter of said City and County as follows:

LIMITATION ON CLAIMS FOR DAMAGES

Claims for damages.

Section 87. All claims for damages against the city and county must be presented to the controller within sixty days after the occurrence from which it is claimed the damages have arisen. Such claims must be verified by the oath of the claimant and must contain the name and address of the claimant, the date and place of the occurrence or injury for which damages are claimed, the nature and amount of said injuries or damages and the items making up said amount; otherwise there shall be no recovery on any such claim or by reason of the said occurrence for which damages are claimed.

Ordered Submitted—Board of Supervisors, San Francisco, September 21, 1934.

Ayes: Supervisors Brown, Colman, Gallagher, Havenner, Hayden, McSheehy, Ratto, Roncovieri, Schmidt, Shannon, Uhl.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN, Clerk.

CHARTER AMENDMENT No. 9

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of

California, to amend the Charter of said City and County by amending Section 11 thereof, relating to suspension and removal of elected and appointive officials.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said City and County of San Francisco at the general election to be held on the 6th day of November, 1934, a proposal to amend Section 11 of the Charter of said City and County as follows:

SUSPENSION AND REMOVAL

Suspension and removal of officers or employees

Section 11. Any elective municipal officer, including municipal court judges, and any member of the civil service commission or public utilities commission or school board may be suspended by the mayor and removed by the board of supervisors for official misconduct, and the mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. On such suspension, the mayor shall immediately notify the supervisors thereof in writing and the cause therefor, and shall present written charges against such suspended officer to the board of supervisors at or prior to its next regular meeting following such suspension, and shall immediately furnish copy of same to such officer, who shall have the right to appear with counsel before the board in his defense. Hearing by the supervisors shall be held not less than five days after the filing of written charges. If the charges are deemed to be sustained by not less than a three-fourths vote of all members of the board, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the board of supervisors within thirty days after the filing of written charges, the suspended officer shall thereby be reinstated.

Hearing

The mayor must immediately remove from office any elective official convicted of a crime involving moral turpitude, and failure of the mayor so to act shall constitute official misconduct on his part.

Removal by mayor.

Any appointee of the mayor, exclusive of civil service and public utilities commissioners, and members of the school board, may be removed by the mayor. Any nominee or appointee of the mayor whose appointment is subject to confirmation by the board of supervisors, except the chief administrative officer and the controller, as in this charter otherwise provided, may be removed by a majority of such board and with the concurrence of the mayor. In each case, written notice shall be given or transmitted to such appointee of such removal, the date of effectiveness thereof, and the reasons therefor, a copy of which notice shall be printed at length in the journal of proceedings of the board of supervisors, together with such reply in writing as such official may make. Any appointee of the mayor or the board of supervisors guilty of official misconduct or convicted of a crime involving moral turpitude must be removed by the mayor or the board of supervisors, as the case may be, and failure of the mayor or any

supervisor to take such action shall constitute official misconduct on his or their part.

Ordered Submitted—Board of Supervisors, San Francisco, September 21, 1934.

Ayes: Supervisors Brown, Colman, Gallagher, Havenner, Hayden, McSheehy, Ratto, Roncovieri, Schmidt, Shannon, Uhl.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN, Clerk.

CHARTER AMENDMENT No. 10

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said City and County by amending Section 69 thereof, relating to Budget Estimates.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said City and County of San Francisco at the general election to be held on the 6th day of November, 1934, a proposal to amend Section 69 of the Charter of said City and County as follows:

BUDGET ESTIMATES

Section 69. The fiscal year for the city and county shall begin on the first day of July of each year.

Budget estimates

The budget estimate for every department and office of the city and county, whether under an elective or an appointive officer or a board or commission, and separately for each utility under the control of the public utilities commission, shall be filed by the executive of such department with, and shall be acted upon by, such board or commission. All budget estimates shall be compiled in such detail as shall be required on uniform blanks furnished by the controller. The public utilities commission and the board of education must hold public hearings on their respective budget proposals. Each such elective and appointive officer, board or commission shall, not later than the 15th day of February of each year, file with the controller for check as to form and completeness two copies of the budget estimate as approved.

Transmittal to controller

The chief administrative officer shall obtain in ample time to pass thereon budget estimates from the heads of departments or offices subject to his control, and, after adjusting or revising the same, not later than the 15th day of February he shall transmit such budget estimates to the controller.

Check by controller

The controller shall check such estimates and shall, upon his request, be furnished with any additional data or information.

Transmitted to mayor

Not later than the 15th day of March of each year he shall consolidate such budget estimates and transmit the same to the mayor.

Summary

He shall at the same time transmit to the mayor a summary and recapitulation of such budget estimates, segregated by

separate departments or offices and units thereof, or by purposes for non-departmental expenditures, and arrange according to classification of objects of expenditure, as required by the controller, to show the amount of proposed expenditures and estimated revenues in comparison with the current and previous fiscal year's expenditures and revenues.

Statement of receipts

He shall submit at the same time (1) statements showing revenues and other receipts, including the estimated unencumbered surplus in any item or fund at the beginning of the ensuing fiscal year, segregated according to specific or general purposes to which such revenues or receipts are legally applicable, for the last complete fiscal year and for the first six months of the current fiscal year, with estimates thereof for the last six months of the current fiscal year, together with estimates of such revenues and receipts for the ensuing fiscal year; (2) statements of the amounts required for interest on, and sinking fund or redemption of, each outstanding bond issue, and for tax judgments and other fixed charges, together with estimates of interest required on bonds proposed to be sold during the ensuing fiscal year, and statements of the city's authorized debt, and judgments outstanding at the time the budget estimates are submitted.

Statement of amount needed for bond payments

Hearings on budget

The mayor shall hold such public hearings on these budget estimates as he may deem necessary and may increase, decrease or reject any item contained in the estimates, excepting that he shall not increase any amount nor add any new item for personal services, materials, supplies or contractual services, but may add to the requested appropriations for any public improvement or capital expenditure; provided, however, that the budget estimates of expenditures for any utility, within the estimated revenues of such utility, shall not be increased by the mayor or board of supervisors.

Ordered Submitted—Board of Supervisors, San Francisco, September 21, 1934.

Ayes: Supervisors Brown, Colman, Gallagher, Havenner, Hayden, McSheehy, Ratto, Roncovieri, Schmidt, Shannon, Uhl.

Certificate

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN, Clerk.

State of California }
City and County of San Francisco } ss.

This is to certify that we, James B. McSheehy, President of the Board of Supervisors of the City and County of San Francisco, and J. S. Dunnigan, Clerk of the Board of Supervisors of said City and County, have compared the foregoing proposed and ratified amendments to the Charter of the said City and County of San Francisco with the original pro-

posals, submitting the same to the electors of said City and County at a general election held on Tuesday, the Sixth day of November, One Thousand Nine Hundred Thirty-four, and find that the foregoing is a full, true, correct and exact copy thereof, and we further certify that the facts set forth in the preamble preceding said amendments to said Charter are and each of them is true.

In Witness Whereof, we have hereunto set our hands and caused the same to be authenticated by the seal of the City and County of San Francisco, this 14th day of December, One Thousand Nine Hundred and Thirty-four.

J. B. McSHEEHY,
President of the Board of Supervisors of the City and County of San Francisco.

[SEAL]

J. S. DUNNIGAN,
Clerk of the Board of Supervisors of the City and County of San Francisco.

Now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, that said amendments to the charter of the City and County of San Francisco, as proposed to, and adopted and ratified by the electors of said city and county, and as hereinbefore fully set forth, be and the same are, and each of them is hereby approved as a whole without amendment or alteration, for and as amendments to, and as part of the charter of the City and County of San Francisco. Ratification

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CHAPTER 28.

Assembly Concurrent Resolution No. 11—Approving certain amendments to the charter of the city of Albany, a municipal corporation in the county of Alameda, State of California, voted for and ratified by the qualified electors of said city at an election held therein November 6, 1934.

[Filed with Secretary of State January 26, 1935.]

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendments hereinafter set forth to the charter of the city of Albany, State of California, as set out in the certificate of the president of the council of the city of Albany and city clerk of said city as follows: City of Albany Charter amendments

CERTIFICATE OF MAYOR AND CITY CLERK OF THE CITY OF ALBANY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

State of California,
County of Alameda, } ss.
City of Albany.

Certificate

We, the undersigned, Benjamin W. Mowday, President of the Council of the City of Albany, and Herbert W. Brewer, City Clerk of said City, do hereby certify and declare as follows:

The City of Albany, County of Alameda, State of California, is now and at all times mentioned in this certificate has been a city containing a population of more than three thousand, five hundred (3,500) inhabitants, and has ever since the year 1927, and is now, organized and existing under and pursuant to the provisions of a freeholders charter adopted in accordance with and by virtue of the provisions of Section 8, Article 11 of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said City at a special election held for that purpose on the 26th day of March, 1927, in the manner, form and substance as required by law. It was thereafter duly approved by concurrent resolution of the Legislature of the State of California, on the 19th day of April, 1927.

The legislative body having authority of said City being a council thereof, did on its own motion, by resolution passed and adopted by said Council on the 17th day of September, 1934, pursuant to Section 8 of Article 11 of the Constitution of the State of California, duly propose to the qualified electors of said City of Albany certain amendments to the charter of said City.

The said Council did by resolution duly passed and adopted on the 17th day of September, 1934, proclaim and fix the 6th day of November, 1934, as the date upon which the said amendments so proposed, be submitted to the qualified electors of said City at a special election.

The Council did, by resolution, on the 17th day of September, 1934, request the Supervisors of said County of Alameda, to consolidate said special election with the general election to be held in said County of Alameda, on the 6th day of November, 1934.

The amendments so proposed and submitted to the electors of said City for their approval by said resolution, were on the 21st. day of September, 1934, and within ten (10) days after the passage and adoption of said resolutions submitting said amendments, caused to be published once in each edition published on the said 21st. day of September, 1934, of the Albany Argus Spokesman, a newspaper of general circulation and the official newspaper of the City of Albany.

The Council of the City of Albany caused copies of said amendments to be printed in convenient pamphlet form, and

from the 21st. day of September, 1934 until the 6th day of November, 1934, being the date fixed for the election upon which such charter amendments, did advertise a notice in said Albany Argus Spokesman continuously, and in each and every issue thereof during said time, and did have available for public procurement the said copies of said amendments in pamphlet form, that such copies of said amendments in pamphlet form might be had upon application therefor at the office of the City Clerk, in the City Hall of the said City of Albany. Albany city charter

The said Board of Supervisors did, by resolution, so consolidate said city and general election, as requested, and did submit said amendments so proposed as aforesaid, to the qualified electors of said City of Albany for their ratification at the consolidated election held in said City on the 6th day of November, 1934.

Said amendments were submitted pursuant to resolution of the Council, to the qualified voters of said City at a general consolidated election held in said City on the 6th day of November, 1934, being not less than forty (40) nor more than sixty (60) days after the completion of the advertisement of said amendments in said Albany Argus Spokesman, the official newspaper of said City of Albany.

At said election a majority of the qualified electors voting thereon, voted in favor of the ratification of, and did ratify, the amendments.

That said Supervisors of said County of Alameda, did duly canvass the returns of said election and did, by resolution, duly find and declare that said amendments to the City Charter of the City of Albany, known as Proposal No. 1 and Proposal No. 2, were and are approved by the electors of said City of Albany, and were ratified by a majority of the qualified voters voting on such amendments.

That said charter amendments so ratified by the qualified voters of said City of Albany at said election are in words and figures as follows:

PROPOSED CHARTER CHANGES OF THE CITY OF ALBANY

Resolution 554 A. N. S.

Resolution of the Council of the City of Albany, County of Alameda, State of California, submitting proposals to the Qualified Electors of Said City of Albany, to Amend Certain Sections of the Charter of the City of Albany.

First Proposal

The City Council of the City of Albany, County of Alameda, State of California, does hereby resolve that, and said City Council does hereby propose to the qualified electors of said City of Albany, that the Charter of said City be amended to

provide for the creation of a civil service board, providing for the placing of the members of the fire and police departments of said City under civil service, by amending Section 21 of said charter of the City of Albany, to read as follows:

Chief of Police

SECTION 21. CHIEF OF POLICE—There shall be a Chief of Police. He shall be the head of the Police Department of the City, and shall have all the powers that are now or may hereafter be conferred upon sheriffs and other peace officers by the laws of the State. It shall be his duty to preserve the public peace, and to suppress riots, tumults and disturbances. His orders shall be promptly executed by the police officials, or watchmen of the city, and every citizen shall lend him aid when requested for the arrest of offenders, the maintenance of public order, or the protection of life and property.

He shall execute and return all process issued to him by legal authority. He shall perform the duties of a regular patrolman and have authority, and it is hereby made his duty, to arrest persons violating any law of the State or ordinance of this City. Those arrested for violating City ordinances may, before or after trial be confined in the County jail of Alameda County or in the City prison of the City of Albany. He shall have such other powers and duties appertaining to his office as may be prescribed by the Council or rules of the Police Department.

. . . and by amending Section 22 of said Charter of the City of Albany, to read as follows:

Chief of Fire Department

SECTION 22. CHIEF OF THE FIRE DEPARTMENT —There shall be a Fire Chief appointed by the Council. He shall be head of the Fire Department of the City, and shall have charge of and supervision over all matters relating to the prevention and extinction of fires, and of all measures necessary to guard and protect all property impaired thereby.

. . . and by adding to said Charter a new section as follows:

SECTION 49. CIVIL SERVICE FOR MEMBERS OF POLICE AND FIRE DEPARTMENTS. (a) CIVIL SERVICE BOARD—WHO SHALL CONSTITUTE CIVIL SERVICE BOARD.

Civil Service Board

The President of the Council, the City Treasurer and the City Clerk of the City of Albany, and their successors in office, are hereby constituted a Civil Service Board of the City of Albany.

(b) ORGANIZATION OF OFFICERS—They shall organize as such Board by choosing one of their number as Chairman, and by appointing a secretary from one of the deputies of any one of the other departments of Government of the City of Albany, County of Alameda, State of California.

(c) The Civil Service Board shall formulate rules and regulations governing the selection and promotion of members of the Fire Department and Police Department. All officers and men of the Fire Department and the Police Department shall belong to the classified service and shall be appointed and promoted for no other grounds and for no other reason than their fitness for the position to be filled; provided, however, that no member of the Fire Department and the Police Department shall be eligible for promotion until he shall have served one (1) year in such department, and that in subsequent promotions, the members must have held the rank from which he is promoted at least one (1) year. Promotion shall be made only to the next higher grade in the service and no grade shall be skipped. All officers or members shall be chosen or promoted by the chief of the Fire Department and the Police Department whenever a list of eligibles shall be furnished by the Civil Service Board, from the three (3) highest standing candidates on the list. Rules and regulations concerning Fire and Police Departments

The cost of conducting examinations and other duties of the Civil Service Board shall be a charge against the general fund of the City. These costs shall be certified by the Civil Service Board and when so certified shall be paid by the City Council in the same manner as other charges against the City. Costs of examination

(d) It shall be the duty of the Civil Service Board to hold examinations and to administer other suitable tests to those desiring positions or who are applicants for, or who may have been recommended for promotion in the classified service of the Fire Department and the Police Department, for the purpose of determining their fitness for such positions or their qualifications for such promotions and, from the result of such examinations and tests, the Board shall prepare a list of eligibles for all positions in the classified service of the Fire Department and the Police Department. Any person carried on the eligible list for a period of two (2) years without being appointed or promoted shall be dropped from said eligible list and shall not be eligible for appointment or promotion without reexamination Examinations Dropping from rolls

(e) To the end that there be no disruption in the present service of the Fire Department and the Police Department, and that no undue hardship may be worked upon any member of said department who shall have attained a certain grade or rank as result of continuous and faithful service on said department, all members who have been members of said departments for more than six (6) months immediately prior to the adoption of this act of said department shall be credited by the Civil Service Board with a qualifying mark, both mental and physical, for entrance to the classified service of the Fire Department and the Police Department and to the rank, grade or position held by such members at the time of the adoption of this act. Members blanketed in.

(f) No person in the classified service or seeking admission thereto shall be appointed, promoted, demoted or dis- Discrimination

charged or in any way favored or discriminated against because of political opinions or affiliations or because of religious belief.

Probationary period

(g) Appointments or promotions to employment or rank shall not be deemed complete until a period of probation not to exceed six (6) months has elapsed. Successive temporary appointments shall not be allowed. In the event of temporary promotion to higher rank, the appointee may be reduced by the Chief of the Fire Department or the Chief of the Police Department, to the next lower rank in the classified service of the said department and in the event that such appointee is in the lowest grade of the classified service, such appointee may be discharged by the Chief of the Department Each Chief shall only have power over his own Department members.

Discharge after probationary period.

(h) If discharged or reduced after the expiration of the period of probation, the employee so discharged or reduced may demand a trial, whereupon he shall be tried as provided in the section referring to suspensions and removals.

(i) The Chief of the Department or Civil Service Board in whom shall be vested removal or disciplinary power shall be allowed full freedom in his or its action, in such matters, it being the intent and spirit of this ordinance to provide a fair and honest approach to employment and subsequent promotion in such department, but, in no sense, to handicap or curtail the responsible administrative officer or officers in securing efficient service.

Fire Department.

(j) ORGANIZATION—There is hereby created a Fire Department which shall consist of a Chief of the Fire Department, Assistant Chiefs, Captains, and Hosemen.

Qualifications of members

(k) QUALIFICATIONS—Every appointee of the Fire Department at the time of appointment shall not be less than twenty-one years (21) nor over thirty-five years of age. Every appointee however, must possess the physical qualifications prescribed by the Civil Service Board (which shall not be inferior to those required for recruits of the United States Army) and before his appointment must pass satisfactory examinations as may be prescribed by the Civil Service Board. Every appointee must be a bona-fide resident and elector of the City of Albany, County of Alameda, State of California.

Dismissal of Chief

(l) DISMISSAL—The dismissal of the Chief of the Fire Department from office shall not accomplish his dismissal from the Department and, upon such dismissal he shall be restored to the rank and grade held by him prior to his appointment, selection or election, as Chief of the Fire Department, provided he shall have been appointed, selected or elected from among the membership of the Fire Department; and provided further that the dismissal or failure to re-elect, if a candidate for re-election of the duly appointed, selected or elected Fire Chief, at the time of the enactment of this law, shall not accomplish his dismissal from the department, and upon such dismissal or failure to re-elect, he shall be restored to the next highest office to the Chief of the Fire Department.

(m) When a vacancy arises in the Fire Department above the grade of Hoseman, the Chief of the Fire Department may, with the approval of the City Council, assign a member of the department from the next lower rank to fill the vacancy until such time as the absent member shall return to duty or the vacancy be filled by appointment from the eligible list furnished by the Civil Service Board. The member so assigned shall, during his incumbency, receive the salary attached to the grade or position thus temporarily filled. Filling vacancies

(n) Organization of Police Department. There is hereby created a Police Department, which shall consist of the Chief of the Police Department, Sergeants and Patrolmen. Police Department

(o) QUALIFICATIONS—Every appointee of the Police Department must have the same qualifications as set out in Section k of this act for appointees of the Fire Department. Qualifications of members

(p) Whenever a vacancy in the Police Department above the grade of Patrolman occurs, the Chief of the Police Department may, with the approval of the City Council, assign a member of the Department from the next lower rank to fill the vacancy until such time as the absent member shall return to duty or the vacancy be filled by appointment from the eligible list furnished by the Civil Service Board. The member so assigned shall, during his incumbency receive the salary attached to the grade or position thus temporarily filled.

(q) SUSPENSION AND REMOVALS—The City Council may, upon the recommendation of the Chief of the Department, suspend from duty, for cause, for a period not to exceed thirty days, or fine not to exceed one month's pay, any member of the Fire Department or the Police Department. In the event that any member of the Fire Department or Police Department be charged with any offense, which under the rules of the department or in the judgment of the Chief of the Department, justifies expulsion of such member from the service of the City, the Chief of the Department shall prepare or cause to be prepared written charges against the accused, such written charges to be filed with the trial board herein created. Copies of such charges shall be furnished to the accused who shall not less than ten (10) days after such service prepare his defense thereto. The accused may at the hearing of such charge be represented by counsel and shall have the right to compel the attendance of such witnesses as he may desire to testify on his behalf. Suspension or removal of members Charges

(r) TRIAL BOARD—There is hereby created, for the purpose of hearing and determining charges made against an officer or member of the Fire Department or Police Department, a board to be known as the Trial Board, which shall be composed of the members of the Civil Service Board, two representative citizens of the City of Albany to be selected by the Civil Service Board for each trial or hearing. The verdict and judgment of a majority of the trial board shall be final. If the accused be found guilty, the trial board may dismiss him or suspend him for a period not to exceed 90 days Trial Board

from the service of the city, provided, however, that should an officer or member of the Fire Department or Police Department be found guilty of a charge of drunkenness on duty, the trial board must dismiss him from the service of the City. If an officer or a member of the Fire Department or Police Department be convicted of a felony or malfeasance in office, or be adjudged insane, or absent himself from the City for more than thirty (30) days without leave, the trial board shall, upon the recommendation of the Chief of the Department, declare his position or office vacant and the vacancy shall be filled as herein provided.

Constitutionality

(s) If any section, sub-section, clause, or phrase of this law is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining sections of this law.

Second Proposal

The City Council of the City of Albany, County of Alameda, State of California, does hereby resolve that, and said City Council does hereby propose to the qualified electors of said City of Albany, that the Charter of said City be amended to provide for the creation of a Pension Board, providing for the manner and method of the appointment of the members thereof; providing for the contribution of moneys to said fund; and providing for the granting of pensions and disability benefits to members of the Police and Fire Departments of said City, by adding to said Charter a new section as follows:

SECTION 50. PENSIONS FOR MEMBERS OF POLICE AND FIRE DEPARTMENTS, (a) TRUSTEES, WHO SHALL CONSTITUTE BOARD OF TRUSTEES OF POLICE AND FIRE RELIEF OR PENSION FUND—

Board of Trustees of Police and Fire Relief and Pension Funds.

The President of the Council, the City Treasurer and the City Clerk of the City of Albany, are hereby constituted a Board of Trustees of the Police and Fire Relief or Pension Fund of the Police and Fire Departments of the City of Albany, County of Alameda, State of California, which Board shall be known as the "Board of Police and Fire Pension Fund Commissioners."

Organization of Board

(b) ORGANIZATION AND OFFICERS—They shall organize as such Board by choosing one of their number as Chairman, and by appointing a secretary from one of the deputies of any one of the other departments of government of the City of Albany. Said Board of Trustees shall have charge of and administer said fund, and order payments therefrom in pursuance of the provisions of this law. They shall report annually, in the month of June, to the City Council of the City of Albany, the condition of the Police and Fire Relief and Pension Fund, and the receipts and disbursements on account of the same, with a full and complete list of the beneficiaries of said fund and the amounts paid them.

Persons eligible to pension

(c) PENSIONS, TO WHOM AND AMOUNTS—Whenever any person at the taking effect of this act, or thereafter, shall

have been duly elected, appointed or selected, and sworn, and have served for twenty years, or more, in the aggregate, as a member, in any capacity or any rank whatever, of the regularly constituted Fire or Police Department of the said City of Albany, County of Alameda, State of California, said Board shall upon the application of such person, order and direct that such person, after becoming sixty years of age, be retired from further service in such Police or Fire Department, shall cease, and such person so retired shall thereafter, during his lifetime, be paid from such fund a yearly pension equal to one-half of the amount of the average yearly salary attached to the rank which he may have held in said Police or Fire Department for the period of five (5) years next preceding the date of such retirement; provided, however, that any person who comes within the purview of this section, who has otherwise complied with its provisions and who has served for thirty years or more as herein provided, shall, upon his application be retired from further service upon a yearly pension equal to two-thirds of the amount of such said average yearly salary; provided further, that any person, after becoming fifty-five years of age, who comes within the purview of this section, and who has otherwise complied with its provisions and who has served for twenty-five consecutive years, or more, as herein provided, shall upon his application be retired from further service upon a yearly pension equal to one-half of the amount of said average yearly salary.

Retirement for disability in line of duty.

(d) PHYSICAL DISABILITY: RESTORATION—Whenever any person, while serving as a member of the Fire or Police Department of the City of Albany, shall become physically disabled by reason of any bodily injury received in the immediate or direct performance or discharge of his duty as such member of the Police or Fire Department, said Board may, if it deem it to be for the good of said Police or Fire Department, retire such person from said department, and order and direct that he shall be paid from said fund, during his lifetime, a yearly pension equal to one-half of the amount of salary attached to the rank which he may have held on such Police or Fire Department at the date of such retirement, but on the death of such person his heirs or assigns shall have no claim against or upon such fire or police relief or pension fund; provided, that when such disability shall cease such pension shall cease, and such person shall be restored to active service at the same salary he received at the time of his retirement.

Evidence of disability.

(e) EVIDENCE OF DISABILITY TO BE FILED—No person shall be retired, as provided in the next preceding section, or receive any benefit from said fund, unless there shall be filed with said Board certificates of his disability, which certificates shall be subscribed and sworn to by said person, and by the Health Officer of the City of Albany, and by two regularly licensed practicing physicians of the County of Alameda, State of California, and such Board may require other evidence

of disability before ordering such retirement and payment as aforesaid.

Death benefits for loss of life in line of duty.

(f) PENSION TO FAMILY—Whenever any member of the Fire or Police Departments of such City of Albany, shall lose his life while in the performance of his duty, leaving a widow, or child or children under the age of sixteen years, then upon satisfactory proof of such facts made to it, such Board shall order and direct that a yearly pension, equal to one-third of the salary attached to the rank which such member held in said Fire or Police Department at the time of his death, shall be paid to such widow during her life, or if no widow, then to child or children, until they shall be sixteen years of age; provided, if such widow or child or children, shall marry, then such person so marrying shall thereafter receive no further pension from such fund.

Death benefit after ten years' service

(g) STIPULATED SUM TO FAMILY—Whenever any member of the Police or Fire Department of the City of Albany, County of Alameda, State of California, shall, after ten years of service, die from natural causes, then his widow or children; or if there be no widow or children, then his parent or parents; or if there be no widow or children or parent or parents, then his brothers and sisters or the survivors of them, the sum of ONE THOUSAND DOLLARS from such fund.

Re-examination for disability

(h) RE-EXAMINATION—Any person retired for disability under this act may be summoned before the Board herein provided for at any time thereafter, and shall submit himself thereto for examination as to his fitness for duty, and shall abide the decision and order of such board with reference thereto; and all members of the Police or Fire Departments who may be retired under the provisions of this act shall report to the Chief of Police or Chief of the Fire Department respectively, of the City of Albany, on the first Mondays of April, July, October, and January of each year; and in cases of great public emergency may be assigned to and shall perform such duties as said Chief of Police or Fire Chief respectively, may direct; and such persons shall have no claim against the City of Albany for payment of such duty so performed.

Forfeiture of pension

(j) FORFEITURE OF PENSION. REFUND OF CONTRIBUTIONS—When any person who shall have received any benefit from said fund shall be convicted of any felony, or shall become an habitual drunkard, or shall become a nonresident of this state, or shall fail to report himself for examination for duty as required by said Board under this act, in respect to said examination or duty, then such board shall order that such pension allowance as may have been granted to such person shall immediately cease, and such person shall receive no further pension, allowance or benefit under this act. Excepting, nevertheless, that any member of the Police or Fire Department who, for any reason whatever ceases to be a member of said Police or Fire Department, and who at the time of said cessation is not otherwise entitled to financial benefits under this law, shall be entitled to, and shall be paid

within ninety (90) days after such cessation of being a member, all sums of money retained from and out of his salary as provided by Subsection (1) of this law, together with 3½ per cent per annum interest on such sums, computed from the 1st day of July of each year. Provided further, that any member of the Police or Fire Departments who shall have ceased to be a member and shall have been paid any sum or sums of money as in this section provided, shall be reinstated and again become a member of the Police or Fire Department, said such sum or sums of money as he shall have been so paid, together with interest at the rate of 3½ per cent per annum from the date of said payment asforesaid shall be first deducted from any and all benefits thereafter by him received under this law.

Duties of Board.

(j) MEETINGS, AND DUTIES OF BOARD—The Board herein provided for shall hold quarterly meetings on the first Mondays of April, July, October, and January of each year, and upon the call of its president; it shall issue warrants signed by its president and secretary, to persons entitled thereto of the amount of money ordered paid to such persons from such fund by said board, which warrant shall state for what purpose such payment is to be made; it shall keep a record of all of its proceedings, which record shall be a public record; it shall at each quarterly meeting send to the auditor of the City of Albany, a written or printed list of all persons entitled to payment from the fund herein provided for, stating the amount of such payments and for what granted, which list shall be certified to and signed by the president and secretary of such board, attested under oath. The auditor shall thereupon enter a copy of said list upon a book to be kept for that purpose, and which shall be known as "the Police and Fire Relief and Pension Fund Book." When such list has been entered by the auditor, he shall transmit the same to the City Council, which City Council shall order the payment of the amounts named therein out of the Police and Fire Relief and Pension Fund. A majority of all the members of said board herein provided for shall constitute a quorum and have power to transact business.

Powers of Board

(k) OTHER POWERS OF BOARD—The Board herein provided for shall, in addition to other powers herein granted, have power:

First. To compel witnesses to attend and testify before it, upon all matters connected with the operation of this act, in the same manner as is or may be provided by law for the taking of testimony before notaries public; and its president, or any member of said board, may administer oaths to such witnesses.

Second. To provide for the payment from said fund of all its necessary expenses; provided that no compensation or emolument shall be paid to any member of said board for any duty performer or required under this act.

Third. To make all needful rules and regulations for its guidance, in conformity with the provisions of this act.

Payments into fund

(l) MONEYS TO BE PAID INTO POLICE AND FIRE RELIEF AND PENSION FUND—The City Council of the City of Albany shall, for the purpose of said Police and Fire Relief and Pension Fund hereinbefore mentioned, direct the payment into said fund as follows:

A sum equal to four per centum (4%) out of and from the total amount of the monthly payroll of all of the members of both of said Departments for the current month, shall be retained by the City Treasurer, and shall be paid into said Police and Fire Relief and Pension Fund, by the City; in addition thereto and out of the General Fund of the City of Albany, the City shall contribute an equal amount to said fund monthly. Said moneys shall, in the discretion of the said Police and Fire Pension Trustees, be invested at not less than 3½% interest, per annum, or invested in trust-secured bonds of the United States, or the State of California, or its political subdivisions, bearing interest at not less than 3½% per annum.

Merger with other insurance funds.

(m) MERGER OF OTHER INSURANCE FUNDS—Any police, fire, life and health insurance fund, or any fund provided by law, heretofore existing in the City of Albany for the relief or pensioning of members of the Police or Fire Department, or their life or health insurance, or for the payment of a sum of money on their death, shall be merged with, paid into, and constitute a part of the fund created under the provisions of this act; and no person who has resigned or been dismissed from said Police or Fire Department shall be entitled to any relief from such fund, provided that any person who within one year prior to the passage of this act, has been dismissed from the Police or Fire Department for incompetency or inefficiency, and which incompetency or inefficiency was solely by sickness or disability contracted or suffered while in service as a member thereof, and who has, prior to said dismissal, served for twelve or more years as such member, shall be entitled to all the benefits of this act.

Persons eligible

Receipt of other benefits

(n) Any and all benefits payable under the provisions of this law shall not be additional to and supplemental to any compensation insurance or other insurance covering the scope of this law for the benefit of members of the Police or Fire Department and paid for by the City of Albany from sources other than under this law, but the benefits of said such compensation or other insurance paid for by the City of Albany shall first be deducted from benefits payable under the provisions of this law to the end that said members of the Police or Fire Department shall receive an aggregate total of benefits paid for by the City of Albany and not included in this law, and the benefits provided for under this law, not to exceed in total the highest amounts or sums provided under the provisions of this law.

Reports.

(o) REPORTS—On the last day of June of each year, or as soon thereafter as practicable, the Auditor of the City of Albany shall make a report to the City Council of all moneys

paid out on account of said fund during the previous year, and of the amount then to the credit of the Police and Fire Relief and Pension Fund. Payments provided for in this law shall be made and paid out quarterly, upon proper voucher.

This resolution is hereby ordered to be printed and published in The Albany Argus-Spokesman which newspaper is hereby designated for that purpose. Publication.

Introduced at a regular meeting of the City Council of the City of Albany held this 17th day of September, 1934, by Councilman Blackwell who moved its adoption, seconded by Councilman Nickerson.

Passed by the following vote this 17th day of September, 1934; Ayes—Councilmen Blackwell, Nickerson and B. W. Mowday, President of the Council and Ex-Efficio Mayor.

Noes—Councilmen, None.

Absent—Councilmen Hays and Thelen.

Not voting—Councilmen, None.

Approved this 17th day of September, 1934.

(SEAL)

Attest:

H. W. BREWER,
City Clerk of the City of Albany.

IN WITNESS WHEREOF, We have hereunto set our signatures, and caused the official seal of the City of Albany to be affixed, this 18th day of December, 1934. Certificate.

BENJAMIN W. MOWDAY,
President of the Council of the City of Albany.

HERBERT W. BREWER,
City Clerk, City of Albany.

AND WHEREAS, Said proposed charter amendments have been and are now submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment, in accordance with section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, and the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, That the amendments to said charter herein set forth, as submitted to and ratified by the qualified electors of said city, be and the same are hereby approved as a whole, without alteration or amendment, for and as the amendments to and as part of the charter of the city of Albany. Ratification.

CHAPTER 29.

Assembly Joint Resolution No. 18—Relative to memoralizing the President and Congress to enact such legislation as shall be necessary to acquire the petrified redwood forest in Sonoma County, California, for the purpose of establishing it as a national park and monument.

[Filed with Secretary of State January 26, 1935.]

Creation of petrified redwood forest in Sonoma County as a National park.

WHEREAS, There is existent in the county of Sonoma, State of California, one of nature's great phenomena in the form of a redwood forest which has become petrified; and

WHEREAS, It is a matter of almost common knowledge that but one other petrified forest exists in the United States, it consisting of trees other than redwood; and,

WHEREAS, Countless numbers of people from the entire length and breadth of the land visit the forest by reason of its great natural interest; and,

WHEREAS, The establishment of the area embracing the trees as a park and monument would require a great amount of excavation by manual labor and thereby provide work for a considerable number of men; and,

WHEREAS, There would result a great benefit to science and the study of paleontology by adding the area to our permanently preserved institutions; and,

WHEREAS, The virtue of preserving and developing the area containing the forest in the interests of the people of this State and of those of all other states is almost self-evident; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and the Congress of the United States to enact legislation for the purpose of creating the petrified redwood forest as a national park and monument; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and member of the House of Representatives from California in the Congress of the United States, to the Secretary of the Interior, the Director of the Smithsonian Institution, the California State Park Commission and the Department of Paleontology at the University of California, and that such Senators and members from California and others be urged to support such legislation.

CHAPTER 30.

Assembly Joint Resolution No. 6—Relative to memorializing the President and Congress to carefully consider what is known as the Townsend Plan of Old Age Revolving Pension.

[Filed with Secretary of State January 26, 1935.]

Townsend Old Age Pension Plan.

WHEREAS, The care of the dependent aged has become so great a financial burden to some States that the economic welfare and stability of such States are seriously affected and even threatened; and

WHEREAS, The problem of the care of the dependent aged has recently attained major proportions throughout the Nation, owing largely to the increasing mechanization of our industrial system and to the fact that the economic depression has destroyed the financial independence of a large number of our people, including even those who had prudently prepared for the time when they could no longer earn a livelihood; and

WHEREAS, It seems wise to retire from industry and business those whose efficiency is declining because of advancing old age, thus giving more opportunity for employment and advancement to younger workers; and

WHEREAS, Experience has shown that when ownership of property disqualifies the owner for receipt of an old age pension, a serious injustice is effected and a penalty imposed upon those whose prudence and thrift has led them to prepare for old age by investment in a home or other small holdings, but who have no income with which to support themselves and to preserve their property, particularly since there is often no market for the property; and

WHEREAS, Doctor F. E. Townsend, of Long Beach, California, has devised a plan commonly known as the "Townsend Plan of Old Age Revolving Pension"; and

WHEREAS, The President of the United States has recognized the responsibility of the Federal government in this matter, and has indicated that he will recommend to the Congress of the United States, at its next session, that there be legislation bearing on this problem; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the President and the Congress of the United States is hereby respectfully urged to carefully consider the enactment of an old age pension law and to study the "Townsend Plan of Old Age Revolving Pension"; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Member of the House of Representatives from California

in the Congress of the United States, and that such Senators and Members from California are hereby respectfully urged to study such legislation.

CHAPTER 31.

Senate Concurrent Resolution No. 16—Approving certain amendments to the charter of the county of Los Angeles, State of California, submitted to, voted for, and ratified by, the electors of said county at a special election held in said county for that purpose on the sixth day of November, 1934.

[Filed with Secretary of State January 26, 1935.]

County of Los Angeles' Charter amendments.

WHEREAS, the county of Los Angeles, State of California, has at all times herein mentioned, and now is, a body politic and corporate, and a political subdivision of the State of California, and is now and has been, since the second day of June, 1913, organized and acting under and by virtue of a freeholder's charter, adopted under and by virtue of section 7½ of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said county at an election held for that purpose on the fifth day of October, 1912, and approved by the Legislature of the State of California on the twenty-ninth day of January, 1913; and

WHEREAS, the board of supervisors of said county, pursuant to the provisions of said section 7½ of Article XI of said Constitution, did, by resolutions adopted September 20, 1934, and September 24, 1934, duly propose to the qualified electors of said county of Los Angeles six amendments to the charter of said county, designated as proposed county charter amendments Nos. 1, 2, 3, 4, 5 and 6, and ordered that said amendments be submitted to said qualified electors of said county at a special county election to be held in said county on the sixth day of November, 1934, which date was fixed in said resolution as the day for holding said special county election; and

WHEREAS, said proposed charter amendments Nos. 1, 2, 3, 4, 5 and 6 were, and each of them was, published for ten times in the Los Angeles Daily Journal, a daily newspaper of general circulation, printed, published and circulated in said county, to wit, on September 26, 27, 28 and 29, 1934, and October 1, 2, 3, 4, 5 and 6, 1934; and

WHEREAS, said board of supervisors of said county did by ordinance designated as Ordinance No. 2518 (New Series), which was duly adopted on the twenty-fourth day of September, 1934, order the holding of a special county election in said county of Los Angeles on the sixth day of November, 1934, which said date was not less than thirty days nor more

than sixty days after said publication of such proposals as aforesaid, for ten times in a daily newspaper of general circulation printed, published and circulated in said county, which said ordinance prior to the expiration of fifteen days from the passage thereof, to wit, on the twenty-eighth and twenty-ninth days of September, 1934, and the first, second and third days of October, 1934, was published for five times in said Los Angeles Daily Journal, a daily newspaper printed, published and circulated in said county, and said board of supervisors of said county did by said Ordinance No. 2518 (New Series) order said special county election consolidated with the general State election to be held in said county on said sixth day of November, 1934; and

Los Angeles County charter.

WHEREAS, said special county election was held in said county of Los Angeles on said sixth day of November, 1934, which said day was not less than thirty days and not more than sixty days after said six proposed amendments to said charter had been published for ten times in said Los Angeles Daily Journal; and

WHEREAS, thereafter the board of supervisors of said county of Los Angeles did, in the manner provided by law, duly and regularly canvass the returns of said election, and on the twenty-eighth day of November, 1934, did duly declare the result of said special county election as determined from the canvass of the returns thereof; and

WHEREAS, at said special county election held on said sixth day of November, 1934, three of said proposed amendments were ratified by a majority of the electors of said county voting thereon, to wit, charter amendments Nos. 2, 3 and 6, and that all other such proposed amendments received less than a majority of the votes of such qualified electors voting thereon and were not ratified; and

WHEREAS, said three charter amendments so ratified by the electors of said county of Los Angeles are now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, pursuant to the provisions of said section 7½ of Article XI of the Constitution of the State of California, and are in words and figures as follows, to wit:

COUNTY CHARTER AMENDMENT NO 2.

That the Charter of the County of Los Angeles is hereby amended by adding to Article XII thereof one new section to be Section 56½ and to read as follows:

Sec. 56½. Said county shall have power and authority to provide for the assumption and discharge of, and to assume and discharge, by county officers, any of the municipal functions of any of the cities and towns within said county, whenever, in the case of cities and towns incorporated under general laws, the discharge by county officers of such municipal functions is authorized by general law, or whenever in the case of cities and towns organized under Section eight of

Assumption and discharge of municipal functions.

Article XI of the Constitution of the State of California, the discharge by county officers of such municipal functions is authorized by the provisions of the charters or by amendments thereto, of such cities or towns.

COUNTY CHARTER AMENDMENT NO. 3.

That Section 14 of Article IV of the Charter of the County of Los Angeles is hereby amended to read as follows:

Appointive officers.

Sec. 14: The appointive county officers shall be:

Auditor
Board of Education, Members of
Board of Law Library Trustees, Members of
Civil Service Commission, Members of
Coroner
County Clerk
County Counsel
Fish and Game Warden
Health Officer
Horticultural Commissioner
License Collector
Live Stock Inspector
Probation Committee, Members of
Probation Officer
Public Administrator
Public Defender
Purchasing Agent
Recorder
Registrar of Voters
Road Commissioner
Superintendent of Charities
Superintendent of Schools
Surveyor
Tax Collector
Treasurer

Such other officers as may hereafter be provided by law shall also be appointive.

The Treasurer shall be ex-officio Tax Collector and License Collector.

COUNTY CHARTER AMENDMENT No. 6.

That the Charter of the County of Los Angeles is hereby amended by adding to Article VI thereof one new section to be Section 24⅓ thereof, and to read as follows:

Department of County Forester and Fire Warden

Sec. 24⅓. (a) There is hereby established a department of the county to be known and designated as Department of County Forester and Fire Warden which shall be under the management and control of the County Forester and Fire Warden who shall be appointed by the Board of Supervisors subject to the provisions of Article IX hereof, and shall be furnished such deputies, assistants, clerks, and other employees as may be provided by ordinance, provided that upon the tak-

ing effect of this section the County Forester and the County Fire Warden heretofore existing shall become the County Forester and Fire Warden of said Department of County Forester and Fire Warden hereby created without further civil service examination, and each deputy, assistant, clerk, and other employee of said existing department shall be likewise transferred to a position of like class in the Department of County Forester and Fire Warden hereby created.

Planting of trees, etc.

(b) The County Forester and Fire Warden shall have power and it shall be his duty, subject to the direction and regulation of the Board of Supervisors, to encourage the planting of trees, shrubs and flowers along the untraveled portion of public highways, and to decide upon the variety, kind and character of trees, hedges, shrubs, lawns and flowers that shall be planted upon the public highways, and the grounds and property of the county; to determine all questions respecting the pruning, cutting and removal of any trees, hedges, shrubs, lawns or flowers now growing or to be grown thereon, and the necessity therefor and the extent of and the manner in which such work is to be done, and to plant and properly care for such trees, hedges, shrubs, lawns and flowers, and to enforce the provisions of all ordinances, making certain acts with respect to trees on County roads unlawful and authorizing the issuance of permits by the County Forester to remove or otherwise interfere with trees or other plant life growing upon public highways, public grounds or public property within the County of Los Angeles.

Fires

(c) It shall be the duty of the County Forester and Fire Warden and all deputies Forester and Fire Warden to enforce and observe all orders and ordinances of the Board of Supervisors pertaining to forest, brush, and other fires, and all statutes relating to prevention or extinguishment of forest, brush or grass fires. The County Forester and Fire Warden shall cooperate with the State Forester and the Federal Forest Supervisors in the prevention and suppression of forest fires in the County of Los Angeles, and shall make a yearly report to the Board of Supervisors on the condition of the forests in Los Angeles County and on the damage by fire to the forests during the year reported.

Fire lanes and breaks.

(d) It shall be the duty of the County Forester and Fire Warden, subject to the orders of the Board of Supervisors, to construct and maintain fire lanes or breaks wherever proper and necessary to check and prevent the spreading of forest or brush fires. Such lanes or breaks shall be located and constructed in the manner that will serve the greatest public good with the least injury to the land on which they are constructed.

Fire protection districts.

(e) It shall be the duty of the County Forester and Fire Warden, under the direction of the Board of Supervisors, to study the fire protection needs of the County, and all unincorporated territory thereof, and advise the Board of Supervisors with respect thereto, and particularly of the advisability

of the formation of any county fire protection district or districts; to seek to interest the inhabitants of any such proposed fire protection district and to aid in its formation; after formation of such districts, to advise the Board of Supervisors in the purchase of equipment and other property for such districts and to supervise the agents, employees or other persons engaged to fight fires therein, and in general, to have charge of all matters relating to or connected with the administration of such county fire protection districts.

Structural fires in unincorporated territory.

(f) It shall be the duty of the County Forester and Fire Warden to extinguish structural fires in unincorporated territory not included within any fire protection district. He shall also enforce all statutes, ordinances and orders of the Board of Supervisors relating to the prevention and extinguishment of structural fires in such territory. Where a statute, ordinance or order of the Board of Supervisors provides for the prevention or extinguishment of particular kinds of structural fires or for the inspection or control of particular structural fire hazards and prescribes duties for the County Forester and Fire Warden respecting the same, the County Forester and Fire Warden shall act in accordance with such statute, ordinance or order, but except as so prescribed his duties with reference to structural fires and structural fire hazards shall be as prescribed herein.

Abatement of fire hazards

(g) It shall be the duty of the County Forester and Fire Warden to inspect private lands and the buildings and structures thereon for the purpose of determining if a structural fire hazard exists. Where it is found that a fire hazard exists he shall order the owner or person responsible therefor to abate or diminish such hazard, as said County Forester and Fire Warden may deem proper, and he may make recommendations or suggestions to such person for that purpose. If after due notice such person refuses or neglects to abate or to diminish such structural fire hazard as directed by said order, the County Forester and Fire Warden shall immediately report the same to the Board of Supervisors, together with his recommendations as to future action and thereafter he shall take such further steps as may be ordered by the said Board of Supervisors. It shall also be the duty of the County Forester and Fire Warden to render an annual report to the Board of Supervisors setting forth the number and full details of the structural fires which he has been called upon to extinguish, the condition of such territory with regard to structural fire hazard and his recommendations for better combatting such fires and for the abating and lessening of such fire hazard.

Notice

Report to supervisors.

Equipment and personnel

(h) The County Forester and Fire Warden shall use such apparatus, equipment, fire fighting personnel and inspection personnel in carrying out the duties set forth in paragraphs f and g hereof as the Board of Supervisors may from time to time authorize for such use. Where it is necessary to use the apparatus, equipment or fire fighting force of the fire pro-

tection districts to extinguish structural fires in unincorporated territory not included in any fire protection district and where such use is authorized by the state statute creating and governing the county fire protection districts, it shall be the duty of the County Forester and Fire Warden to supervise and direct the use thereof for such purpose.

Peat and bog fires

(i) It shall be the duty of the County Forester and Fire Warden to extinguish and abate peat and bog fires in unincorporated territory not included within any fire protection district. He shall also enforce all statutes, ordinances, and orders of the Board of Supervisors relating to the prevention and extinguishment of such fires.

Educational activities

(j) It shall be the duty of the County Forester and Fire Warden subject to the orders of the Board of Supervisors to carry on educational work for the information of the public relative to the prevention of fires and to the conservation of natural resources, and to prepare or cause to be prepared information relating to these subjects and disseminate such information by means of lectures, motion pictures, stereopticon slides or other projection of pictures, displays and exhibits, or by any other appropriate means. He shall also enforce all statutes, ordinances, and orders of the Board of Supervisors relating to such educational work.

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

Certificate

We, the undersigned, H. C. LEGG, Chairman of the Board of Supervisors of the County of Los Angeles, State of California, and L. E. LAMPTON, County Clerk and ex-officio Clerk of the Board of Supervisors of said County of Los Angeles, do hereby certify:

That the foregoing proposed and ratified amendments to the charter of said County of Los Angeles, submitted to the electors of said county at a special municipal election held in said county on said 6th day of November, 1934, have been compared by us, and each of us, with the proposed amendments set forth in the resolution adopted by said Board of Supervisors as hereinbefore set forth, and that the foregoing is a full, true, correct and exact copy thereof, and we further certify that the facts set forth in the preamble preceding said amendments to said charter are, and each of them is, true.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the same to be authenticated by the seal of said Board of Supervisors of the County of Los Angeles this 18th day of January, 1935.

H. C. LEGG,
Chairman, Board of Supervisors of the County of Los Angeles.

L. E. LAMPTON,
[SEAL] County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Los Angeles, State of California.

WHEREAS, said proposed amendments to the charter of said county of Los Angeles, so ratified by the electors thereof, have been submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with the provisions of section 7½ of Article XI of the Constitution of the State of California; now, therefore, be it

Ratification

Resolved by the Senate of the State of California, the Assembly concurring, a majority of all the members elected to each house voting for adoption of this resolution, and concurring therein, that said amendments to the charter of the county of Los Angeles as proposed, adopted and ratified by the electors of said county of Los Angeles, and as hereinbefore set forth, be and the same are hereby approved as a whole, without amendment or alteration, and as amendments to, and as a part of, the charter of the county of Los Angeles, State of California.

CHAPTER 32.

Senate Joint Resolution No. 5—Relative to retirement of Federal employees who have been in the service from fifteen to thirty years or more and restoration of pay of said employees as of January 1, 1935.

[Filed with Secretary of State January 28, 1935.]

Retirement of Federal employees

WHEREAS, Employees who have attained the age of sixty years and have rendered at least fifteen years service should be eligible for retirement, and all civil service employees who have rendered at least thirty years service regardless of age should be allowed to retire at their option with adequate pensions to insure their proper care during the balance of their lives; and

WHEREAS, The President of the United States has determined that the percentage of reduction of government employees' salaries shall continue to be five per cent to and including June 30, 1935; and

Discontinuance of five per cent pay reduction.

WHEREAS, It is believed that such reductions should be discontinued and that full pay of government employees should be restored as of January 1, 1935; now, therefore, be it

Resolved by the Senate and Assembly, jointly, That the Legislature of the State of California at its fifty-first regular session urges that the Congress of the United States adopt such legislation as will enable this to be done; and be it further

Resolved, That copies of this resolution be forwarded by the Secretary of the Senate to the President of the United States, to the Secretary of Labor of the United States, and to each member of Congress and the United States Senate from the State of California.

CHAPTER 33.

Assembly Joint Resolution No. 21—Relative to memorializing and petitioning Congress to enact legislation adequate to stamp out and abolish the evil of lynching.

[Filed with Secretary of State January 28, 1935.]

Abolition of lynching

WHEREAS, During the last few years and throughout the Nation as a whole, there have been many lynchings and attempts at lynchings; and

WHEREAS, There is inadequate legislation by the United States and among the several States to discourage lynching; and

WHEREAS, Proper legislation by the Congress of the United States would have a salutary effect and would greatly tend to decrease the number of lynchings and attempts at lynchings; and

WHEREAS, It has been definitely proved that legislation by the United States of America with regard to other crimes has tended to decrease such crimes, and that public protection now demands that the United States extend its legislation to this field of crime; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby memorializes and petitions Congress to enact adequate legislation to decrease and abolish mob violence and lynching; and be it further

Resolved, That a copy of this joint resolution be transmitted to the President of the United States, to the Vice President of the United States, and to each member of the Senate and the House of Representatives of the United States.

CHAPTER 34.

Assembly Concurrent Resolution No. 20—Relative to the variance between the enrolled copy of Assembly Concurrent Resolution No. 1 and Assembly Concurrent Resolution No. 1 as it was submitted to and approved by the Legislature of the State of California, approving certain amendments to the charter of the city of Pasadena ratified at a municipal election held on the sixth day of November, 1934

[Filed with Secretary of State January 28, 1935.]

Correction of Assembly Concurrent Resolution No. 1.

WHEREAS, The Legislature of the State of California at its fifty-first regular session has, by Assembly Concurrent Resolution No. 1, adopted in Assembly January 9, 1935, and in Senate January 10, 1935, approved certain amendments to the charter of the city of Pasadena, a municipal corporation in the county of Los Angeles, voted for and ratified by the qualified

electors of said city at a special municipal election held therein on the sixth day of November, 1934; and

WHEREAS, It appears that the enrolled copy of said Assembly Concurrent Resolution No. 1 is not a true or exact copy of said Assembly Concurrent Resolution No. 1 as submitted to and approved by the Legislature; and

WHEREAS, The Legislature has been informed of and desires to correct the variances between the enrolled copy of Assembly Concurrent Resolution No. 1, and the copy of Assembly Concurrent Resolution No. 1 as submitted to and approved by the Legislature; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, a majority of all the members elected to each house voting therefor and concurring therein, That the enrolled copy of Assembly Concurrent Resolution No. 1 be considered and interpreted as conforming to the copy of Assembly Concurrent Resolution No. 1 as submitted to and approved by the Legislature, in the following particulars: The last paragraph of section 9 of article 6 of the charter of the city of Pasadena as submitted to and approved by the Legislature reads:

Actuarial investigation of Retirement System

"Periodically, at periods fixed by the legislative body, the Retirement Board shall make an actuarial investigation into the mortality, service and other experience under the System, and, further, shall make an actuarial valuation of the assets and liabilities of the System, and upon the basis of such investigation and valuation as interpreted by the actuary, any necessary revisions of the tables and rates being used under the System shall be made by the Retirement Board."

The first sentence of the first paragraph of subdivision (b) of section 14 of article 6 of the charter of the city of Pasadena as submitted to and approved by the Legislature reads:

Allowance on retirement for service

"(b) Upon retirement for service, a member shall receive a retirement allowance composed of the sum of two parts; one part being an amount derived by the application, upon the basis of tables and rates recommended by the actuary and approved by the Retirement Board, as provided in Section 9 of this Article, of twice the normal contributions plus accumulated interest thereon, made by him and standing to his credit under the Retirement System, at the date of his retirement, and the other part, regardless of his age at retirement, being the same percentage of his final compensation for each year of service rendered by him in the Fire or Police Department prior to the effective date hereof, as the contributions of the member and the city are calculated to provide upon retirement for service at fifty-seven years of age if he be a member of the Fire Department, or sixty years of age if he be a member of the Police Department, or upon completion of twenty years of service at an age higher than fifty-seven years if he be a member of the Fire Department or sixty years if he be a member of the Police Department, for each year of service after said date."

The third paragraph of subdivision (b) of section 14 of article VI of the charter of the city of Pasadena as submitted to and approved by the Legislature reads:

"Upon retirement for disability resulting from any cause not included in the immediately preceding paragraph, a member shall receive a retirement allowance of one and one-fourth per centum of his final compensation multiplied by the number of years of service in either or both the Fire or Police Departments credited to him, if such allowance exceeds one-fourth of his final compensation; otherwise one and one-fourth per centum of his final compensation multiplied by the number of years which would be creditable to him were his service to continue until his attainment of the age of fifty-seven years, but such allowance shall not exceed one-fourth of his final compensation." Allowance on retirement for disability

Paragraph (1) of subdivision (c) of section 14 of article VI of the charter of the city of Pasadena as submitted to and approved by the Legislature reads:

"(1) His accumulated contributions, to be paid to such person having an insurable interest in his life as he shall nominate by written designation duly executed and filed with the Retirement Board, and in addition thereto," Payment of accumulated contributions to beneficiary.

The resolving clause of Assembly Concurrent Resolution No 1 as submitted to and approved by the Legislature reads:

"*Resolved by the Assembly of the State of California, the Senate thereof concurring,* a majority of all of the members elected to each has voted therefore and concurred therein, that said amendments to said charter herein set forth, as submitted to and ratified by the qualified electors of said city, be and the same are hereby approved as a whole, without alteration or amendment, and as amendments to and as part of the charter of the said city of Pasadena." Ratification

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CHAPTER 35.

Assembly Concurrent Resolution No. 22—Approving certain amendment to the charter of the city of Oakland, a municipal corporation in the county of Alameda, State of California, voted for and ratified by the qualified electors of said city at a special municipal election held therein on the nineteenth day of December, 1933.

[Filed with Secretary of State January 28, 1935.]

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendment hereinafter set forth to the charter of the city of Oakland, a municipal corporation in the county of Alameda, State of California, as set out in the certificate of the mayor and city clerk of said city, as follows, to-wit: City of Oakland Charter amendments

STATE OF CALIFORNIA
COUNTY OF ALAMEDA } ss
CITY OF OAKLAND

Certificate.

We, the undersigned, Wm. J. McCracken, mayor of the city of Oakland, State of California, and W. W. Chappell, city clerk of said city, do hereby certify and declare as follows:

That the city of Oakland, a municipal corporation in the county of Alameda, State of California, now is and at all times herein mentioned was a city containing a population of more than three thousand five hundred inhabitants, and has been ever since the first day of July, 1911, and is now, organized, existing and acting under a freeholders' charter, adopted under and by virtue of section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city at an election duly held for that purpose on the eighth day of December, 1910, and approved by the Legislature of the State of California, by concurrent resolution filed with the Secretary of State on the fifteenth day of February, 1911 (Statutes of 1911, p. 1551).

That in pursuance of section 8 Article XI of the Constitution of the State of California, on its own motion, the Council of the city of Oakland, being the legislative body of said city, by and in pursuance of Resolution No. 2365 C. M. S., passed by the said council on the seventh day of November, 1933, and by and in pursuance of Resolution No. 2384 C. M. S., passed by the said council on the sixteenth day of November, 1933, duly submitted to the qualified electors of said city of Oakland certain proposal for the amendment of the charter of said city, to be voted on by said qualified electors at the special municipal election held in said city on the nineteenth day of December, 1933, which said proposal was and is in words and figures following, to-wit:

That section 128½ of the charter of the city of Oakland be amended to read as follows:

Provisions in contracts at expense of city

"Section 128½. Every contract for work to be performed within the State of California at the expense of the City or paid for out of moneys deposited in the treasury, whether such work is to be done within or outside the limits of the city, and whether such work be done directly by or under such contract duly awarded, or indirectly by or under sub-contract, sub-partnership, day labor station work, piece work or any other arrangement whatsoever must provide:

Hours and wages

(1) That in every contract for the performance of labor, that not more than eight hours shall constitute a day's work; that the contractor and all sub-contractors under him shall pay their employees on said work a salary or wage at least equal to the prevailing salary or wage for the same quality of service rendered to private persons, firms or corporations under similar employment in the city of Oakland.

Citizenship

(2) That any person performing labor in the execution of such contract shall be a citizen of the United States or have declared his intention of becoming such.

(3) That all laborers and mechanics employed in the performance of any such contract within the limits of the city of Oakland shall have been residents of the city for the period of one year next preceding the date of their engagement to perform labor thereunder; provided, that the city council or board, as the case may be, may, upon application of the contractor, waive such residence qualification and issue a permit specifying the extent and terms of such waiver whenever the fact be established that the required number of persons possessing qualifications required by the work to be done under such contract cannot be engaged from among the qualified residents of the city; and provided further, that in the event that such work is to be paid for, wholly or in part, by moneys derived from sources other than the city of Oakland, and upon conditions which are incompatible with the requirements of this subdivision, then and in that event the city council or board, as the case may be, may, in the resolution calling for bids for such contract, waive such residence qualification by a two-thirds vote of the entire membership of said council or board, and specify the extent and terms of such waiver. Residence in city.

The foregoing provisions designated (1), (2) and (3) must also apply to persons performing labor in the commissary or other auxiliary department of labor conducted in the course of the execution of such contract or any part thereof; and the said provisions shall also apply to any work done for or by the city, or any officer, board or commission thereof, when such work is to be done at the expense of the city or paid for out of moneys deposited in the treasury. Any contract for work to be performed under the provisions of this article which does not comply with the provisions thereof, shall be null and void, and any officer who shall sign the same shall be deemed guilty of misfeasance and upon proof of such misfeasance shall be removed from office." Auxiliary labor.

That such proposed amendment was published and advertised in accordance with the provisions of section 8 of Article XI of the Constitution of the State of California, and in accordance with the provisions of the charter of the city of Oakland, on the eighth day of November, 1933, in the "Oakland Tribune" a daily newspaper of general circulation published in said city of Oakland and the official paper and newspaper of said city, and in each edition thereof, during the day of publication Certificate

That a copy of said proposed amendment was printed in convenient pamphlet form, and in type of not less than ten point, and copies thereof were mailed to each of the qualified electors in said city of Oakland in accordance with the Constitution of the State of California and the charter of the city of Oakland; and an advertisement that copies thereof could be had upon application therefor at the office of the city clerk of the city of Oakland was published in said "Oakland Tribune" on the ninth day of November, 1933, and on each day thereafter until the day fixed for the election hereinafter

described, all as required by section 8 of Article XI of the Constitution of the State of California.

That such copy could be had upon application therefor at the office of said city clerk until the day fixed for the election hereinafter described.

That the council of the city of Oakland, the legislative body of said city, by its Resolution No. 2384 C. M. S., passed on the sixteenth day of November, 1933, did order the holding of the special municipal election in said city of Oakland on the nineteenth day of December, 1933, said day being at least forty days after the completion of advertising of said proposed amendment in said official paper of said city, and not more than sixty days after the completion of such advertising, and did provide in said resolution, for the submission of the proposed amendment to the charter to the qualified electors of said city for their ratification at such election.

That said election was duly called and held on the nineteenth day of December, 1933, and at said election a majority of the qualified electors voting thereon voted in favor of the ratification of and did ratify the proposed amendment to the charter of the city of Oakland hereinabove set forth.

That the returns of said election were in accordance with the law in such cases made and provided duly and regularly canvassed and certified to, and it was duly found, determined and declared, by the proper officers, thereunto duly and properly authorized, that a majority of the qualified electors of said city voting thereon had voted for and ratified said proposed amendment to said charter hereinabove set forth.

And we further certify that we have compared the foregoing proposed and ratified amendment to the charter of the city of Oakland with the original proposal submitting the same to the electors of said city at an election held on the nineteenth day of December, 1933, and find that the foregoing is a full, true and correct and exact copy thereof.

In witness whereof, we have hereunto set our hands and caused the seal of said city of Oakland to be affixed thereto, this ninth day of January, 1934.

W. J. McCRACKEN,
Mayor of the City of Oakland.
W. W. CHAPPELL,
City Clerk of the City of Oakland.

WHEREAS, Certain proposed charter amendments have been and are now submitted to the Legislature of the State of California for approval or legislation as a whole, without power of alteration or amendment, in accordance with section 8 of Article XI of the Constitution of the State of California; now therefore, be it

Ratification.

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each has voted therefore and concurred therein, That

said amendments to said charter herein set forth, as submitted to and ratified by the qualified electors of said city, be and the same are hereby approved as a whole, without alteration or amendment, and as amendments to and as part of the charter of the said city of Oakland.

CHAPTER 36.

Assembly Joint Resolution No. 17—Relative to memorializing the President and the Congress of the United States to not impair the flax industry of the Western States by reciprocal tariff arrangements with any country so as to lower the duty on flax.

[Filed with Secretary of State January 26, 1935.]

Encouragement of flax industry

WHEREAS, A comparatively new and extensive industry has arisen in the Western States in the propagation and cultivation of flax; and

WHEREAS, The acreage planted to flax in California alone has increased from approximately eighty acres to over fifty thousand acres under cultivation in the last three years; and

WHEREAS, This tremendous percentage of increase in this short space of time merits serious consideration before any reduction in tariffs is contemplated; and

WHEREAS, This infant industry has grown with such rapidity that in a few short years it bids to surpass at the present rate of increase all major crops of the Western States; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and the Congress of the United States be memorialized and respectfully urged to carefully consider the interests of the farmers who have entered this new industry, and that no reciprocal tariff arrangements be entered into by this Nation with other countries which shall lower the tariff rates applicable to the flax industry; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby requested to transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and member of the House of Representatives from California in the Congress of the United States, and that such Senators and members from California are hereby respectfully requested and urged to protect the flax industry of the Western States and in particular the industry in California.

CHAPTER 37.

Assembly Concurrent Resolution No. 18—Relative to approving the charter of the city of Redondo Beach, California, which was submitted to the qualified voters of said city and voted for and ratified by them at an election held on the twenty-fourth day of September, 1934.

[Filed with Secretary of State February 2, 1935.]

City of Redondo Beach Charter.

WHEREAS, The city of Redondo Beach, in the county of Los Angeles, State of California, is now and at all times herein referred to was a city containing a population of more than three thousand five hundred (3,500) inhabitants, as ascertained by a census duly taken by the United States of America in 1930; and

WHEREAS, Said city of Redondo Beach is now and at all times herein mentioned was a municipal corporation duly authorized and existing under the general laws of the State of California, as a city of the sixth class; and

WHEREAS, Proceedings have been duly had in and taken by the said city of Redondo Beach for the preparation, proposal, adoption and ratification of a charter for the government of said city of Redondo Beach, all as set forth in the following certificate of the mayor of said city and the city clerk of said city of Redondo Beach, to wit:

CERTIFICATE OF PROCEEDINGS HAD AND TAKEN BY THE CITY OF REDONDO BEACH IN FRAMING A CHARTER FOR ITS OWN GOVERNMENT.

STATE OF CALIFORNIA,
County of Los Angeles, } ss.
CITY OF REDONDO BEACH.

Certificate.

We, the undersigned, FLOYD J. ROBERTS, Mayor of the City of Redondo Beach, County of Los Angeles, State of California, and C. C. MANGOLD, City Clerk of said City and Ex-officio Clerk of the City Council of said City, do hereby certify and declare as follows:

That the undersigned, said C. C. MANGOLD, was at all the times herein mentioned, the Clerk of the Legislative Body of said City and City Clerk of said City of Redondo Beach;

That on the 19th day of February, 1934, a petition was filed with such City Clerk, requesting that an election be called and held in said City for the purpose of electing free-holders to frame a Charter for said City as provided for in Section 8 of Article XI of the Constitution of the State of California; that said petition was checked by said City Clerk, with the registration records of said City and from such checking, said City Clerk found that same had been signed by not less than Fifteen per cent (15%) of the registered electors of said City and he thereupon verified same and certified the result of said

investigation and checking to the City Council of said city; that thereafter the City Council of said City, by Resolution No 918, adopted by the unanimous vote of the City Council on February 26, 1934, at an adjourned regular meeting of said City Council, called a General Municipal Election to be held in said City on the 9th day of April, 1934, and at said General Municipal Election by said Resolution, directed the choosing of free-holders for framing a Charter for said City as contemplated by said Section 8 of said Article XI of said Constitution of the State of California; that due notice of said election as required by the provisions of law applicable thereto, was duly given and said election was held in the manner and form required by law;

Election of Board of Freeholders

That at said election held on the 9th day of April, 1934, a Board of fifteen (15) free-holders, all of who were qualified electors of said City of Redondo Beach and had been such electors for more than five (5) years next preceding the said election, and all of whom were eligible as candidates under said election and who had been nominated as provided by law, were chosen or elected by the qualified electors of said City of Redondo Beach as such Board of Free-holders, to prepare and propose a Charter for the government of said City; that the names of said Free-holders so chosen were as follows:

MARY BURKE BAUMBACH
CHARLES R. CAMOMILE
SIDNEY J. EIKENBARY
C. CHESTER HARRINGTON
FRANK HEISCHMAN
WILLIAM P. HUME
JANE P. METZGER
WILLIAM H. MORGAN
JOHN A. PERDUE
FRANK L. PERRY
WILLIAM S. PETERKIN
WILLIAM T. THOMPSON
ISAAC TOVIL
MALCOLM M. WADDELL
FRANK J. WHITE

Canvass

That the returns of said election were duly canvassed and the results thereof declared by the City Council of said City of Redondo Beach on the 16th day of April, 1934 and the said Fifteen (15) persons above named were duly declared elected as Free-holders for such purpose.

Oath

Officers

That thereafter and within the time allowed by law, each of said Free-holders so elected, took the oath of office and entered into the performance of the duties of said office; that said Free-holders at their first meeting duly elected WILLIAM T. THOMPSON, as President, FRANK L. PERRY, as Vice-President and JANE P. METZGER as Secretary of said Board of Free-holders; that thereafter the said Free-holders prepared and proposed a Charter for the government of said City of Redondo Beach and on the 2nd day of July, 1934, filed said Charter so prepared and proposed for said City in the office of the Clerk of the Legislative Body of said City, to-wit, the City Clerk who is Ex-officio Clerk of the City Council of said City; that said Charter so prepared was signed by a majority of the said Board of Free-holders, to-wit, by fifteen (15) members thereof;

Publication of Charter.

That the Legislative Body of said City, to-wit, the City Council thereof, by action duly and regularly taken at an adjourned regular meeting thereof held on the 11th day of July, 1934, ordered said Charter to be published by one insertion in the official newspaper of said City, to-wit, The Redondo Reflex, a weekly newspaper of general circulation printed, published and circulated in said City and that the said Charter was published pursuant to said order in said newspaper and in each edition thereof during the publication on the 13th day of July, 1934 and within fifteen (15) days after the date of the filing of such proposed Charter by said Board of Free-holders with the Clerk of the Legislative Body of said City;

Population

That the population of said City of Redondo Beach is more than Thirty-five Hundred (3500) inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States and of less than Fifty Thousand, (50,000) population, to-wit, a population of 9347.

Date of election

That the said Board of Free-holders specified, before such filing with the Clerk of the Legislative Body of said City, and designated on such Charter, SEPTEMBER 24th, 1934 as the date such Charter should be submitted to the electors of said City; that said date was not less than sixty (60) days from the completion of the publication of such Charter; that thereupon, the said City Council of the said City of Redondo Beach, by Ordinance duly passed and adopted, duly called and ordered the holding of a special municipal election to be held in said City of Redondo Beach on the 24th day of September, 1934 and gave notice of the holding of said election as required by law; that at said election there was submitted to the qualified electors of Redondo Beach, the question whether said proposed charter prepared and filed by said Board of Free-holders, should be ratified and adopted as the Charter for the government of the said City of Redondo Beach.

That said election was duly and regularly held on the 24th day of September, 1934, and that at said election, a majority of the qualified voters voting thereon voted in favor of said proposed charter and for the ratification and adoption thereof;

Canvass

That the said City Council of said City of Redondo Beach, at a regular meeting thereof held in the time and form and manner required by law, and in accordance with the law in such cases made and provided, duly canvassed the returns of said election and duly found, determined and declared that a majority of said electors voting thereon had voted in favor of said proposed charter and for the ratification and adoption thereof, and that the same was adopted and ratified by more than the majority of the qualified voters of the City of Redondo Beach voting thereon;

That both of the elections above mentioned, to-wit, the General Municipal Election held on the 9th day of April, 1934 and the Special Municipal Election held on the 24th day of September, 1934, were held in accordance with the election

laws of the State of California relating to and governing elections in cities of the Sixth Class within said State, so far as applicable, and in other respects in strict accordance with the General Laws of the State of California; that said City of Redondo Beach was on the date of said elections, a city of the Sixth Class duly organized and existing under and by virtue of the laws of the State of California pertaining to Municipal Corporations; City of sixth class

That said Charter so prepared, proposed, filed and ratified as herein set forth, together with the certificate and signatures of fifteen (15) of the members of the Board of Fifteen (15) Free-holders attached thereto, is in the words and figures following, to-wit:

CHARTER OF THE CITY OF REDONDO BEACH, CALIFORNIA

ARTICLE I.

Name and Succession

SECTION 1: The municipal corporation now existing and known as the "City of Redondo Beach," California, shall remain and continue a body politic and corporate in fact and in law by the name as at present of "City of Redondo Beach," and by such name shall have perpetual succession. Name of city.

ARTICLE II.

Boundaries

SECTION 1· The boundaries of the said City of Redondo Beach shall continue as now established until changed as authorized by law. Boundaries.

ARTICLE III.

Powers of the City

SECTION 1: The City of Redondo Beach, as successor in interest to the municipal corporation of the same name heretofore created and existing, shall have, own, hold, possess, control and in every way succeed to, and become the owner of all rights, titles, claims and interests, and all property of every kind and nature whatsoever, both real and personal, by said existing municipal corporation had, owned, held, possessed, claimed or controlled, and shall in every way have power to use, lease, manage and sell, or otherwise dispose of the same, and shall be subject to each and all of the debts, obligations, liabilities, dues and duties of said existing municipal corporation. Succession of powers

SECTION 2: The said City of Redondo Beach shall have, possess and exercise all powers, privileges and rights vested General powers

in said City of Redondo Beach under the constitution of the state of California, the laws of said state, and this charter, and said city shall have all powers which a municipal corporation may lawfully possess or exercise under the constitution of said state.

Making of laws.

SECTION 3: The said City of Redondo Beach shall have the right, authority and power to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this charter; provided, however, that nothing herein contained shall ever be construed to prevent or restrict said city from exercising any and all rights, powers and privileges hereby, or heretofore or hereafter granted or prescribed by the general laws of said state; and provided further that where the general laws of said state provide a procedure for the carrying out and enforcement of any rights or powers belonging to said city, such procedure shall control and be followed, unless a different procedure shall have been provided in this charter, or by ordinance.

SECTION 4: The City of Redondo Beach, in addition to any other rights and powers now held by it, or that hereafter may be granted to it, under the constitution or laws of the state of California, subject to the restrictions in this charter contained, and without in any way, or to any extent, limiting the powers in this charter conferred or mentioned, and for the purpose of removing all doubt concerning the exercise of the powers hereinafter expressly mentioned, shall have power:

Perpetual succession Seal.

FIRST: To have perpetual succession.

SECOND: To have and use a corporate seal, and by ordinance to alter it at pleasure.

Suits

THIRD: To sue and be sued in all courts and places, and in all actions and proceedings whatsoever.

Taxes.

FOURTH: To levy and collect taxes, and to levy and collect license taxes, for both regulation and revenue.

Indebtedness.

FIFTH: To borrow money, incur municipal indebtedness, and issue bonds or other evidence of such indebtedness.

Contracts.

SIXTH: To make contracts.

Acquisition of property.

SEVENTH: To acquire by purchase, gift, bequest or devise, or condemnation, or by any other manner sanctioned by law, within and without the boundaries of said city, property, both real and personal, of every kind and nature whatsoever, for all purposes.

Public utilities.

EIGHTH: To acquire by any of said means above stated, and to establish, maintain, equip, own and operate, either within or without the boundaries of said city, telephone and telegraph systems, street railways, ships or vessels, motor transports and busses, airplanes, dirigibles, and all manner of aircraft, or other means of transportation, warehouses, free public markets, waterworks, filtration plants, gas works, electric light, heat and power works, underground or overhead conduit systems, and any other works necessary or convenient to a public utility, or to carrying on the business of such

utility, and pipe lines for transporting oil and gas; and to join with any other city or cities, district, or county, in the acquisition, construction, completion and maintenance of the same. To acquire, construct, complete, conduct, operate and maintain: wharves, docks, slips, landings and quays, and to develop, establish and maintain proper depths of water on and along the water front of the City of Redondo Beach.

Pipe lines

NINTH: To have the power by ordinance to take out a permit or lease under the regulations concerning oil and gas permits and leases and rights-of-way for oil and gas pipe lines, in accordance with the terms and provisions of the regulations of the Department of the Interior, General Land Office of the United States of America, as authorized by acts of Congress.

Streams

TENTH: To improve streams and channels flowing in or through said city, or adjoining the same, and to widen, straighten and deepen such channels or streams, and remove obstructions therefrom, and to construct and maintain embankments and other works to protect the said city, or any portion thereof, from overflow and storm water or tide water.

Public utilities

ELEVENTH: To furnish the said city, or its inhabitants, or persons without the boundaries of said city, with water, gas, electricity, telephone, telegraph, information or entertainment, heat, illumination, refrigeration or power service in any of their respective forms, or any other public utility service or commodity whatsoever, and whether by means of pipes, wires, conduits, waves, beams or other means of transmission or service.

Property

TWELFTH: To have, own, hold, possess, use, control and manage property, both real and personal, of every kind and nature, for any and all purposes whatsoever.

Conveyances.

THIRTEENTH: To lease, sell, convey and dispose of any and all property herein mentioned or referred to, for the common benefit.

Parks and other facilities

FOURTEENTH: To acquire, construct, complete, conduct, operate and maintain: parks, playgrounds, markets, baths, public halls, shelters, auditoriums, libraries, museums, art galleries, hospitals, sanitariums, gymnasiums, stadiums, coliseums, airports and landing fields for airplanes, dirigibles and aircraft of all sorts, and adequate housing and buildings, tools and equipment, apparatus and paraphernalia necessary or useful in connection therewith; radio transmitting and receiving stations of all kinds, and appurtenances necessary or convenient to be owned or used in connection therewith; and any and all buildings, establishments, institutions and places, and whether situated inside or outside of the boundaries of said city, and which are necessary or convenient or useful in or for the transaction of public business, or for promoting the health, morals, education, peace or welfare of the inhabitants of said city, or for the amusement, recreation, entertainment or benefit of the inhabitants and public of said city; together with any and all equipment, apparatus, tools, foodstuffs, medicines, supplies and paraphernalia of any and every kind or

nature whatsoever, necessary or useful in connection with any or all thereof.

Cemeteries

FIFTEENTH: To regulate, discontinue and/or exclude cemeteries within the boundaries of said city.

Theatres and public buildings

SIXTEENTH: To regulate the entrances to and the exits from all theatres, lecture rooms, public halls, schools, churches and public buildings of every kind, and to regulate and prevent the placing of seats, chairs, benches, or other obstructions in the halls, aisles or other passageways therein.

Drilling for oil or gas

SEVENTEENTH: To regulate or prohibit the operation of blasts and blasting, the drilling for oil or gas, or other hydro-carbon substance, and the construction and operation of derricks, windlasses, or other structures, apparatus and operations hazardous to life and/or property within said city; and to regulate the installation and operation, and provide for the inspection of freight and passenger elevators, boilers, engines, dynamos, and other apparatus for generating steam, electricity or other power or heat within the said city.

Hotels, etc.

EIGHTEENTH: To regulate hotels, lodging houses, tenements, apartment and boarding houses, and to prevent the overcrowding of the same, and to require the same to be put and kept in safe and sanitary condition.

Dairies

NINETEENTH: To provide for the inspection and regulation of all dairies within the boundaries of said city, and to provide for the inspection and regulation of all dairies outside of the boundaries of said city that offer for sale or sell, either directly or indirectly, any of their products within the said city.

Naming and numbering streets.

TWENTIETH: To provide for the naming of the streets and public places, and the numbering of houses, within said city, and to regulate or prohibit the exhibition or placing of banners, flags, placards, signs, advertising matter or posters, in, upon or across the public streets and sidewalks, or other public places within the said city.

Trains and vehicles on streets

TWENTY-FIRST: To regulate or prohibit the making up of railroad or railway trains upon any of the streets, street crossings, or street intersections within the said city; to establish stands for busses, taxicabs, public carriages, express wagons and other public vehicles for hire, and to regulate the charges for the use of any of such busses, taxicabs, public carriages, express wagons and other public vehicles, and require schedules for such charges to be posted in or upon such public vehicles.

Protection of trees and other plants

TWENTY-SECOND: To prohibit injury to, or interference with, trees, plants, shrubbery and ornamental growths in the public streets and places of said city, and to prescribe the punishment for such injury and interference.

Franchises

TWENTY-THIRD: To grant the right to erect, construct, string or lay telegraph, telephone and electric light and power wires, and to install conduits for transmitting electrical or other energy for lighting or power purposes, or pipe lines for transporting water, oil, gas or steam under the public streets

or highways of said city; provided, however, that all such rights and franchises shall be granted subject to the restrictions and limitations in this charter contained relating to the granting of franchises.

Care of disabled persons.

TWENTY-FOURTH: To restrain and prevent diseased, blind, maimed, crippled, injured, or other similarly unfortunate persons, from displaying their infirmities upon or in the public streets and places of said city for the purpose of receiving alms, gifts or donations, and to properly care for and aid such diseased, blind, maimed, crippled, injured or similarly unfortunate persons from the general municipal revenues of said city.

Public speaking, meetings and parades

TWENTY-FIFTH: To regulate speaking in the public streets and/or places and gathering therein, and to regulate and/or prohibit the exhibition or carrying in parades, or otherwise, of any placard, banner or advertisement, and the distribution of dodgers or handbills in the public streets, grounds or places within said city; to regulate or prohibit traffic in goods, wares or merchandise, or sales in the public streets, grounds or places; and to prevent encroachments upon or obstructions in, to or of the public streets, avenues, alleys and ways, and to require the abatement and removal of all such encroachments and obstructions.

Sale of goods in public places.

Restraint of disorderly conduct.

TWENTY-SIXTH: To prevent any and all drunkenness, offensive, immoral, indecent and disorderly conduct and practices in said city; and to restrain and prohibit all kinds and descriptions of gambling, and all gambling devices and practices; all playing of cards, dice and other games of chance for the purpose of gambling, and the keeping or operating of card machines, slot machines, or other contrivances or apparatus or devices, upon or into which money or anything is staked, hazarded, deposited or paid upon chance; and to prohibit the making or selling of pools on races, games or other exhibitions, and to authorize the confiscation and destruction of all instruments, apparatus and paraphernalia used for the purpose of gambling; and to restrain and punish vagrants, mendicants, lewd persons, lascivious persons and prostitutes.

Public health.

TWENTY-SEVENTH: To make any and all restrictions which may be necessary, convenient, expedient or advisable for the preservation of the public health and the suppression of diseases; to make any and all regulations necessary, convenient, expedient or advisable to prevent the introduction of contagious, infectious or other diseases into said city; to make quarantine laws and regulations, and to enforce the same within the said city; to regulate, control and prevent the entry into said city of any person or persons, baggage, goods, wares or merchandise, or other property, infected with any contagious disease.

Cruelty to animals.

TWENTY-EIGHTH: To prohibit and punish cruelty to animals and fowls within said city, and to require the places where they are kept to be maintained in a clean, healthful and sanitary condition.

Waste removal.

TWENTY-NINTH: To acquire, construct, complete and maintain any and all works necessary or convenient for, or useful in the disposal of sewage, garbage, rubbish and waste matter of any and all kinds, and to construct, own, maintain and operate sewers, sewer farms, sewage disposal plants, and all machinery, apparatus and equipment necessary or convenient so to do; to construct, own, maintain and operate incinerating plants and garbage reduction plants, and to join with any other city or cities, or county, or sanitation district, in the acquisition, construction, completion, maintenance and operation of any such works, farms or plants.

Care of aged and infirm

THIRTIETH: To provide for the care, housing and sustenance of indigent, aged and/or helpless persons within said city.

Traffic

THIRTY-FIRST: To regulate travel and traffic in and upon the public streets, avenues, highways, alleys and places within the said city, and to establish boulevards and main arteries of traffic, and to regulate and control traffic thereon.

Speed of trains, cars, or other vehicles

THIRTY-SECOND: To regulate the speed of railway engines, cars, trains and equipment, and of street cars and street railway apparatus or equipment, and of all public busses and conveyances passing through or operating within said city; to require railroad companies and street railway companies either to station flagmen, or place sufficient automatic warning signals and signalling bells, or other warning devices, at crossings; and to require street cars and public conveyances to be provided with suitable fenders and/or other appliances for the protection of the public.

Aircraft

THIRTY-THIRD: To regulate the operation of all manner and types of aircraft, whether heavier than air or otherwise, and whether for the carrying of passengers or freight, in or over any part of said city; to provide for municipal inspection of all types of aircraft within the said city, at the cost of the city or of the owners, operators or pilots thereof; to prohibit the operation of any and all types of aircraft in or over said city unless the same shall have been first approved as to safety and airworthiness, and a permit issued for such operation, by designated municipal authorities; to designate fields or stations at which any such aircraft may be lawfully landed; and to prescribe the respective minimum heights at which any and all types of aircraft may be operated over said city, and which, as prescribed from time to time, shall be observed, except when such aircraft is being operated in the immediate act of either taking off or landing.

Carriers

THIRTY-FOURTH: To regulate and control the carrying of freight and/or passengers, whether for hire or otherwise, in or through any part of said city, on, along or upon any and all of the public streets, avenues, highways, alleys, ways or places therein.

Explosives

THIRTY-FIFTH: To regulate or prohibit the sale, keeping, storing and use of gasoline, dynamite, powder, petroleum, fireworks, nitroglycerin, and all other explosive or

highly combustible materials and substances, and the place of manufacture or storage thereof, and their transportation; and to regulate the keeping or storing of hay, straw, excelsior, and other highly inflammable materials.

Protection from public calamity

THIRTY-SIXTH: To make, adopt and enforce any and all necessary, advisable or convenient rules and regulations for the protection of persons and property within the said city from fire, floods, riots and other public calamities, and to make, adopt and enforce all such local, police, sanitary and other rules or regulations as are deemed expedient to establish, preserve and maintain the public peace, protect life and property, promote the public morals and welfare, and preserve the health and well-being of the inhabitants and public of said city.

Fire department.

THIRTY-SEVENTH: To acquire, organize, equip and maintain a full and complete fire department, together with all necessary, usual and convenient appurtenances, and to make any and all necessary, advisable or convenient regulations for the prevention and combating of fire.

Permits to use public property

THIRTY-EIGHTH: To grant permits, except when prohibited by this charter or the constitution or laws of the state of California, to any person, firm or corporation to use the public streets, avenues, ways, highways, alleys, places or public property of said city, upon such terms and conditions as the council may by ordinance prescribe, and which said permits shall be revocable by the council at any time without notice.

Regulation of rates under franchises

THIRTY-NINTH: To regulate, establish and change from time to time the rates and charges to be imposed and collected by any person, firm or corporation for any commodity or service rendered under, pursuant to or in connection with any franchise, permit or license heretofore or hereafter granted by said city, or any authority thereof, provided that the same is not inconsistent with the provisions of this charter or the constitution or laws of the state of California.

Acceptance of gifts.

FORTIETH: To receive and use any and all kinds of devises, bequests, trusts, gifts, and/or donations, of any and all kinds of property, whether in fee simple, in trust, or otherwise, and whether for charitable, educational or other purposes; and to do and perform any and all acts and things necessary, advisable or convenient to carry out the purposes or requirements of such devises, bequests, trusts, gifts or donations, and with full power to manage, control, sell, lease or otherwise dispose of the same, in accordance with the respective terms and conditions of any such devises, bequests, trusts, gifts or donations, or absolutely, in case the same be unconditional.

Building regulations

FORTY-FIRST: To regulate and limit the height and bulk of buildings or structures hereafter erected, and of additions to buildings or structures already erected, within said city, and to regulate and determine the area of yards, courts and other open spaces within said city, and for such purposes to

divide said city into districts. Such regulations, limitations and determinations shall be uniform for each class of buildings or structures throughout any district, but the regulations, limitations and determinations in one or more districts may differ from those in other districts. Such regulations shall be designed to secure safety from fire and other dangers, and to protect and promote the public health and welfare, including, so far as conditions may permit, provisions for adequate light, air and convenience of access, and shall be made with reasonable regard to the character of the buildings or structures erected in each district, the value of the land involved, and the use to which it may be put, to the end that such regulations, limitations or determinations may promote the public peace, health, safety and/or welfare of said city and its inhabitants.

Construction of buildings, etc.

FORTY-SECOND: To regulate and control the construction and manner of construction of, and materials used in, any and all buildings, chimneys, stacks and other structures of every kind and nature whatsoever within the said city; to prevent the erection and/or maintenance of insecure or unsafe buildings, walls, chimneys, stacks, or other structures, and to provide for their summary and immediate abatement, demolition or destruction; to prescribe the depths of cellars and basements, and materials used in, and the method of construction of, foundations and foundation walls, and the manner of construction and the location of drains and sewers, and the character of the materials used therein; to prescribe, determine and regulate the materials used in and the thickness and construction of party walls, partitions and outside walls; the thickness and construction of chimneys; the construction and character of bathrooms, water closets, privies and vaults, and the manner of and materials used in plumbing for sanitary or drainage or other purposes; and the manner of and materials used in the wiring of buildings or other structures for the use of electricity for lighting, power or other purposes, and to prescribe, determine and regulate the manner of and materials used for piping buildings or other structures for the purpose of supplying the same with water and/or gas, and to prohibit the construction or maintenance of buildings and structures which do not conform to such regulations.

Fire escapes and fire protection

FORTY-THIRD: To require the owners, lessees or occupants of buildings or other structures within said city to place upon or in them fire escapes and appliances for protection against and the extinguishment of fire.

Fire prevention

FORTY-FOURTH: To prevent the construction of, and to cause the removal of, insecure or dangerous chimneys, fireplaces, hearths, stoves, stove pipes, ovens, boilers, apparatus and machinery used or installed in any building in said city, and to regulate the carrying on of industries, or businesses, or factories which from their nature, or on account of the commodities handled, are liable to cause fire; to prevent the distribution of ashes, or other objectionable materials, or the

accumulation of shavings, rubbish, refuse or combustible materials in unsafe places, or in any place in which the same will constitute a fire menace, and to make any and all provisions necessary or convenient to guard and protect against fire.

FORTY-FIFTH: To lease, sell, or otherwise dispose of, any public utility owned by the said city; provided, however, that no such public utility, or substantial portion thereof, so owned, shall be sold, leased, or otherwise transferred, without the assent of two-thirds of the qualified voters of said city voting on the proposition at an election at which such proposition shall be submitted. Disposal of utility property. Election.

FORTY-SIXTH: To prohibit in and exclude from said city such trades, vocations, hospitals, institutions, asylums, callings, businesses, or industries as the city council may by ordinance from time to time determine or declare to be nuisances, or obnoxious, dangerous or offensive to human beings. Nuisances.

FORTY-SEVENTH: To join with one or more cities, counties, sanitation districts or improvement districts incorporated or organized under the constitution and/or laws of the state of California, in order to acquire, construct, complete, develop, maintain and use sewers, sewer outfalls and sewage disposal plants, and a source or sources of water supply for municipal and domestic purposes, and to construct any and all works necessary for their joint and several purposes, uses and needs, and to unite with such other cities, counties and/or districts in bond issues therefor. Sanitation and improvement districts.

FORTY-EIGHTH: To acquire, establish and maintain a pound; to regulate and prevent the running at large of dogs, or other animals, and of fowls; to provide for the impounding and disposing of such dogs, animals or fowls; to provide for the destruction of vicious dogs, or other vicious or obnoxious animals, whether impounded or not; to require the payment of license fees by the owners or persons having the possession of dogs, and such other animals as the council may by ordinance prescribe, and to impose penalties upon such persons for refusing to pay such license fees. Pound

FORTY-NINTH: To license, regulate, and, when deemed necessary by the council, in order to preserve the public peace, health, welfare, or safety of the public, or inhabitants, of said city, to prohibit any and all public exhibitions, shows, games, amusements or meetings of any nature, excepting only meetings of the council of said city. Licensing of public meetings

FIFTIETH: To cause and require the removal from above ground and the placing underground of any and all telephone, telegraph, electric light, electric power, and other wires, or cables, or conduits, or conductors, within the said city, or within any designated portion thereof, and to regulate the location and placing of poles, and the suspending of wires, cables, or ropes, or other conductors, along or across any of the public streets, avenues, highways, lanes, alleys, ways and public places within said city. Underground wires

Permit to excavate streets

FIFTY-FIRST: To require persons, firms and/or public service or other corporations excavating in public streets or alleys for any purpose whatsoever, to secure a permit so to do before commencing any such excavating, and to repave or replace the excavated portion with the same class of materials and in the same manner that existed prior to such excavation; and to require such persons, firms, and/or corporations, before receiving any such permit, to give such bonds, or deposit such moneys, as the council may prescribe, as a guarantee of the faithful performance of such work, the refilling of such excavation, the restoration of the surface of its condition as it existed immediately prior to the making of such excavation, and that said work will be completed to the satisfaction of the street superintendent or city engineer of said city.

Refilling and restoring paving

In the event of any default by any such person, firm or corporation in any particular in any obligation herein contemplated on the part of such person, firm or corporation to be performed, or upon request of such person, firm or corporation, or on order of the council of said city, the street superintendent shall cause such work of refilling and restoration of surface to be performed and completed by the street department of said city, and the cost thereof shall be deducted from, and paid to said city out of, the principal sum of any such bond, or deposit, or paid to said city by such person, firm or corporation.

Waste removal

FIFTY-SECOND: To provide for the collection and disposal within said city of garbage, ashes, animal and vegetable refuse, dead animals, filth, tin cans, combustible rubbish, semi-combustible rubbish, non-combusible rubbish, and waste matter of all kinds.

Storm water protection

FIFTY-THIRD: To prohibit and prevent any person, firm or corporation from filling in, obstructing or placing any obstruction in any natural water course, waterway or channel, within the said city, in such a manner as to cause storm waters to flood, flow upon or damage any public street, lane, alley, place, park or public property of any kind within the said city, and to require that any and all such channels, waterways or water courses be opened and be kept open at all times.

Connecting with sewer, water or other mains.

FIFTY-FOURTH: To make regulations requiring the owner or owners of real property bordering or fronting upon any public street, avenue, lane, alley, way or other public place, in which there exists a public sewer, or a public water main, or public gas main, or other public utility mains or conduits, to connect therewith their several premises by proper laterals or connections, to each lot.

Regulation of pipes and conduits in streets

FIFTY-FIFTH: To regulate the material, quality, size and location of all water pipes, gas pipes, mains, service pipes, fire plugs, and all other pipes and conduits of every kind constructed, laid, placed or installed in the public streets, avenues, lanes, alleys, ways or other public places within the

said city, and to provide for and to regulate the construction, operation, maintenance, use, repair, removal and replacement of any and all such water pipes, gas pipes, mains, service pipes and fire plugs, and all other such pipes and conduits of every kind, and of all cisterns, pumps and other appliances requisite to effect or facilitate the transportation or distribution of water, gas, electricity, steam or other substance in the public streets, avenues, lanes, alleys, ways or other public places within the said city, and to require any person, firm or corporation seeking to install, use, operate, maintain, remove, repair or replace the same, or any portion thereof, before commencing any such work, to file an application for a written permit so to do, with a chart or map showing the material, size, character and location of the proposed installation or works; and no such installation or works shall be commenced until such written permit is granted.

Local improvements

FIFTY-SIXTH: To assess, levy, collect and enforce assessments and special assessments for public or local or district improvements or work, and in the discretion of the council to contribute from the general or other municipal revenues or funds of the city towards the cost or maintenance of the same.

Eminent domain

FIFTY-SEVENTH: To exercise the right of eminent domain, for the purpose of acquiring real and/or personal property of every kind whatsoever within and/or without the corporate limits of said city, necessary or convenient for the use of said city, or of the public or inhabitants thereof.

Streets, sewers, etc

FIFTY-EIGHTH: To establish and change the grade and/or curb lines, and lay out, open, extend, widen, straighten, change, close, vacate, abandon, pave, repave, surface or resurface, light, tunnel or retunnel, or otherwise in any manner whatsoever improve, reimprove, reconstruct, care for, or repair, or perform work of any kind in, upon or under, any and all public streets, avenues, ways, lanes, alleys, highways, and places, or portions thereof, within the said city; and to construct, reconstruct, repair, alter, remove, and replace therein sewers, drains, conduits, culverts, improvements and works of any and all kinds and descriptions whatsoever; also to assess and levy special or district assessments to defray the whole or any part of the cost of such works or improvements; and also to provide for the repair, cleaning, and sprinkling of any and all such public streets, avenues, ways, alleys, lanes, highways and places; also to acquire, construct, complete, improve and maintain parks, parking and parkways, and to plant, care for, attend to and remove therefrom trees, shrubs, flowers, vines, grass, and ornamental growths of every kind whatsoever; also to acquire, construct, provide, complete, equip and maintain zoos, aviaries, aquariums, horticultural and botanical, and other interesting, educational or scientific exhibits and collections, whether composed of living things or otherwise; also to provide, acquire, construct, complete, equip and maintain athletic fields, bathing and swimming pools, lakes, boats and boat houses, golf

courses, polo fields, tennis and other game courts, grounds and fields, and all classes of athletic, instructive, educational or recreational facilities for public use; also to acquire, provide and maintain any and all equipment, supplies, materials, apparatus and paraphernalia, necessary, convenient or useful in connection with the acquisition, construction, completion, use or maintenance of any and all of the properties, activities, matters or things hereinbefore in this section referred to.

Abatement of nuisances

FIFTY-NINTH: To define nuisances, and to prevent, remove and abate the same, and to provide that such nuisances may be removed or abated summarily, or otherwise, at the expense of the person or persons, firm or firms, corporation or corporations creating, causing, allowing, committing or maintaining such nuisance or nuisances, and for the collection of such expenses by suit against any such party or parties, and by ordinance to make the expense of such abatement a lien against the real property of each such nuisance so maintained, as well as to make such expense a personal obligation against the owner of said property.

Municipal band

SIXTIETH: To provide for the creation, employment and maintenance of a municipal band.

Ordinances

SIXTY-FIRST: To pass or adopt ordinances upon or concerning any subject of municipal regulation or control, and to carry into force and/or effect any and all powers of said city.

Penalties

SIXTY-SECOND: To make the violation of any provision or provisions of its ordinances, and/or of this charter, a misdemeanor, and to prescribe in such ordinances forfeitures, penalties and punishments for the violation thereof, which punishment shall be by fine or imprisonment, or by both fine and imprisonment; but no such punishment shall exceed a fine of three hundred dollars, or six months' imprisonment, or both.

Fixing of fees.

SIXTY-THIRD: To fix the fees, compensation and/or charges for any and all official services not otherwise provided for in this charter.

Rules and regulations

SIXTY-FOURTH: To make rules and regulations governing elections within the said city, not inconsistent with this charter or the constitution of the state of California.

Police department

SIXTY-FIFTH: To acquire, provide, organize, establish, equip and maintain a full and complete police department, together with all necessary, usual and convenient appurtenances, and to make any and all necessary, advisable or convenient ordinances and regulations for the prevention and combating of crime, the detection, arrest and punishment of criminals, and the preservation of the public peace and safety.

Park commission

SIXTY-SIXTH: To establish a park commission, and to appoint commissioners thereon to serve without compensation, with such number of commissioners and such powers and duties as may be fixed by the council by ordinances.

City planning commission.

SIXTY-SEVENTH: To establish a city planning commission, and to appoint commissioners thereon to serve without

compensation, with such number of commissioners and such powers and duties as may be fixed by the council by ordinance.

SIXTY-EIGHTH: To regulate, license or prohibit the construction and use of billboards and signs. Billboards and signs.

SIXTY-NINTH: To fix, establish and change from time to time fire districts and fire limits within the said city. Fire districts and fire limits

SEVENTIETH: To provide and maintain a morgue. Morgue

SEVENTY-FIRST: To provide suitable buildings, rooms and accommodations for all courts, departments, boards, officers and employees, together with all necessary attendants, furniture, fuel, lights and stationery for the convenient transaction of business. Public buildings

SEVENTY-SECOND: To license and regulate the carrying on of any and all professions, trades, callings and occupations carried on within the limits of said city, and to fix the amount of license tax thereon to be paid by all persons engaged in such professions, trades, callings or occupations, provide the manner of enforcing the payment of the same; provided that no discrimination shall be made between persons engaged in the same business otherwise than by proportioning the tax upon any business to the amount of business done; and to license, regulate, restrain, suppress, or prohibit any or all laundries, livery and sale stables, cattle and horse corrals, slaughterhouses, butcher-shops, hawkers, peddlers, pawnbrokers, dance halls, melodeons, shows, circuses, public billiard tables, bowling and ten pin alleys, the sale or giving away of malt, vinous, fermented, or other alcoholic or intoxicating liquors as a business, except for medicinal purposes by licensed druggists on the prescription of a regularly licensed physician; provided that nothing herein shall prevent the submission of the question whether the sale or giving away of such liquors may be licensed or prohibited to the voters at any election under the provisions herein concerning the initiative and referendum, and to suppress and prohibit all faro banks, games of chance, gambling houses, tables on stands, bawdy-houses, the keeping of bees within the city limits, and any and all obnoxious, offensive, immoral, indecent or disreputable places of business or practice. Licensing of occupations

SEVENTY-THIRD: To make rules and regulations for the government of all servants, employees, officers and departments in said city, and to fix salaries and wages not otherwise provided for by this charter or by the general laws of the state of California. Control of employees and salaries

SEVENTY-FOURTH: To allow and order paid out of the authorized funds of said city the sums respectively chargeable thereto, the allowance of which is not otherwise provided for. Payment of claims

SEVENTY-FIFTH: To provide for the sale at public auction after five days' published notice, of any personal property unfit or unnecessary for the use of said city. Sale of personal property of city

SEVENTY-SIXTH: To provide for the purchase of property levied on under execution in favor of said city, but the Purchase of property upon execution.

amount bid on such purchase shall not exceed the amount of the judgment and costs.

Public schools

SEVENTY-SEVENTH: When authorized by law, and when the council shall by ordinance determine so to do, to acquire by purchase, condemnation or otherwise, and to establish, construct, maintain, equip, own and operate a complete public school system, including kindergartens and schools of all kinds, and including lands and buildings necessary or convenient or useful therefor, and also all apparatus, equipment, supplies and materials necessary, convenient or useful in conducting and operating the same, and to employ and pay any and all superintendents, teachers, janitors and other employees necessary or convenient in order to operate, maintain, conduct, and carry on the same, and to make any and all rules and regulations required or advisable respecting the same.

Public utility commodity

SEVENTY-EIGHTH: To purchase any public utility commodity, such as gas, water or electricity, and distribute the same to the inhabitants and public of said city.

Contracts for work.

SEVENTY-NINTH: To make contracts providing for payments as the work progresses, but no progressive payment under any such contract shall be for more than seventy-five per cent of the value of the labor done or materials actually incorporated or used in the work up to the time of such payment, nor shall any such contract provide for or authorize or permit the payment of more than seventy-five per cent of the contract price before the actual completion of the work to be done under said contract, and the acceptance thereof by the proper officer, department, board or council of said city.

Taxes.

EIGHTIETH: To assess, levy, collect and enforce taxes upon property for municipal purposes, including music, entertainment, playgrounds and advertising; provided that the tax levied for any one year for all municipal purposes other than parks, libraries, schools, payment of interest on the municipal debt, redemption of and interest on bonds, music, entertainment, playgrounds and advertising, shall not exceed one hundred cents on each one hundred dollars of the non-operative assessed value of said city; and provided further that an additional assessment for parks, music, entertainment, playgrounds and advertising purposes not exceeding fifteen cents on each hundred dollars of such non-operative assessed value of said city, may be levied and collected each year over and above said sum of one hundred cents above referred to, in the same manner and at the same time as the general tax for municipal purposes is levied and collected. The taxes received from said additional levy of fifteen cents shall be expended only for the purposes hereinabove indicated, and in such proportion to each from year to year as the council may elect.

Limitations

Refunds.

EIGHTY-FIRST: To order the repayment to the persons entitled thereto by the treasurer of any taxes, percentages, expenses or costs erroneously or illegally collected.

EIGHTY-SECOND: To issue bonds for any purpose for which the city is authorized to provide, or for carrying out any of the powers possessed by the city; provided that in the procedure for the creation and issuance of such bonded indebtedness the general laws of the State of California in force at the time such proceedings are taken shall be observed and followed. Bonds.

EIGHTY-THIRD: To provide for the inspection and sealing of all weights and measures used in said city and to enforce the keeping and use by dealers of proper weights and measures, duly tested and sealed. Weights and measures.

EIGHTY-FOURTH: In the absence of any procedure for carrying out or effectuating any granted or implied power or authority of said city, the general laws of this state, where applicable, and where not inconsistent with any express provisions of this charter, shall prevail and shall be followed. When general laws control.

EIGHTY-FIFTH: To district or zone the city in whole or in part for the purposes of municipal legislation applicable to any such zones or districts. Zoning.

EIGHTY-SIXTH: To transfer or consolidate functions of the city government to or with appropriate functions of the state or county government, or to make use of such functions of the state or county government and in the case of any such transfer or consolidation, the provisions of this charter providing for the function of the city government so transferred or consolidated shall be deemed suspended during the continuation of such transfer or consolidation, to the extent that such suspension is made necessary or convenient by said transfer or consolidation and is set forth in the ordinance establishing such transfer or consolidation, and any such transfer or consolidation may be repealed by ordinance, which repeal will terminate the suspension of the provisions of the charter hereinabove provided for. Consolidation of functions with county or State

EIGHTY-SEVENTH: To exercise any and all municipal and/or police powers necessary to or convenient for the full and complete and efficient management and control of any and all municipal property, and for the efficient administration of the municipal government of said city, whether such powers are herein expressly enumerated or not. General powers

EIGHTY-EIGHTH: To exercise the fullest measure of local self-government not in conflict with the constitution and laws of the state of California, and to exercise each and every one of the powers which a municipal corporation may now or hereafter exercise under the constitution of the state of California. Self government

EIGHTY-NINTH: To do and perform any and all things and acts necessary or convenient in order to carry out or make effective or enjoy any and all of the rights, powers, objects and/or duties of said city.

NINETIETH: Lastly, this grant of power is to be liberally construed for the purpose of promoting and securing the well- Liberal construction

being of the municipality, its inhabitants and the public therein.

ARTICLE IV.

Officers and Employees

Officers

SECTION 1: The officers of the City of Redondo Beach shall consist of a mayor, five members of the council, a city clerk, a city treasurer, who shall be ex-officio city tax collector, a city attorney, a city engineer, who shall be ex-officio street superintendent and ex-officio building inspector, a police judge, a chief of police, and a fire chief.

Salaries and compensation.

SECTION 2: The council shall by ordinance or resolution fix the salaries and compensation of all officers of the city, excepting only the mayor and councilmen, and may change the same from time to time. In the case of elective officers, however, the restrictions of the Constitution of the State of California relating to the compensation of elective officers shall be observed. Said council may also by ordinance or resolution provide for any and all such other and additional subordinate boards, commissions, officers, assistants, deputies, clerks and employees, as such council may from time to time hereafter deem necessary and fix their respective powers, duties and compensations. The council may appoint any person to more than one office or appointment, provided said council does not deem the duties of such offices or appointments to be in conflict, or the holding thereof by one person to be contrary to good public policy. If an elective officer of the city under the authority herein given, other than the mayor or councilmen, be appointed to hold any appointive office created herein, or created by ordinance as herein provided, he shall be entitled to receive as such appointive officer the salary or compensation attached to such appointive office in addition and without regard to his salary or compensation as an elective official; provided the duties of such appointive office are not such as he would reasonably be required to perform as such elective official. All elective and appointive officers shall be provided with a copy of the charter of the City of Redondo Beach.

Employees

Mayor

SECTION 3: The mayor shall be elected from the city at large, and shall hold office for two years and until his successor is elected and qualified.

Council

SECTION 4: The five members of the Council shall be elected by wards as follows:

Ward 1

(1) A councilman from Ward No. 1, which in the first instance is hereby established as all that portion of the City of Redondo Beach, California, lying within the following described boundary lines, to-wit:

Beginning at the Northeasterly corner of Cliffton, as per map recorded in Map Book 10, Page 105, of the records of Los Angeles County, State of California; thence Southerly and Westerly along the Easterly and Southerly lines of said Tract to a point, being the intersection with the mean high tide line

of the Pacific Ocean; thence Northerly along said mean high tide line to a point, being the intersection with the Westerly prolongation of the center line of Guadalupe Avenue; thence Easterly and Southeasterly along the Westerly prolongation of the center line of Guadalupe Avenue, the center lines of Guadalupe Avenue and Sapphire Street to a point, being the intersection with the Southerly boundary line of the City of Redondo Beach, California, as per map of the Townsite of Redondo Beach, California, recorded in Book 39, pages 1 to 17 inclusive, of the Miscellaneous Records of Los Angeles County, State of California, thence Westerly along the Southerly boundary line of said City of Redondo Beach, California, to the point of beginning.

(2) A councilman from Ward No. 2, which in the first instance is hereby established as all that portion of the City of Redondo Beach, California, lying within the following described boundary lines, to-wit: Ward 2

Beginning at a point, being the intersection of the center line of Garnet Street with the Easterly boundary line of the City of Redondo Beach, California, as per map of the Townsite of Redondo Beach, California, recorded in Book 39, pages 1 to 17 inclusive, of the Miscellaneous Records of Los Angeles County, State of California; thence Southerly and Westerly along the Easterly and Southerly boundary lines of said City of Redondo Beach, California, to a point, being the intersection with the center line of Sapphire Street; thence Northwesterly and Westerly along the center line of Sapphire Street, Guadalupe Avenue and the Westerly prolongation of the center line of Guadalupe Avenue to a point, being the intersection with the mean high tide line of the Pacific Ocean; thence Northerly along said mean high tide line to a point, being the intersection with the Westerly prolongation of the center line of Pier Avenue (now known as Coral Way); thence Easterly along the Westerly prolongation of the center line of Pier Avenue and the center line of Pier Avenue (now known as Coral Way) to a point, being the intersection with the center line of Pacific Avenue; thence Northerly along the center line of Pacific Avenue to a point, being the intersection with the center line of Garnet Street; thence Easterly along the center line of Garnet Street to the point of beginning.

(3) A councilman from Ward No. 3, which in the first instance is hereby established as all that portion of the City of Redondo Beach, California, lying within the following described boundary lines, to-wit: Ward 3

Beginning at a point, being the intersection of the center line of Diamond Street with the Easterly boundary line of the City of Redondo Beach, California, as per map of the Townsite of Redondo Beach, California, recorded in Book 39, pages 1 to 17 inclusive, of the Miscellaneous Records of Los Angeles County, State of California; thence Southerly along the Easterly boundary line of said City of Redondo Beach, California, to a point, being the intersection with

the center line of Garnet Street; thence Westerly along the center line of Garnet Street to a point, being the intersection with the center line of Pacific Avenue; thence Southerly along the center line of Pacific Avenue to a point, being the intersection with the center line of Pier Avenue (now known as Coral Way); thence Westerly along the center line of Pier Avenue (now known as Coral Way) and its Westerly prolongation to a point, being the intersection with the mean high tide line of the Pacific Ocean; thence Northerly along the said mean high tide line to a point, being the intersection with the center line of Diamond Street; thence Easterly and Northeasterly along the center line of Diamond Street to the point of beginning.

Ward 4 (4) A councilman from Ward No. 4, which in the first instance is hereby established as all that portion of the City of Redondo Beach, California, lying within the following described boundary lines, to-wit:

Beginning at a point, being the intersection of the center line of Diamond Street with the Easterly boundary line of the City of Redondo Beach, California, as per map of the Townsite of Redondo Beach, California, recorded in Book 39, pages 1 to 17 inclusive, of the Miscellaneous Records of Los Angeles County, State of California; thence Southwesterly and Westerly along the center line of Diamond Street to a point, being the intersection with the mean high tide line of the Pacific Ocean; thence Northwesterly along said mean high tide line to a point, being the intersection with the Northerly boundary line of said Townsite of Redondo Beach, California; thence Northeasterly, Easterly and Southerly along the Northwesterly, Northerly and Easterly boundary lines of said Townsite of Redondo Beach, California, to the point of beginning.

Ward 5. (5) A councilman from Ward No. 5, which in the first instance is hereby established as all that portion of the City of Redondo Beach, California, lying within the following described boundary lines, to-wit:

Beginning at a point, being the intersection of the Easterly boundary line of the City of Redondo Beach, California, as per map of the Townsite of Redondo Beach, California, recorded in Book 39, pages 1 to 17 inclusive, of the Miscellaneous Records of Los Angeles County, State of California, with the Northerly boundary line of the City of Torrance, California, as it existed November 1, 1932; thence Easterly, Northerly and Easterly along the Northerly, Westerly and Northerly boundary lines of said City of Torrance, California, to a point, being the intersection with the Southerly prolongation of the Westerly line of Inglewood Avenue; thence Northerly along the Westerly line of Inglewood Avenue and its Southerly prolongation to a point, being the intersection with the Westerly prolongation of the center line of Electric Street; thence Easterly along the center line of Electric Street and its Westerly prolongation to a point, being the intersection with the

center line of Hawthorne Avenue; thence Northerly along the center line of Hawthorne Avenue to a point, being the intersection with the center line of Redondo Beach Boulevard; thence Southwesterly and Westerly along the center line of Redondo Beach Boulevard to a point, being the intersection with the center line of Inglewood Avenue; thence Northerly along the center line of Inglewood Avenue to a point, being the intersection with the center line of Chicago Avenue; thence Westerly along the center line of Chicago Avenue to a point, being the intersection with the Westerly boundary line of the City of Manhattan Beach, California, as it existed November 1, 1932; thence Southerly, Westerly, Southerly and Westerly along the Easterly, Southerly, Easterly and Southerly boundary lines of said City of Manhattan Beach, California, to a point, being the intersection with the Northeasterly boundary line of the City of Hermosa Beach, California, as it existed November 1, 1932; thence Southeasterly, Southerly, Westerly and Southerly along the Northeasterly, Easterly, Southerly and Easterly boundary lines of said City of Hermosa Beach, California, to a point, being the intersection with the Northwesterly boundary line of said City of Redondo Beach, California; thence Northeasterly, Easterly and Southerly along the Northwesterly, Northerly and Easterly boundary lines of said City of Redondo Beach, California, to the point of beginning.

Term of members of council.

SECTION 5: The members of the council shall hold office for two years, and until their successors are elected and qualified.

City Attorney.

SECTION 6: The City Attorney shall be elected from the city at large, and shall hold office for two years, and until his successor is elected and qualified.

Clerk.

SECTION 7: The city clerk shall be elected from the city at large, and shall hold office for four years, and until his successor is elected and qualified.

Treasurer

SECTION 8: The city treasurer shall be elected from the city at large, and shall hold office for four years, and until his successor is elected and qualified.

Police judge

SECTION 9: The police judge shall be elected from the city at large, and shall hold office for two years, and until his successor is elected and qualified.

Other officers and employees.

SECTION 10: All other officers, assistants, deputies, clerks, employees and servants shall be appointed as provided in this charter, or as the council may provide by ordinance, or resolution, in case no provision for their appointment is otherwise herein made, and they shall hold their respective offices or positions at the pleasure of the appointing power, except as in this charter otherwise provided. Where the appointment of any officer, assistant, deputy, clerk, employee or servant is vested in the council, or in any board or other body, the removal must be made by at least a four-fifths vote of the members of such body, and the motion or resolution remov-

ing any appointed officer must state the reason for such removal.

Redistricting by wards

SECTION 11: On or before the 1st day of February, 1937, and on or before the 1st day of February of each fourth year thereafter, the council shall by ordinance redistrict the city into five wards for the purpose of electing councilmen therefrom, as contemplated in this charter. Said wards, so revised and fixed from time to time, shall comprise as nearly as practicable equal numbers of voters as determined by the total number of votes cast at the last preceding election held over said entire city and be composed of contiguous and compact territory, and bounded by natural boundaries or street lines. Any territory hereafter annexed to or consolidated with said City of Redondo Beach shall at the time of such annexation or consolidation be added to an adjacent ward or wards by the council by ordinance.

Filling vacancy in elective office.

SECTION 12: In case of a vacancy occurring for any reason in an elective office, such vacancy shall be filled by appointment by the council and the appointee shall hold office for the unexpired portion of the term for which his predecessor in such office was elected or appointed.

ARTICLE V.

Legislative Body

Council

SECTION 1: The legislative body of said city shall consist of five councilmen elected as in this charter provided, which body shall be known as the "Council."

Mayor and council to continue in office

SECTION 2: The Mayor of said city, the four other members of the City Council of said city, the city clerk and the city treasurer in office on the effective date of this charter shall respectively be the first mayor, four councilmen, city clerk and city treasurer of said city, under this charter, regardless of their respective places of residence within said city, and shall hold their respective offices as such until the election and qualification of their respective successors at the first municipal election held in said city after such effective date. Said council so constituted shall provide for the holding of the first election of officers under this charter; shall cause said election to be held on the second Monday of April, 1935; shall canvass the votes, and declare the results thereof.

If for any reason this charter should not become effective at a date sufficiently in advance of said second Monday in April, 1935, to permit the calling and holding of such election on said date, then and in that event said election shall be held on the sixtieth day, or next business day succeeding such sixtieth day in the event the same should fall upon a Saturday, Sunday or holiday, after the effective date of this charter. In making computation of time hereunder the day of taking effect shall be excluded and the day of election shall be included.

SECTION 3: The compensation of the mayor shall be the sum of twenty-five dollars per month, payable monthly. The compensation of each councilman shall be the sum of ten dollars per month, payable monthly. Compensation of mayor and council.

ARTICLE VI.

Powers, Duties and Meetings of the Council

Council

SECTION 1: Three members of the council shall constitute a quorum for the transaction of business at any meeting, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance, and in the absence of the mayor and of all the councilmen from any meeting, the city clerk may declare the same postponed and adjourned to a stated day and hour, and must thereupon give the mayor and each of the councilmen written notice of the date and time to which the meeting has been adjourned, which notice may be delivered personally to such mayor or councilman, or may be left at his known residence or place of business at least twelve hours before the time to which the meeting has been postponed. Quorum. Clerk may adjourn.

SECTION 2: The mayor shall preside at all meetings of the council and in case of his absence the council may appoint a mayor pro tempore and in case of the absence of the city clerk, any deputy or assistant city clerk may act as clerk, and in the absence of said clerk or any of his deputies or assistants, the mayor or mayor pro tempore shall appoint one of the members of the council clerk pro tempore. The mayor shall not have the right to vote, but shall have the power to veto as hereinafter set forth in this charter. The mayor pro tempore shall not have the power of veto, but shall retain his power to vote. Presiding officer.

SECTION 3: The council shall be judge of the election and qualification of its members and of the election and qualification of all elective officers, and shall hear and determine all contested elections of elective officers. Contest of election.

SECTION 4: The council may establish rules and regulations for the conduct of its proceedings and punish any member or other person for disorderly behavior or offensive conduct at any meeting, and may exclude any such other person from the meeting. Conduct of meeting.

SECTION 5: The council shall cause the clerk to keep a correct record or journal of all their proceedings and on request of the mayor or any councilman, the ayes and noes shall be taken on any question and entered on such record or journal. Journal.

SECTION 6: Said council shall hold regular meetings at least twice in each month, at such times as shall be fixed by it by ordinance, and may adjourn any such regular meeting to a time certain, which shall be specified in the order of adjourn- Time of meetings.

ment, and when so adjourned, such adjourned meeting shall be a regular meeting for all purposes.

Special meetings

SECTION 7: Special meetings of the council may be called at any time by the mayor or by three councilmen by written notice delivered to the mayor and each member of the council at least three hours before the time specified for the proposed meeting, which notice may be delivered personally to the mayor or councilman, or may be left at his known residence or place of business.

Meetings to be public

SECTION 8: All meetings of the council shall be public, and shall be held within the corporate limits of said city, at such place as may be designated by ordinance.

Witnesses

SECTION 9: Said council shall have power to compel the attendance before it of witnesses and the production of papers, documents, books and records in any matter under investigation by it.

Legislative power vested in council.

SECTION 10: The council, subject to the express limitations of this charter, shall be the governing body of said city, and all legislative powers of said city, and all powers in this charter granted to and vested in said city of Redondo Beach, shall be vested in and exercised by the council; provided, that there is hereby reserved to the people of said city the right of initiative, referendum and recall as hereinafter provided for in this charter.

Initiative, referendum and recall

Ordinances, resolutions and motions

SECTION 11: The council may take official action only by the passage or adoption of ordinances, resolutions or motions, as may be prescribed or permitted by the constitution or laws of the State of California, and the provisions of this charter; provided that any action of said council fixing or prescribing a fine, punishment or penalty, or granting any franchise, shall be taken by ordinance. In the absence of any express provision to the contrary in said constitution, laws or charter, said council may choose any of the foregoing three methods for taking such action.

General powers.

SECTION 12: To enforce all ordinances, rules and regulations made by it in respect to the municipal affairs of the city of Redondo Beach, and to do and perform any and all other acts and things which may be necessary and proper or convenient and proper to carry out the powers and purposes of the city of Redondo Beach.

Control of public property

SECTION 13: To acquire, provide and maintain at the cost and expense of said city all materials, supplies, apparatus, furnishings, furniture and equipment necessary, convenient, proper, or desirable in order to establish, equip, furnish, provide for and maintain any and all municipal offices and departments.

ARTICLE VII

Elections

Elections

SECTION 1: An election to be known as a general municipal election shall be held in said city of Redondo Beach on the second Monday in April of each odd numbered year for

the filling of such elective offices, the terms of the incumbents of which expire in such year.

SECTION 2: All elections held within said city shall be called and ordered held by ordinance only. Such ordinances shall specify the object or objects, time and places for holding such elections, and the name of the officers of election for each voting precinct into which the city or portion thereof shall be divided for the holding and making returns of such elections. Said ordinance shall be published at least twice in a newspaper of general circulation published in said city, not less than ten days nor more than twenty days prior to the date of said election, and unless otherwise required by the constitution or laws of the State of California, or this charter, no other additional, different or further notice nor need sample ballots be mailed or supplied, but such ordinance so adopted and published shall be and constitute the full and sufficient notice of any such election. Calling elections. Publication.

SECTION 3: At all elections the returns from each election precinct shall be filed with the city clerk and shall be canvassed by the council at the next regular meeting of such council held after the expiration of three full days after said election. Returns.

SECTION 4: Immediately after the result of an election is officially declared by the council, the clerk shall under his hand and the official seal of said city, issue a certificate of election for each and every person elected thereat and serve the same personally or by mail upon each such person. Certificate of election.

SECTION 5: The provisions of the laws of the state of California relating to elections and nomination of candidates for elective municipal offices in cities of the sixth class in said state, as the same now or may hereafter exist, the qualifications of electors, the manner of voting, and number and duties of election officers, and all other particulars in respect to the calling, conducting and management of elections in such sixth class cities, and the nomination of candidates to be voted upon in such elections, in such sixth class cities, so far as they may be applicable, shall govern all municipal elections, both general and special, held in said city, and the nomination of candidates for municipal offices therein, except as is otherwise provided for in this charter. General election laws to control

SECTION 6: The terms of all elective officers shall begin at twelve o'clock midnight on the Sunday next succeeding the declaration of the result of the election. Beginning of terms of office.

ARTICLE VIII

Initiative, Referendum and Recall

SECTION 1: The laws of the state of California providing for the initiative, referendum and recall in cities, as they now exist, or hereafter may be amended, are hereby made a part of this charter, and all action under the initiative, referendum and recall in said city of Redondo Beach shall Initiative, referendum and recall. General laws adopted

Exceptions.

be taken in accordance with said laws; provided, however, that in addition to any other requirements contained in said laws, no recall election shall be called or held in said city unless and until a petition demanding the same, signed by not less than twenty per cent of all of the qualified electors of said city as to any officer elected from the city at large, or signed by not less than twenty per cent of the qualified electors of any ward from or for which such officer shall have been elected or appointed, as shown by the registration of voters of Los Angeles County, California, then current, and up to and including the day of the filing of such petition, shall have been filed with the city clerk or city council of said city.

Duty of clerk concerning petitions

SECTION 2: The city clerk shall compare the names of the persons appearing upon any initiative, referendum, recall or other petition or paper, requiring the signatures of qualified electors of said city, with the registration of electors of said city as shown on current records of the registration of electors of the county of Los Angeles, California, and he shall make a report for the information of said council as to the sufficiency or insufficiency of any such petition or paper as regards the number of signatures of qualified electors appended thereto. The sufficiency or insufficiency of any such petition or paper shall be determined as promptly as reasonably possible, and with the consent of the council said clerk may, at the expense of said city, employ such assistance as may be necessary in order so to do.

ARTICLE IX.

Fiscal Year and Finance

Fiscal year

SECTION 1: The fiscal year of the city of Redondo Beach shall begin on the 1st day of July of each year, and shall end at midnight on the 30th day of June of the following year.

Taxation

SECTION 2: The system of municipal taxation now in effect in the city of Redondo Beach, California, shall continue under this charter until otherwise expressly and definitely provided for by ordinance, and the officials of the county of Los Angeles, California, shall continue to assess and collect such municipal taxes, levies and assessments in and for said city in the same manner in all particulars in every way whatsoever as at present. Should the city, however, at any time resume the work of assessment and tax collection in that case the system, mode and manner of assessing property for purposes of municipal taxation, and the levying and collecting of taxes for municipal purposes, the nature of the lien therefor and the manner and method of enforcing the same, and of the redemption of property sold for non-payment of taxes, and all proceedings relating to said matters shall be fixed by ordinance, and so far as applicable, shall be substantially the same as may be provided at the time by law for such matters in relation to

county taxes in the county of Los Angeles, except that in relation to the city taxes the proper officers of the city shall discharge the duties imposed by law upon the corresponding officers of said county. The council may enact such ordinances as may be necessary to carry out the provisions of this section and may by ordinance fix the time or times of the collection of said taxes within each fiscal year.

ARTICLE X.

Legislative Procedure

Time of adoption of ordinances

SECTION 1: No ordinance shall be adopted unless the same shall have been introduced at least five full days, excluding the day of its introduction, prior to the adoption thereof.

Vote required

SECTION 2: No ordinance shall have any validity or effect unless passed or adopted by the votes of at least three of the persons constituting the five members of the council.

Enacting clause.

SECTION 3: The enacting clause of every ordinance passed or adopted by the council shall be, "The city council of the city of Redondo Beach, California, does ordain as follows:". The enacting clause of every ordinance adopted by the people shall be, "The people of the city of Redondo Beach, California, do ordain as follows:".

Reading of ordinances

SECTION 4: Every ordinance introduced shall be read upon its introduction, and the same shall be read a second time upon the final passage and adoption thereof; provided, that the second reading thereof may be by title only, unless the mayor or any councilman present demands that the same be read in full. Any ordinance may be amended or modified between the time of its introduction and the time of its final passage or adoption, provided its general scope and original purpose or purposes are retained.

Effective date

SECTION 5: All ordinances adopted by the council shall become effective at midnight on the 30th day from and after the date of the final adoption thereof, and in computing said time the day of final adoption shall be excluded; provided, however, that ordinances calling or otherwise relating to an election, or ordinances otherwise specially required by the laws of the state, or ordinances for the immediate preservation of the public peace, health or safety, and which shall contain a declaration of the facts constituting their urgency, and are passed by at least a four-fifths vote of the council, or ordinances relating to bond issues and the annual tax levy, or relating to street proceedings may become effective immediately upon the publication thereof as hereinafter provided, if the council shall therein so declare.

Filing and indexing

SECTION 6: Every ordinance shall be filed and topically indexed in a book kept for that purpose, shall be authenticated by the signatures of the mayor and city clerk, or his authorized deputy, and within ten days after its adoption, shall be pub-

lished at least once in a newspaper of general circulation published and circulated in said city. In the event the publication of any ordinance shall not be made within said period of ten days hereinabove designated, said ordinance shall not thereby be rendered null and void, but the effective date thereof shall be postponed until the full period of thirty days shall have elapsed after the publication thereof.

Ordinances for payment of money

SECTION 7: No ordinance or order for the payment of money shall be passed or adopted at any other than a regular meeting or adjourned regular meeting of the council.

SECTION 8: Ordinances and resolutions are the formal acts of the Council reduced to writing and passed under legal restrictions governing action thereon. Orders embrace all other acts, which being less formal in character, require only to be duly passed by the Council and spread upon the minutes.

Approval of Mayor

No order, resolution or ordinance shall have any effect without the approval of the Mayor. In the case of orders the approval of the Mayor shall be presumed, unless at the same meeting at which the order was passed the Mayor causes his disapproval, with his reasons therefor, to be spread upon the minutes. All resolutions and ordinances, after passage by the Council, must be submitted to the Mayor who shall within five days after he has received the same, endorse his approval or disapproval thereon, giving the reason for his disapproval; provided, however, that if the Mayor disapproves any order or does not approve any resolution or ordinance within the time herein provided, it may be passed by vote of not less than four-fifths of the members of the Council and shall then be as valid as if approved by the Mayor. In the event the Mayor shall fail to approve or disapprove, in writing, any ordinance or resolution within said period of five days the same shall become effective.

Effect of Mayor's failure to act.

ARTICLE XI

Bonds of Officers

Bonds of officers and employees

SECTION 1: Officers and employees of the city charged with the collection, or custody of public money before entering upon the discharge of their official duties, shall give and execute to the city their official bonds and other officers and employees shall give such official bonds as may be required by general law, this charter or ordinance of said city.

Amount of bonds

SECTION 2: The city council shall, where not otherwise prescribed by law, fix by ordinance or resolution the penal sum of all official bonds, and may at any time by ordinance or resolution increase or decrease the penal sum of any and all such bonds.

Approval of bonds.

SECTION 3: Every bond given the city shall be subject to approval by the mayor as to sufficiency, and by the city attorney as to form. All such bonds shall be filed in the office of the city clerk, excepting the bond of the city clerk, which shall be filed in the office of the city treasurer.

SECTION 4: Every such bond shall contain a condition that the principal will perform all official duties imposed upon or required of him by law, or by ordinance of said city, or by this charter, and that at the expiration of his term of office, he will surrender to his successor all property, books, papers and documents that may come into his possession as such. Provisions of bonds

SECTION 5: The premium or charge for all official bonds of all officers and employees of said city required to give bonds, either by this charter or by general law, or by ordinance or resolution of said city, shall be paid by the city. Premiums

ARTICLE XII.

Consolidation

The city of Redondo Beach may consolidate with any other contiguous municipal corporation of the state of California, under and pursuant to the provisions of any laws of said state which may be applicable to the consolidation of such municipal corporations at the time thereof; provided, however, that no such consolidation, in or by which the said city of Redondo Beach assumes any part or portion of any outstanding or authorized bonded indebtedness of such other municipal corporation, shall ever become effective or be consummated for any purpose whatsoever, unless and until at least two-thirds of the qualified electors of said city of Redondo Beach, voting at such consolidation election, shall have voted in favor of such consolidation, and in favor of making the property within said city of Redondo Beach, after such consolidation, liable or subject to taxation with the property in said other municipal corporation for the payment of such bonded indebtedness or any portion thereof of such other municipal corporation. Consolidation with other municipality.

The requirements of this charter in this regard shall be in addition to any other requirements of the laws of the state of California with reference to such matters.

The city of Redondo Beach may annex either uninhabited territory or inhabited territory, or both, in accordance with the General Laws of the State of California relating to the annexation of uninhabited territory and inhabited territory in cities of such state. Annexation of territory

ARTICLE XIII.

Judicial Department

SECTION 1: There is hereby created and established in and for the city of Redondo Beach a Police Court, which is hereby vested with the judicial power of the city. Police Court

SECTION 2: The Police Court shall be presided over by a Judge, who shall be elected by the people as herein provided. He shall have the powers and perform the duties of a magistrate. He may administer and certify oaths and affirmations. Judge.

Qualifications of Judge

SECTION 3: The Judge of the Police Court shall be a resident and qualified elector of the city. He shall have been duly admitted to practice as an Attorney-at-law by the Supreme Court of the State of California.

Jurisdiction

SECTION 4: The said Police Court shall have jurisdiction concurrently with the Justice's Court in the Township in which said City of Redondo Beach is situate, of all civil and criminal actions and/or proceedings arising within the corporate limits of the City of Redondo Beach, and which might be tried in said Justice's Court.

Exclusive jurisdiction

The said Police Court shall have exclusive jurisdiction:

FIRST: Of all proceedings for the violation of any Ordinance of the city, both civil and criminal.

SECOND: Of any action for the collection of any taxes or assessments levied for any city purposes when the amount of the tax or assessment sought to be collected against the person assessed is less than Three Hundred Dollars ($300.00), but no lien upon the property taxes or assessed for the nonpayment of the taxes or assessments can be foreclosed in such action.

THIRD: Of any action for the collection of money payable to the City or from the city to any person, when the amount sought to be collected, exclusive of interest and costs, is less than Three Hundred Dollars ($300.00).

FOURTH: For the breach of any official bond given by any city officer, and for the breach of any contract, and any action for damages in which the city is a party, and upon all forfeited recognizances given to or for the benefit or in behalf of the city, and upon all bonds given upon any appeal taken from the judgment of the court in any of the cases above named, where the amount claimed, exclusive of costs, is less than Three Hundred Dollars ($300.00).

FIFTH: For the recovery of personal property belonging to the city when the value of the property, exclusive of the damages for the taking or detention, is less than Three Hundred Dollars ($300.00).

Powers of Police Judge

SECTION 5: In the exercise of his jurisdiction the Police Judge may punish persons guilty of contempt of court and may issue warrants of arrest, subpoenas, venires, executions and all other process necessary and proper and may administer oaths.

Proceeding when judge disqualified

SECTION 6: In all cases in which the Judge of the Police Court is interested or in which he is related to a party to the action or proceeding either by consanguinity or affinity within the third degree, and in case of his absence, sickness or inability to act, any Justice of the Peace of the County of Los Angeles may, at the written request of the Judge, act in his place and stead.

Records and fines

SECTION 7: The Judge of the Police Court shall keep a record of the proceedings of the Police Court in all matters and cases before said Court and shall pay daily into the City Treasury all fines and other money received by him belonging

to the city. He shall, on the first Monday of each month, file with the City Clerk an exact and detailed account in writing, under oath, of all fines imposed and collected, and of all fines imposed and not collected, and of all other moneys collected by him for or on behalf of the city.

Quarters and equipment

SECTION 8: The city shall furnish a suitable room or rooms for said Police Court, and shall also furnish the necessary office and court room equipment and furnishings and dockets and blanks for the use of said Court.

Fees

SECTION 9: All fees received or collected by the said court shall be the property of the city.

Rules of practice

SECTION 10: The rules of practice and mode of proceedings in the Police Court shall be the same as are, or may be, prescribed by law for Justices' Courts in like cases; and appeals may be taken to the Superior Court of the County from all judgments of said Police Court in like manner, and with like effect as in cases of appeals from Justices' Courts.

Juvenile offenders

SECTION 11: The Council shall have power to provide by ordinance for the separate detention and trial of, and a probation system for, juvenile offenders against municipal ordinances and also all juvenile offenders in all cases of other offenses of which this Court has jurisdiction.

Parole

SECTION 12: The Judge may in his discretion, upon good cause shown, grant a parole during good behavior to any person convicted in this Court; provided that said parole so granted may be revoked at any time by the Judge within six months after the granting of the same and the sentence imposed against such person shall thereupon be carried into execution.

Clerks and assistants

SECTION 13: The Judge may appoint such clerks or assistants, at such compensation and with such powers and duties as the Council may from time to time by ordinance prescribe. He shall also have the right, when he deems it necessary so to do, to require the chief of police of said city to furnish a police officer to act as bailiff of said court.

Bailiff

ARTICLE XIV.

City Attorney

City Attorney

SECTION 1: The City Attorney shall be an attorney and counsellor-at-law, duly admitted to practice law in the State of California. He shall have been actually engaged in the practice of the profession in this State for a period of at least three years next before his appointment.

Duties

SECTION 2: It shall be his duty, when directed by the Council, to prosecute on behalf of the people all criminal cases for violation of this charter and of City Ordinances, and to attend to all suits and other matters to which the City is a party, or in which the City may be legally interested. He or his deputy or assistant shall be in attendance at every meeting of the Council, unless excused therefrom by the Mayor or the Council. He shall give his advice or opinion in writing

whenever required by the Council or other officers. He shall be the legal adviser of all City officers; he shall approve the forms of all bonds given to and all contracts made with the City; he shall, when required by the Council or any member thereof, draft all proposed ordinances for the City and amendments thereto; and shall do and perform all such things touching his office as the Council may require of him, and at the expiration of his term shall surrender to his successor, all books, papers and documents pertaining to the city's business.

Compensation

SECTION 3: He shall receive as compensation a salary to be fixed by ordinance or resolution and he shall receive, in addition thereto, such reasonable additional fees or compensation as the Council may allow for suits or proceedings before any court, board, tribunal, officer or commission in which he has been directed by the Council to act or appear and also when allowed by the council extra compensation for bond issues of all kinds and for any service which the Council may deem extraordinary.

Special counsel.

SECTION 4: The Council shall have power to direct and control the prosecution and defense of all suits and proceedings to which the City is a party or in which it is interested, and may employ special counsel to assist the City Attorney therein and provide for the compensation of and pay such special counsel.

Assistants

SECTION 5: The City Attorney may appoint such assistants, deputies, clerks, stenographers and other persons at such salaries or compensation as the Council, by ordinance, shall prescribe; provided, however, that each assistant City Attorney must at the time of his appointment, be qualified to practice in all of the courts of the state, and must have been so qualified at least two years next preceding his appointment.

ARTICLE XV.

City Engineer

City Engineer.

SECTION 1: The City Engineer shall also, by virtue of his office, be Street Superintendent, and Building Inspector, and shall be appointed by the Council and shall be a civil engineer of not less than five years' professional experience. He shall receive such salary or compensation as the Council shall by ordinance prescribe, and shall hold office at its pleasure.

Compensation.

Duties.

He shall perform such civil engineering and surveying necessary in the prosecution of public work done under the direction or supervision of the Council as the said Council may require. He shall make such certificates and reports upon the progress of such work, and shall make such surveys, inspections and estimates, and perform such other surveying or engineering work as may be required by law or ordinance or by resolution or order of the Council.

Powers

He shall have all the powers and perform all the duties imposed upon him by this charter, the ordinances of the city,

the general laws of the state, and the orders of the Council, and shall be the custodian of and responsible for all maps, plans, profiles, field notes and other records and memoranda belonging to the City pertaining to his office and the work thereof; all of which he shall keep in proper order and condition, with full index thereof, and shall turn over the same to his successor.

All maps, plans, profiles, field notes, estimates and other memoranda of surveys and other professional work made or done by him, or under his direction or control during his term of office, shall be the property of the City.

Assistants

SECTION 2: Said City Engineer, Street Superintendent and Building Inspector may appoint such assistants, deputies, clerks, stenographers and other persons at such salaries or compensation as the Council by ordinance or resolution, shall prescribe to assist him in either his capacity as City Engineer, Street Superintendent or Building Inspector.

Duties as Street Superintendent

SECTION 3: As Street Superintendent, subject to the provisions of this charter and all ordinances of the City and laws of the State of California applicable thereto, he shall manage and have charge of the construction, improvement, repair and maintenance, and the keeping open and unobstructed, of streets, sidewalks, alleys, lanes, courts, bridges, viaducts and other public highways; of all sewers, drains, ditches, culverts, canals, streams and water courses; of boulevards, squares and other public places and grounds belonging to the city or dedicated to public use, except waterworks, parks, playgrounds and school grounds and property. He shall manage market houses, free markets, sewage disposal plants and farms, garbage disposal systems, plants and works; and all other public works not otherwise provided for in this charter. He shall have charge of the enforcement of all the obligations of privately owned or operated public utilities enforceable by the city, except as otherwise provided in this charter. He shall have charge of the cleaning, sprinkling and lighting of streets and other public places; the collection and disposal of garbage and waste; the preservation of all contracts, papers, plants, tools, machinery and appliances belonging to the City and appertaining to said department. He shall do and perform such other duties and assume charge and control of such other works, plants or departments not otherwise provided for in this charter which hereafter may be assigned to his department by ordinance or resolution of the Council.

Public utilities

Waste removal

Building Inspection

As the Street Superintendent, he shall possess the same powers as are given by law to Street Superintendents, and as Building Inspector, he shall possess the same powers as are given by law to Building Inspectors.

ARTICLE XVI.

City Clerk

City Clerk Deputies and employees

SECTION 1: The City Clerk shall, subject to the approval of the City Council, appoint such deputies and employees to assist him, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

Custody of papers, etc

SECTION 2: The City Clerk shall have the custody of and be responsible for the corporate seal, and all books, papers, records, contracts, and archives belonging to the city, or to any department thereof, not in actual use by other officers or elsewhere by special provision of this charter, or by ordinance of said city committed to their custody.

Records of official business

SECTION 3: He, or his deputy or assistant, shall be present at each meeting of the council unless excused therefrom by the mayor, or council, and keep full and accurate minutes of its proceedings and also separate books in which, respectively, he shall record all ordinances and official bonds; he shall keep all of the books properly indexed and open to the public inspection when not in use. He shall devote his entire time to the duties of his office.

Clerk as Auditor

SECTION 4: Until such time as the Council of said city shall otherwise by ordinance provide, the City Clerk shall act as General Auditor of all municipal finances and shall make a monthly report to the Council as such auditor regarding the financial affairs of said city and the various departments thereof. Nothing herein contained, however, shall be construed as in any manner dispensing with the annual or special audits elsewhere provided for in this charter.

Affidavits and oaths

SECTION 5: He shall have power to take affidavits and administer oaths in all matters relating to the business of the city, and shall make no charge therefor.

Other duties

SECTION 6: The City Clerk shall perform such other duties as may be prescribed by this charter, by general law, or by resolution, or ordinance of the City Council.

ARTICLE XVII.

Chief of Police

Chief of Police

SECTION 1: The chief of police of said city shall be the head of the Police Department of said city, and subject to the control of the council, shall have general supervision, command, control and management of the Police Department thereof.

Assistants

General duties

SECTION 2: He shall have power to appoint such assistants, deputies, detectives, policemen and subordinates as the Council may by ordinance prescribe. He and each assistant, deputy and/or policeman appointed by him shall have all the powers and protection that are now, or may hereafter be conferred on Sheriffs and/or other peace officers, by the laws of the State of California, and to execute and return all process issued and directed to him, or any peace officer, by any

legal authority. He is hereby charged with the execution of all laws and ordinances.

SECTION 3: He shall perform such other duties as the Council may from time to time impose. Other duties

ARTICLE XVIII

Assessor

SECTION 1: Should the council at any time hereafter determine to change the present method of assessment and/or collection of municipal taxes, levies and/or assessments in whole or in part, it may by ordinance require the assessor to make annually, between the 1st Monday of March and the 1st Monday of July next succeeding, a complete assessment of all property liable for taxation within said city, and on such 1st day of July he shall turn over to the city council for the purposes of equalization, and transmittal after such equalization to the city tax collector, the assessment roll prepared by him. In such case he shall when so required by said council, act as tax collector for the purpose of collecting taxes upon personal property when the same are unsecured by lien upon real property, within said city. Assessor. Acting as tax collector

SECTION 2: The assessor shall further perform any and all such other duties as the council may from time to time by ordinance prescribe and may appoint such assistants and deputies at such salaries or compensation as the Council may by ordinance prescribe. Other duties

ARTICLE XIX.

Tax Collector

SECTION 1: Should the council at any time hereafter determine to change the present method of assessment and/or collection of municipal taxes, levies and/or assessments, in whole or in part, it may by ordinance require the tax collector to receive and collect all moneys due and payable to the city for taxes, assessments and licenses and from any other source or sources. Tax collector: General duties

SECTION 2: The tax collector shall further perform any and all such other duties as the council may from time to time by ordinance prescribe. Other duties.

ARTICLE XX.

Mayor

SECTION 1: The mayor of the city shall be the chief executive of said city, and as such shall sign all contracts on behalf of the city, countersign all warrants, and perform such other duties as may from time to time be assigned to him by the council. Mayor.

ARTICLE XXI.

Fire Chief

Fire chief. General duties.

SECTION 1: The fire chief of said city shall be the head of the Fire Department of said city, and subject to the control of the council, shall have general supervision and management of the Fire Department thereof.

Other duties

SECTION 2: He shall perform such other duties as the council may from time to time impose.

ARTICLE XXII.

Treasurer

Treasurer General duties.

SECTION 1: The treasurer shall receive and safely keep all moneys and securities belonging to the city, and coming into his hands, and pay out such moneys only on warrants signed by the proper officers and not otherwise, for claims or demands which have been previously allowed or approved by the council. The treasurer may deposit all or such portion of the public moneys as may be determined by the council in any bank authorized by law to receive deposits of public money, in accordance with the provisions of the constitution and the laws of the state of California.

Assistants

SECTION 2: He may appoint such deputies and employees to assist him at such salaries or compensation as the council may by ordinance or resolution prescribe.

Other duties

SECTION 3: The city treasurer shall perform such other duties as may be prescribed by this charter by general law or by resolution or ordinance of the city council.

ARTICLE XXIII.

Department of Education

Board of Education

SECTION 1: Board of Education. The control of the Public School Department (not including High School) of the said City of Redondo Beach, including the whole of the Redondo Beach City School District, as the same now exists, or may hereafter be changed and exist, as provided by law, shall be vested in a Board of Education, which shall consist of five members elected one from each ward. The members of said Board shall serve for two years and without compensation. School elections shall be held jointly with city elections, names of candidates for members of the Board of Education to be on the same ballot with names of candidates for city offices.

School elections

Present system continued

SECTION 2: Under said Board of Education the public school system of said city shall continue as at present under the constitution and laws of the State of California relating thereto, as said constitution and laws now exist, or may hereafter be amended, and said public school system shall be supported, maintained, improved, extended, conducted, operated

and carried on under said constitution and laws, as they now exist or may hereafter be amended, in all particulars in all respects, and in the same manner as heretofore.

SECTION 3: The powers and duties of the Board of Education shall be such as are now or may hereafter be prescribed by the constitution and laws of the State of California for boards of education and/or boards of school trustees. Powers and duties of board.

SECTION 4: Until the election and qualification of the members of the Board of Education, as in this charter provided for, the trustees of Redondo Beach City School District, of Los Angeles County, California, in office at the time of the taking effect of this charter, shall be and constitute the Board of Education above referred to, and shall exercise the powers and duties hereinabove referred to. If this charter shall become effective in sufficient time to permit of so doing said Board of Education shall, on the second Monday of April, 1935, call an election in said Redondo Beach City School District in the manner, as nearly as practicable, provided by law, for the calling and holding of school elections in the State of California, at which election an entirely new board of education shall be elected. If for any reason this charter should not become effective at a date sufficiently in advance of said second Monday of April, 1935, to permit the calling and holding of such election on said date, then and in that event said election shall be held on the sixtieth day, or next business day succeeding such sixtieth day in the event the same should fall upon a Saturday, Sunday or holiday, after the effective date of this charter. In making computation of time hereunder the day of taking effect shall be excluded and the day of election shall be included. Thereafter, members of said board shall be elected as nearly as practicable in the manner provided by the laws of the the State of California with reference to school elections. Present board continued. Election.

SECTION 5: In the event any vacancy or vacancies shall exist in the membership of said Board of Education the same shall be filled by appointment by the Superintendent of Schools of the County of Los Angeles, State of California, in the same manner as such Superintendent fills vacancies in boards of education under the laws of said state. Vacancies

SECTION 6: The present High School being a Union School is not affected by this article. High School exempt

ARTICLE XXIV.

Public Library

SECTION 1: A public library or libraries for the City of Redondo Beach shall be maintained and managed in accordance with the provisions of the general laws of the state of California, as same now exist or as may hereafter be amended. Public library.

ARTICLE XXV.

Health Department

Health department Cooperation with Los Angeles County

SECTION 1: The City Council shall have full authority to arrange under State Laws now existing or which may hereafter be enacted, an agreement with the County of Los Angeles by which the City and County Health Departments may be consolidated.

ARTICLE XXVI.

Franchises

Franchises

SECTION 1: In granting franchises the city council shall be governed by the general laws of the state in force at the time, and franchises shall be granted only upon the further conditions hereinafter provided.

Deposit by applicant for franchise

SECTION 2: Every application for a franchise shall be accompanied by a cash deposit or certified check sufficient in amount to pay in full all costs of advertising and other preliminary expenses connected with the offering for sale of such franchises and the granting of the same, which deposit shall not be less than one hundred dollars ($100.00). Said deposit shall be returned in case the city council shall determine that neither the public necessity nor the public interest requires the granting of the franchise, or in case the franchise be granted to a person other than said applicant. The cost of advertising and other costs hereinabove referred to connected with the offering for sale and granting of said franchise shall be paid by the successful bidder for said franchise, and such payment shall be a condition precedent to the vesting of the franchise.

Value of franchise

SECTION 3: In the event that any public utility shall be taken over by the city, by purchase or condemnation, the franchise shall have no value. No exclusive franchise shall ever be granted.

ARTICLE XXVII.

Social Service

Board of Social Service

SECTION 1: The council may by ordinance provide for a Board of Social Service, of as many members as said council may therein prescribe. Members of said Board shall be appointed by the council for such term or terms as said council may determine, and shall serve without compensation.

Powers and duties

SECTION 2: The council may in such ordinance fix the powers and duties of such Social Service Board, and in addition to any other powers or duties therein enumerated, subject to the control of said council, may authorize such Board to have charge of all matters relating to the care and relief of the needy, and subject to the control of said council, may authorize said Board to establish a public health center for maintaining clinics and furnishing medical treatment and advice for persons unable to pay for same, and also for educating the

public in preventive medicine, and to establish and maintain a day nursery and similar institutions.

SECTION 3: The council may appropriate annually to the use of said board such amount of money for such social service work, out of the funds of said municipality, as said council deems advisable, but contributions of money or property for such work may be solicited and accepted from other sources. Appropriations and donations

SECTION 4: The Board of Social Service, if appointed, shall render an annual report of its activities to the council. Report.

ARTICLE XXVIII.

Printing and Advertising

SECTION 1: The council shall advertise annually for the submission of sealed proposals or bids for the publication of all ordinances, resolutions and other legal notices required to be published. The newspaper to which such contract is awarded shall upon the execution thereof, and for the period of such contract, be known and designated as the official newspaper of said city. Contracts for such printing and advertising shall be awarded to the lowest responsible bidder therefor, as determined by the council, provided that no contract for such printing and advertising shall be awarded to any newspaper except a newspaper of general circulation, as that term is defined by Section 4460 of the Political Code of the state of California, nor to any newspaper which cannot comply with the requirements of the laws of the state of California relating to the publication of such ordinances, resolutions and other legal notices required to be published. Printing and advertising

ARTICLE XXIX.

Public Work, Materials and Supplies, and Emergency Expenditures

SECTION 1: In the construction, erection, improvement and repair of all public buildings, and works, in all street and sewer work, in all works for protection against overflow or erosion and in all other works prosecuted by or on behalf of said city, and in the purchasing or acquiring of any supplies, equipment, apparatus or materials for use in or about the same, when the expenditures required for the same exceed the sum of five hundred dollars ($500.00), the same shall be done by contract, and shall be let to the lowest responsible bidder after notice of publication in the official paper of said city given by publishing such notice by two consecutive insertions in such newspaper, not more than twenty days nor less than seven days prior to the time fixed in such notice for the opening and declaring of such bids. Such notice shall state the general character of the work contemplated to be done and the nature and amount of any materials, equipment, apparatus or supplies to be furnished. Contracts for public works Notice

Rejection of bids.

SECTION 2: The city council may reject any and all bids presented and may re-advertise in its discretion. Further, after rejecting bids, said council may declare and determine by at least a four-fifths vote of all its members, that in its opinion the work in question may be performed more economically by day labor or the materials or supplies furnished at a lower price in the open market, and after the adoption of a resolution to this effect by the vote above required, they may proceed to have the work done, or the materials, equipment, apparatus or supplies furnished or purchased in the manner stated without further observance of the provisions of this article.

Day labor.

Provisions of other laws applicable

SECTION 3: Nothing in this Article contained shall be construed as applicable to those works or for the furnishing of materials, equipment, apparatus or supplies where a different method is prescribed by law, nor to work or materials, equipment, apparatus or supplies to be paid for by special assessment on property benefited thereby, but in all such cases the particular laws applicable thereto shall be observed, otherwise the provisions of this Article shall be followed.

ARTICLE XXX.

Annual and Special Audits

Audits

SECTION 1: The council shall employ a public accountant or firm of certified public accountants, or a public accountant familiar with municipal and governmental affairs annually to investigate the transactions and accounts of all officers and employees having the collection, custody or disbursement of public money or property, or the power to approve, allow or audit demands on the treasury, and said council may authorize such accountant or firm of accountants to make an investigation at any time with reference to any condition relating to the affairs of said city or any officer or employee connected therewith, as to any matter or condition upon which said council may require a report concerning the affairs of said city.

ARTICLE XXXI.

Monthly Reports

Financial reports.

SECTION 1: All officers having the collection of public moneys, or the custody thereof, and all officers and employees required by ordinance so to do, shall submit monthly financial reports to the city council in writing, which said reports shall be permanently filed with the city clerk after the council shall have inspected and acted upon the same.

ARTICLE XXXII.

Miscellaneous Provisions

Definition

SECTION 1: Whenever in this charter the word "city" occurs, it means the city of Redondo Beach, California, and

every department, board, commission, officer or employee whenever either is mentioned herein means a department, board, commission, officer or employee as the case may be, of said city of Redondo Beach

Count of money in treasury

SECTION 2: The mayor, city clerk and city treasurer shall together count the money in the city treasury at least once each three months, and ascertain whether or not the amount on hand agrees with the amount that should be in said city treasury according to the books of said city, and they shall make a written report thereof to the city council within five days thereafter.

Ordinances and resolutions continued in force

SECTION 3: All ordinances and resolutions in force at the time this charter takes effect, and not inconsistent therewith, shall continue in full force as at present until amended or repealed.

General laws applicable.

SECTION 4: All general laws of the state of California applicable to municipal corporations, now or hereafter enacted, and which are not in conflict with the provisions of this charter, shall be applicable to said city of Redondo Beach.

Compensation of officers

SECTION 5: The compensation of elective officers of said city shall not be increased or diminished during the terms of their respective offices.

Tenure of officers

SECTION 6: All officers and employees in office or employed when this charter takes effect shall continue to hold office and exercise their respective offices or employments under the terms of this charter until they may be removed as in this charter provided, or the election or appointment and qualification of their successors.

Vacancy in office

SECTION 7: If any officer of the city shall remove from the city, or absent himself therefrom for more than sixty days consecutively without the permission of the council, or if he shall fail to qualify by taking the oath of office and filing his official bond whenever such oath or bond is required, within fifteen days from the time his certificate of election or appointment is mailed or delivered to him, or if he shall resign, or if he shall be convicted of a felony, or if he shall be adjudged insane, his office shall be vacant.

General laws relating to streets adopted

SECTION 8: The improvement, widening, extending, lighting and opening of streets, avenues, lanes, alleys, ways and places, and all matters not specified in this charter shall be done, and assessments therefore levied, and improvement bonds issued in conformity with and under the authority conferred by the general laws of the state of California.

Delivery of property to successor in office

SECTION 9: All officers boards and employees shall deliver to their successors, all papers, books, documents, records, archives and other properties pertaining to their respective offices, departments or employments in their possession or under their control immediately upon retirement.

Interest in public contracts

SECTION 10: No member of the council or of any board, and no officer or employee of the city shall be or become directly or indirectly interested in any contract, work or business or in the sale of any article, the expense, price or con-

sideration of which is payable from the city treasury; nor shall either or any of them receive any gratuity or advantage from any contract or person furnishing labor or material for the same; and any contract with the city in which any such officer or employee is or becomes financially interested shall be declared void by the council.

Residence requirements for officers and employees.

SECTION 11: All officers, clerks and assistants of the city and the various departments thereof, and all employees except such as may be employed for temporary and special purposes, must be citizens of the United States of America, and residents of the city of Redondo Beach, California, during their respective periods of employment.

Payments for positions

SECTION 12: No officer or employee of the city shall give or promise to give to any person any portion of his compensation, or any money or thing of value in consideration of having been or of being nominated, appointed, voted for or elected to any office, or employment in or for said city.

Acceptance of gratuities from subordinates

SECTION 13: No officer or employee shall accept any donation or gratuity in money or other thing of value either directly or indirectly from any subordinate or employee, or from anyone under his charge, or from any candidate or applicant for any position as employee or subordinate in any department of the city.

Assistance in obtaining bids

SECTION 14: No officer or employee of the city shall aid or assist a bidder in securing a contract to furnish labor or material or supplies at a higher price or rate than that proposed by any other bidder, or favor one bidder over another, by the giving or withholding of information, or willfully mislead any bidder in regard to the character of the materials or supplies called for, or knowingly accept materials or supplies of a quality inferior to that called for by the contract, or knowingly certify to a greater amount of labor performed than has actually been performed or to the receipt of a greater amount of materials or supplies than has actually been received.

Use of patented paving

SECTION 15: No pavement protected by any patent, trade mark, trade name, copyrighted name, or any device which tends to prevent competitive bidding shall be ordered by the city until the owner thereof has entered into a written agreement with the city transferring to the city all rights to the use of and manufacture of the same within the city upon the terms and conditions set forth therein. The city shall not be bound by any such agreement unless the same shall have been approved by a majority vote of the council and executed by the mayor on behalf of the city. No such agreement shall be made for a longer period than five years.

Whenever the city shall let a contract for the construction of any such pavement the contractor therefor shall pay to the city the exact sum or royalty which the city is required to pay under its said agreement.

Whenever the city shall construct any such pavement by the direct employment of labor and purchase of materials, the

costs of which are chargeable upon the property in a special assessment district, the exact sum or royalty which the city is required to pay under said agreement shall be added to and included in the costs chargeable to the property in said special assessment district.

Fraudulent claims.

SECTION 16: Every officer who shall knowingly and willfully approve, allow or pay any demand on the treasury of said city in order to fraudulently obtain, either for himself or for another, the amount of said demand, or any portion thereof, shall be liable to the city individually, and on his official bond, for the amount of the demand so approved, allowed or paid; shall forfeit such office and be forever disqualified from holding any position or office in the service of said city.

Moneys to be paid into treasury.

SECTION 17: All fees and charges accruing to the city, and paid into the treasury thereof, for fees, permits, licenses, inspection, services, or other municipal charges, and moneys derived from fines or pecuniary penalties or forfeitures, and all funds which may remain in the possession of the city unclaimed after a period of one year from the date when the same were due and payable, shall be credited to the general fund of the city, and shall be applicable to any municipal purpose to which the council may appropriate them, and the council shall appropriate from this fund whatever sum may be necessary to pay valid claims of more than one year's standing.

Inspection of books and records

SECTION 18: All books and records of every office and department of the city shall be open to the inspection of any citizen, subject to proper rules and regulations for the efficient conduct of the business of such department or office, excepting only the books, records and papers of the police department, the health department and the office or department of the city attorney, none of which shall be subject to such inspection except by permission of the officer or head of such department or by special permission of the council.

Fee for copies of records

SECTION 19: Copies or extracts duly certified from any books or records open to inspection shall be given by the officer having the same in custody to any person demanding the same, and paying or tendering twenty cents per folio of one hundred words for such copies or extracts, and the additional sum of fifty cents for certifying. The officer having charge of such records, however, shall be entitled to a reasonable time within which to prepare same and provided with necessary clerical or stenographic assistance so to do.

Office hours.

SECTION 20: Unless otherwise provided for by law, or resolution of the council, all city officers shall keep their respective offices open for the transaction of business continuously from eight o'clock a.m. to five o'clock p.m. each day, except Sundays and Holidays.

Rights and liabilities continued in effect.

SECTION 21: All vested rights of the city shall continue and shall not in any manner be affected by the adoption of this charter, nor shall any rights, liability, pending suit or prosecution either in behalf of or against said city be affected by

the adoption of this charter unless otherwise herein expressly provided. All contracts entered into by the city or for its benefit prior to the taking effect of this charter, shall continue in full force and effect. All public work begun prior to the taking effect of this charter shall be continued and perfected hereunder. Public improvements for which legislative steps shall have been taken under laws in force at the time this charter takes effect, may be carried to completion in accordance with the provisions of such laws.

Municipal court.

SECTION 22: The city of Redondo Beach may establish a municipal court, when and in such manner as may be authorized by the constitution and/or laws of the state of California.

Eligibility to office

SECTION 23: No person shall be eligible to be an elective officer of said city, nor to become a candidate for any such elective office unless he shall have been a resident of said city for at least one year prior to the time of becoming such a candidate, and he must be a qualified elector of said city at the time of becoming any such candidate.

Preference of local merchants

SECTION 24: In the purchase of any and all supplies and materials for said city, local merchants so far as reasonably possible, shall be given the preference, quality, availability, service and price being equal.

Solicitation of campaign funds

SECTION 25: It shall be unlawful for any person to solicit any campaign contribution from any employee of the city.

Women eligible to office.

SECTION 26: Nothing in this charter shall be construed as prohibiting the election or appointment of women to any office or a member of any board or commission, and words used in this charter in the masculine gender shall include the feminine.

Claims for damages

SECTION 27: All claims for damages of any kind whatsoever against the city of Redondo Beach must be presented to the council, and filed with the city clerk within six months after the occurrence for, on account of or out of which such damages arose, and unless any such claim is so filed, the same shall not be allowed or approved, nor shall any judgment therefor ever be made or entered against said city or any officer thereof in any court whatsoever.

Publication of financial report.

SECTION 28: The council shall cause to be published annually a financial report of the city, and shall furnish a copy thereof to each taxpayer requesting the same.

Judicial notice of ordinances, etc

SECTION 29: In all prosecutions for violations of city ordinances, rules or other regulations, whether in a court of original jurisdiction or in any appellate court, it shall not be necessary to plead the contents of any such ordinance, rule or regulation, but the court before which the prosecution is pending shall take judicial notice of such ordinance, rule or regulation, and of the contents thereof; and in any civil action in which the city is a party, either as plaintiff or defendant, the adoption and contents of any ordinance, rule or regulation of said city may be prima facie proven by the introduction of the original entry thereof on the journal or record of the pro-

ceedings of the council or by a copy of such entry certified to by the city clerk under the seal of said city to be a full, true and correct copy of such original entry.

SECTION 30: Every officer authorized by law or ordinance to allow, audit or certify demands upon the treasury of said city, or to make an official investigation, shall have power to administer oaths and affirmations and take and hear testimony concerning any matter or thing relating thereto. The mayor and city clerk shall each have power to administer oaths and affirmations, both orally and in writing, in any matter or thing or hearing relating directly or indirectly to said city or any of its affairs. Administration of oaths.

SECTION 31: The bonded indebtedness of said city of Redondo Beach shall not at any time exceed an amount equal to fifteen per cent of its assessed non-operative value. Maximum bonded indebtedness

SECTION 32: If in consequence of any public street, alley, avenue, highway, road, lane or public place, being out of repair within said city, and in condition to endanger persons or property passing thereon or using the same, any person while lawfully and/or carefully using said street, alley, avenue, highway, road, lane, or public place, and exercising ordinary care to avoid the danger, suffers damage to his person or property, through, on account, or by reason of any such defect therein, no recourse for damages thus suffered shall be had against such city; but if such defect in such street, alley, avenue, highway, road, lane or public place, shall have existed for the period of twenty-four hours or more after notice thereof, to the Superintendent of Streets or other person on whom the law may have imposed the obligation to repair such defect or remedy the same, then such Street Superintendent or person or persons on whom the law may have imposed such obligation to repair or remedy such defect, and also the officer or officers through whose official negligence such defect remains unrepaired, or unremedied, shall be jointly and severally liable to the party injured for the damage sustained; provided that said Street Superintendent or other person or persons on whom the law may have imposed the obligations to repair or remedy any such defect or condition has the authority to make such repairs at the expense of said city, out of funds immediately available for the purpose. Injuries caused by defective streets, etc

SECTION 33: The Council shall prior to the first day of each fiscal year hereafter make a tentative budget of the financial requirements of said city for such ensuing fiscal year. Such budget so prepared shall be merely for the guidance and information of said Council, and nothing herein contained shall be construed as requiring a definite adherance to such budget. Budget.

SECTION 34: This charter may be amended at such times and in such manner as is provided in the constitution of the state of California. Amendments to charter.

SECTION 35: If any article, section, subsection, sentence, clause or phrase of this charter is for any reason held to be Constitutionality.

unconstitutional or void, such decision or holding shall not affect the validity or force of the remaining portions of this charter. The people of the City of Redondo Beach do hereby declare that they would have approved, ratified and adopted, and the legislature of said state of California does hereby declare, that it would have approved this charter, and each article, section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other articles, sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Effective date.

SECTION 36: This charter shall take immediate effect, and be in full force, from and after the time of its approval by the legislature of the state of California.

Certificate.

WHEREAS, the City of Redondo Beach, California, is a city containing a population of more than three thousand five hundred inhabitants as ascertained by the last preceding census taken under the authority of the Legislature of the State of California, and which said census is now on file in the office of the Secretary of State of the State of California, at Sacramento, California; and

WHEREAS, on the 9th day of April, 1934, at an election duly held on that day under and in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the electors of said city did choose and elect Mary Burke Baumbach, Charles R. Camomile, Sidney J. Eikenbary, C. Chester Harrington, Frank Heischman, William P. Hume, Jane P. Metzger, William H. Morgan, John A. Perdue, Frank L. Perry, William S. Peterkin, William T. Thompson, Isaac Tovil, Malcolm M. Waddell and Frank J. White, each of whom was, and is, an elector of said City and eligible as a candidate at and under said election, as a board of fifteen freeholders to prepare and propose a charter for the government of said city; and

WHEREAS, the result of said election was duly declared by the legislative body of said city, to-wit: The City Council of said city, on the 16th day of April, 1934, and the said electors thereafter duly qualified as such freeholders in accordance with law and the provisions of said Constitution;

NOW, THEREFORE, in pursuance of the said provisions of the Constitution of the State of California, and of the proceedings heretofore had, and within the period allowed by law after the result of said election was so declared, the said Board of Freeholders has prepared and does now propose the accompanying Charter as and for the Charter of the City of Redondo Beach, California, for the government of said city;

AND THE SAID BOARD OF FREEHOLDERS does hereby fix and designate Tuesday, the 24th day of September, 1934, as the date for holding a special municipal election in said city, at which the said proposed charter shall be submitted to the electors of said city for their ratification and adoption.

IN WITNESS WHEREOF, the undersigned members of the Board of Freeholders elected to prepare and propose a Charter for the government of the said City of Redondo Beach, California, having hereunto set our hands at the City of Redondo Beach, in the County of Los Angeles, in the State of California, this 2nd day of July, 1934. Same.

1. WILLIAM T. THOMPSON,
Chairman of the said Board of Freeholders.
2. FRANK L. PERRY,
Vice-Chairman of the said Board of Freeholders.
3. JANE P. METZGER,
Secretary of the said Board of Freeholders.
4. MARY BURKE BAUMBACH.
5. CHARLES R. CAMOMILE.
6. SIDNEY J. EIKENBARY.
7. C. CHESTER HARRINGTON.
8. FRANK HEISCHMAN.
9. WILLIAM P. HUME.
10. WILLIAM H. MORGAN.
11. JOHN A. PERDUE.
12 WILLIAM S. PETERKIN.
13. ISAAC TOVIL.
14. MALCOLM M. WADDELL.
15. FRANK J. WHITE,
Members of the said Board of Freeholders.

We do hereby further certify and declare that the foregoing constitutes a full, true and correct statement of the actions and proceedings had by the City of Redondo Beach and the City Council of said City in the matter of the election of a Board of Freeholders as contemplated by Section 8 of Article XI of the Constitution of the State of California and in the preparation, proposal, filing, voting upon and canvassing the returns and declaring the result of said election in the matter of the proposed Charter for the government of the City of Redondo Beach;

That the said Charter as hereinbefore set forth is a full, true and correct copy of the Charter as prepared and proposed by the said Board of Free-holders and filed in the office of the City Clerk of said City of Redondo Beach, California on the 2nd day of July, 1934 and that the certificate or proposal of said Board of Free-holders attached thereto is a full, true and correct copy of said certificate or proposal of the said Board of Free-holders of said City of Redondo Beach.

IN WITNESS WHEREOF, we have hereunto set our hands and hereto affixed the seal of the said City of Redondo Beach this 21st day of January, 1935.

(SEAL OF CITY OF REDONDO BEACH)

FLOYD J. ROBERTS,
Mayor of the City of Redondo Beach, Cal.
C. C. MANGOLD,
City Clerk of the City of Redondo Beach, Calif.

WHEREAS, Said charter has been submitted to the Legislature of the State of California for approval or rejection without alteration or amendment in accordance with section 8 of Article XI of the Constitution of the State of California; now therefore, be it

Ratification.

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, That the said charter as presented to, adopted and ratified by the electors of the city of Redondo Beach and as hereinbefore fully set forth, be and the same is hereby approved as a whole as and for the charter of the city of Redondo Beach.

CHAPTER 38.

Assembly Concurrent Resolution No. 23—Relative to the blind.

[Filed with Secretary of State February 2, 1935.]

Use of white canes or sticks by blind.

WHEREAS, The blind of this State have adopted the use of a white stick or cane to designate their disability; and

WHEREAS, Municipalities have adopted ordinances requiring motorists to give right of way to blind persons using a white stick or cane; and

WHEREAS, There is now pending legislation before the Legislature of the State of California requiring a uniform recognition of the use of the white stick or cane by the blind; and

WHEREAS, It is desirous that the number of accidents be reduced to a minimum; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, Respectfully request the law enforcement officers of this State to enforce with utmost diligence all ordinances and laws heretofore adopted by municipal and political subdivisions of this State relating to the recognition of the use of the white stick or cane by the blind.

CHAPTER 39.

Assembly Joint Resolution No. 14—Relative to memorializing the Public Works Administration to approve the application of the Los Angeles County Flood Control District for a grant of $4,150,000 to be used for the immediate construction of twelve debris basins in the La Crescenta, La Canada, Verdugo Wash and Haines Canyon Districts, the same being commonly known as the La Crescenta, La Canada, Verdugo Wash and Haines Canyon Project, in the County of Los Angeles, California.

[Filed with Secretary of State February 2, 1935.]

Flood control in Los Angeles County

WHEREAS, There are within the State of California a number of important projects which remain incompleted, because of lack of sufficient funds, without the aid of Federal funds; and

WHEREAS, The construction of the La Crescenta, La Canada, Verdugo Wash and Haines Canyon project is one of the important projects which remains incomplete, because of lack of sufficient funds, without the aid of Federal funds; and Same.

WHEREAS, Recent brush fires have completely removed the protective plant covering from the steep unstable mountain watersheds draining into the La Crescenta and La Canada areas, and have exposed these thickly populated residential districts to a very serious flood and debris hazard; and

WHEREAS, The rainstorm of December 31, 1933, and January 1, 1934, with intensities of rainfall less than may be expected in this region, produced a havoc of destruction, thirty lives were lost in this disaster and over four hundred and eighty homes were made uninhabitable, and an estimated property damage of over five million dollars resulted; and

WHEREAS, This thickly populated district, which includes the communities of Montrose, La Crescenta, La Canada and Tujunga, is now exposed to a repetition of this disaster with possibly a greater toll and loss of life and property if a storm of equal or greater intensity should strike it within the next several years; and

WHEREAS, In order to remove this great hazard it is proposed to construct twelve debris basins at the mouth of the canyons which discharge on the cones upon which these communities are located and it is planned to construct permanent concrete channels to safely carry the desilted water from debris basins; and

WHEREAS, The Legislature of the State of California does hereby endorse the application of the Los Angeles County Flood Control District to the Public Works Administration for a grant of $4,150,000 for the construction of the La Crescenta, La Canada, Verdugo Wash and Haines Canyon project; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Public Works Administration be and the same is hereby respectfully urged to approve the application of the Los Angeles County Flood Control District for a grant of $4,150,000 to be used for the immediate construction of the twelve debris basins and permanent concrete channels in the La Crescenta, La Canada, Verdugo Wash and Haines Canyon project in Los Angeles County, California; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the Federal Administrator of the Public Works Administration.

CHAPTER 40.

Assembly Joint Resolution No. 24—Relative to uniform taxation of petroleum producing property.

[Filed with Secretary of State February 2, 1935.]

Conference by American Legislators' Association relating to taxation of petroleum industry.

WHEREAS, There is a lack of uniformity in the methods of appraising and taxing petroleum producing property by the various taxing units of the State of California, and the various petroleum producing States of the United States; and

WHEREAS, It is desirable that the present inequities be remedied, and

WHEREAS, It may be desirable and practicable to adopt uniform methods and rates of taxation upon such property by the several oil producing States, now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby requests the American Legislators' Association to call a conference of the representatives of the oil producing states with a view of formulating uniform legislation and methods of taxing petroleum producing property. Be it further

Resolved, That if such a conference is called the delegates from the State of California shall consist of: a member of the Assembly to be appointed by the Speaker, a member of the Senate to be appointed by the President of the Senate, a member to be appointed by the Governor. Be it further

Resolved, That a copy of this joint resolution be transmitted to the American Legislators' Association, to the governors of the petroleum producing states, and the presidents of the Senate and speakers of said states with the request that they submit it for action by the Legislatures of their states.

CHAPTER 41.

Assembly Joint Resolution No. 29—Relative to fostering and protecting grape and wine industries.

[Filed with Secretary of State February 2, 1935.]

Encouragement of grape and wine industry

WHEREAS, The grape and wine industries provide a livelihood for upwards of one hundred fifty thousand persons, comprising grape growers, winery workers and their dependents, in California, in addition to many thousands in other states and in addition to many thousands employed in various allied industries in this State and elsewhere; and

WHEREAS, These industries, after fifteen years of compulsory stagnation due to the prohibition laws, are now again in a position to recover their losses and to contribute greatly to the public welfare, because the industries above named already comprise the second largest agricultural pursuit in California,

within excess of five hundred thousand acres of vineyards and six hundred fifty-four wineries in active operation, altogether representing an investment exceeding four hundred twenty million dollars; and Same.

WHEREAS, The increasing use of wine as an article of food in certain major consuming centers, including California, offers the most promising available means of increasing the prosperity and speeding the agricultural, industrial and business recovery of this State and also holds promise of developing the grape and wine industries into the greatest industries of California; and

WHEREAS, The principal obstacle now delaying the extensive development, and, in fact, seriously hampering the present recovery of these industries is the blocking of the wine distribution channels in many parts of the Nation by certain types of excessive taxation, excessive licensing and regulatory restrictions, which obstacle is created almost entirely by the widely prevalent misunderstanding of the true function of wine, which is in fact an integral part of the diet, entitled to be classified and treated as a food rather than as a liquor; and

WHEREAS, Such obstacles to wine distribution act to increase the cost of wine beyond the average family's food budget and also to prevent the product from being made conveniently available for use in the home, therefore working a discrimination against consumers of ordinary means by placing wine in a luxury class in which it is available only to a wealthy few; and

WHEREAS, The experience of the State of California, which has during the past year received in excess of two hundred fifty thousand dollars in revenue from a reasonable tax upon wine, has demonstrated that a reasonable tax upon wine can return a larger net revenue to a taxing unit than can be obtained from an excessive tax which hampers distribution; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully urges the President and Congress of the United States and California's Senators and Representatives in Congress to do all in their power to remove all unwarranted obstacles to wine distribution, so that the recovery and the nation-wide growth of the grape and wine industry may be encouraged in this State as well as in other states and so that consumers of average means may be enabled to obtain wine conveniently and at reasonable prices within the family food budget; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the Vice President, the Speaker of the House of Representatives of the Congress of the United States and to California's Senators and Representatives in Congress.

CHAPTER 42.

Assembly Joint Resolution No. 33—Relative to memorializing Congress to request the President and the Congress of the United States to invite the people of the world to participate in the San Francisco Bay Bridge Exposition to be held at the City and County of San Francisco, State of California, during the year 1938.

[Filed with Secretary of State February 2, 1935.]

San Francisco Bay Bridge Exposition Invitation to people of world.

WHEREAS, Two great bridges of world renown will be completed on or about the first day of January, 1938, spanning San Francisco Bay, connecting the City and County of San Francisco with Marin and Alameda counties; and

WHEREAS, The erection of these two bridges is a monumental achievement of civilization; and

WHEREAS, It is befitting that the people of the world be invited to celebrate the completion thereof; now therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California most respectfully urges and requests the President and the Congress of the United States to invite the people of the world to participate in said San Francisco Bay Bridge Exposition to be held in said year 1938; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and member of the House of Representatives from California in Congress of the United States, and that such Senators and members from California be urged to support such exposition.

CHAPTER 43.

Assembly Joint Resolution No. 34—Relative to memorializing the Governors, the Lieutenant Governors, and the Legislators of each of the States of the United States, to invite the people of their respective States to participate in the San Francisco Bay Bridge Exposition to be held at the City and County of San Francisco, State of California, during the year 1938.

[Filed with Secretary of State February 2, 1935.]

San Francisco Bay Bridge Exposition. Invitation to people of the several States

WHEREAS, Two great bridges of world renown will be completed on or about the first day of January, 1938, spanning San Francisco Bay, connecting the City and County of San Francisco with Marin and Alameda counties; and

WHEREAS, The erection of these two bridges is a monumental achievement of civilization; and

WHEREAS, It is befitting that the people of the various States of the Union be invited to celebrate the completion thereof; now therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California most respectfully urges and requests the Governors, Lieutenant Governors and Legislators of said States to invite the people of their respective States to participate in the aforementioned San Francisco Bay Bridge Exposition to be held in the said year 1938; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governors, Lieutenant Governors, and Legislators, of the various States of the United States, and that said Governors, Lieutenant Governors, and Legislators of the said States urge the people of their respective States to attend the San Francisco Bay Bridge Exposition in 1938.

CHAPTER 44.

Assembly Joint Resolution No. 36—Relative to memorializing Congress to enact proposed legislation commonly known as "Universal Draft" in time of war.

[Filed with Secretary of State February 2, 1935.]

Universal draft of material resources in time of war

WHEREAS, The young men of America were called from their useful occupations during the World War to shoulder arms in the defense of our country and to make the great sacrifice of time, strength, health and even life itself while certain others not required to make these great sacrifices were exploiting our government and our citizens; and

WHEREAS, During this national emergency, profiteering by individuals, firms and corporations who looted the government and gouged our citizens was so prevalent as to become a stain upon our National honor; and

WHEREAS, The munitions committee of the United States Senate has recently disclosed the huge profits made by munition, shipbuilding and other war time contractors; and

WHEREAS, It is fair and just that every resource of this Nation, in addition to men to bear arms, should be available without private profit or gain for National defense in time of war and that Congress should provide for the conscription of every citizen and of all money, industries, and property of whatsoever nature necessary for the prosecution thereof; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California most respectfully urges and petitions the President of the United States and the Congress of the United States to enact such legislation necessary to accomplish the universal conscription in time of war of the material resources, indus-

trial organizations and services of our nation which is necessary to the successful termination of such emergency and to the end that all semblance of profit shall be eliminated therefrom; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and member of the House of Representatives from California in the Congress of the United States, and that such Senators and members from California be urged to support such legislation.

CHAPTER 45.

Assembly Joint Resolution No. 35—Relating to memorializing Congress to consider the almond industry of California and to maintain the existing tariff regulations thereon.

[Filed with Secretary of State February 2, 1935.]

Tariff protection for almonds.

WHEREAS, The growing and marketing of almonds is one of California's great agricultural industries; and

WHEREAS, This is a specialty crop, not always fully understood by those unfamiliar with California conditions, and with great present and future possibilities; and

WHEREAS, This industry annually provides the livelihood for our 5000 growers, together with their dependents, and their employees, and in addition, the partial livelihood of all who furnish services and supplies, to the total of many times the above figure; and

WHEREAS, The reciprocal trade agreements proposed between this country and Italy and Spain threaten this industry with disaster, if not actual extinction; therefore, be it

Resolved, That the Assembly of the State of California and the Senate, jointly, do hereby memorialize Congress to give this matter immediate and serious consideration, and to maintain the tariff protection which is the only safeguard of this important California industry; and be it further

Resolved, That copies of the resolution be sent to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, the Senators from California and all members of the California delegation in Congress.

CHAPTER 46.

Senate Joint Resolution No. 9—Relative to memorializing the Congress of these United States to eliminate the taxation of gasoline by the Federal government.

[Filed with Secretary of State February 5, 1935.]

Taxation of gasoline by Federal government

WHEREAS, The Congress of the United States of America has imposed a tax upon all sales of gasoline; and

WHEREAS, The State of California and all other several States of the United States have already imposed taxes upon such sales; and

WHEREAS, The Federal tax on such sales is untimely and prohibitive and, coupled with the respective State taxes on such sales, places a burden upon the users of gasoline beyond that which they should carry and beyond that which the traffic can legitimately bear; and

WHEREAS, The taxation of sales of gasoline should properly be left to the exclusive use of the States as a means of providing funds for road construction and maintenance; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Congress of the United States be and it is hereby respectfully memorialized to enact with all convenient speed such legislation as may be necessary to abolish the Federal gasoline sales tax and to yield to the States exclusively the power to tax such sales in the future; and be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States, the Clerk of the House of Representatives, the Secretary of the Senate of the United States and to each member of Congress elected from the State of California and that the latter be urged to use their best offices to procure the enactment of such legislation as will accomplish the purposes of this resolution.

CHAPTER 47.

Assembly Concurrent Resolution No. 26—Relative to the death of Emma D. Jordan.

[Filed with Secretary of State March 12, 1935.]

Death of Emma D. Jordan.

WHEREAS, The Honorable Frank C. Jordan has for many years been one of the best loved of our State officials; and

WHEREAS, There has befallen him since our last meeting the severe misfortune of the loss, through death, of his beloved wife Emma D. Jordan; and

WHEREAS, Emma D. Jordan was beloved not only by her husband and family, but by all who knew her; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members of the Legislature of the State of California extend to the family of Emma D. Jordan their deepest sympathy, and that when we adjourn this day we do so out of respect to her memory; and be it further

Resolved, That this resolution be spread upon the minutes of the Senate and Assembly and that suitably engrossed copies be transmitted to the members of her family.

CHAPTER 48.

Assembly Concurrent Resolution No. 25—Relative to the death of Fremont Older.

[Filed with Secretary of State March 12, 1935.]

Death of Fremont Older.

WHEREAS, One of the most beloved, public-spirited, respected, and revered citizens of the State of California has passed to the great beyond. He was for nigh on to half a century a leader of our thought and a champion of good government and of the cause of the under-dog. He had no superior in American journalism. He will be missed most by those who knew him best. We refer to our friend and champion, the late lamented citizen, Fremont Older of San Francisco; therefore be it,

Resolved by the Assembly of the State of California, the Senate concurring, That when the Legislature adjourns this day, it do so out of respect to the memory of the late Honorable Fremont Older; and be it further,

Resolved, That the Chief Clerk be and is hereby, instructed to have prepared a suitable memorial resolution properly engrossed and mailed to the family of the deceased.

CHAPTER 49.

Assembly Concurrent Resolution No. 24—Relative to the adjournment of the Legislature out of respect to the memory of the late Honorable Dana P. Eicke.

[Filed with Secretary of State March 12, 1935.]

Death of Dana P. Eicke

WHEREAS, Divine Providence has seen fit to remove from this earthly sphere of activity the Honorable Dana P. Eicke; and

WHEREAS, During his short but active service in this Legislature he endeared himself to the hearts of the members by his sterling character and qualities; and

WHEREAS, The members of this Legislature have learned with profound regret and the deepest sorrow of the passing of their esteemed colleague, Honorable Dana P. Eicke; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That when the Legislature adjourns this day it do so out of respect to the memory of the late Honorable Dana P. Eicke; and be it further

Resolved, That the Chief Clerk be and he is hereby instructed to have prepared a suitable memorial resolution properly engrossed and mailed to the family of the deceased.

CHAPTER 50.

Senate Concurrent Resolution No. 14—Relative to approving certain amendments to the charter of the city of Sacramento, a municipal corporation of the State of California, voted for and ratified by the qualified electors of said city at a special municipal election held therein on the seventh day of November, 1933.

[Filed with Secretary of State March 12, 1935.]

WHEREAS, Proceedings have been had and taken for the proposal, adoption, and ratification of certain amendments hereinafter set forth to the charter of the city of Sacramento, a municipal corporation, as set out in the certificate of the mayor and city clerk of the city of Sacramento, as follows, to wit: City of Sacramento Charter amendments

CERTIFICATE OF RATIFICATION OF ELECTORS OF THE CITY OF SACRAMENTO OF CERTAIN CHARTER AMENDMENTS.

State of California,
County of Sacramento, } ss:
City of Sacramento,

We, the undersigned C. H. S. Bidwell, Mayor of the City of Sacramento, State of California, and H. G. Denton, City Clerk of said city, hereby certify and declare as follows: Certificate

That the City of Sacramento, a municipal corporation of the County of Sacramento, State of California, now is, and at all times herein mentioned, was a city containing a population of more than 50,000 inhabitants and has been ever since the year 1921 and now is organized, existing and acting under a freeholders' charter, adopted under and by virtue of Section Eight of Article Eleven of the Constitution of the State of California, which charter was duly ratified by the majority of the qualified electors or said city at a special election held for that purpose on the 30th day of November, 1920, and approved by the Legislature of the State of California on the 24th day of January 1921, (Statutes of 1921, page 1919).

That, in accordance with the provisions of Section Eight of Article Eleven of the Constitution of the State of California, the City Council of said City of Sacramento, being the legislative body thereof, on its own motion, by Resolution Number 161, adopted on the 21st day of September, 1933, duly proposed to the qualified electors of the City of Sacramento certain amendments to the Charter of said city to be submitted to said qualified electors at a special municipal election to be held in said city on the 7th day of November, 1933, which said amendments were and are, and each of them was and is in the words and figures as follows:

"PROPOSAL NO. 1.

To Amend Sections 167, 168, 169, 170, 171, 172, 173, 174, 175 and 176 of Article XX of the Charter of the City of Sacramento to Read Respectively as Follows:

Retirement System

Retirement System.

Sec. 167. In order to continue in force, with such modifications as are set forth in this Charter, provisions already existing for retirement and death benefits for officers and employees' Retirement System, hereinafter referred to as the Retirement System or the System, is hereby created. Elective officers, the City Manager and members of Boards and Commissions shall not be eligible to membership in said Retirement System, and the City Council may exclude from such membership persons employed on a temporary or part-time basis. The City Council is hereby empowered to enact, by a vote of three-fourths of its members, any and all ordinances necessary to carry into effect the provisions of Sections 167 to 175, both inclusive, of this Charter provided that the Said Council shall secure, through the Retirement Board, an actuarial report of the cost and effect of any proposed change in the benefits under the Retirement System, before enacting an ordinance or before voting to submit any proposed Charter amendment providing for such change.

Retirement Board

Retirement Board.

Sec. 168. The Retirement System shall be managed by a Retirement Board, which is hereby created, and which shall be the successor and have the powers and duties of the Pension Board of the City of Sacramento. The Retirement Board shall consist of the City Manager, the City Controller, a member of the Civil Service Board to be selected by and serve at the pleasure of that Board, a citizen of the City of Sacramento but not connected with the government thereof, to be appointed by the City Council, and three members elected under the supervision of the Retirement Board from the active members of the Retirement System, who shall not include retired persons, of the Retirement System, provided that immediately after the effective date hereof, the Mayor shall appoint three members from such active members of the Retirement System to serve until the election of such members, which shall not be more than six months after the effective date hereof, hereby defined as the first day of the month next following ratification by the Legislature. One of such three members shall be a member of the Fire Department, one a member of the Police Department and one employed in any other office or department of the City of Sacramento, and the election of such three members shall be confined to the group from which he must be chosen. The

term of office of the four members, other than the ex-officio members, shall be four years, one term expiring each year, provided that immediately after the election of the three Retirement System members, they shall draw lots for terms of one, two, three and four years, respectively. The members of the Retirement Board shall serve without compensation. The Board shall appoint a Secretary to hold office at its pleasure, and when necessary employ a consulting actuary.

The Retirement Board shall be the sole authority and judge, under such general ordinances as may be adopted by the City Council, to determine when members may receive and may continue to receive benefits of any sort under the Retirement System, and shall have exclusive control of the administration and investment of such fund or funds as may be established, provided that all investments shall be of the character legal for insurance companies in California.

Actuarial Tables, Rates and Valuations

Sec. 169. The mortality, service and other tables and the rates of contribution for members as recommended from time to time by the actuary and the valuations determined by him from time to time and approved by the Retirement Board shall be conclusive and final and the Retirement System shall be based thereon. The total amount, as determined by the actuary and approved by the Board, of the contribution required during any fiscal year of the City under the Retirement System, shall be paid into the Retirement System by the City during such year. Liabilities accruing under the Retirement System because of service rendered to the City prior to the effective date hereof, and administrative costs under the System, shall be met by contributions to the Retirement System by the City, in addition to any amounts contributed to meet liabilities accruing because of service rendered by such persons after becoming members of the System, provided that such prior service liabilities may be met by annual appropriations instead of by one appropriation for the total amount of the liabilities; and provided further, that such appropriation for any one year shall not be less than the amount disbursed during that year on account of prior service. **Actuarial tables.**

In addition to other contributions required of the City under the System the City shall contribute to the Retirement System during each fiscal year a sum which, together with the members' contributions provided for in Sections 173 and 175 shall be equal to the liabilities accruing under the System because of service rendered during such year by all members of the System; provided that, during the present economic emergency, payment to the Retirement System of contributions required of the City during any year under this paragraph on account of service rendered after the effective date hereof by persons who become members on the said date, less **Contributions by city**

benefits paid during such year by the System on account of such service, may be postponed by the City Council, the amount payable, however, being entered when due, and accumulated with interest from that date, in the accounts and records of the City and Retirement System as an asset of the System and a liability of the City, and the City shall pay to the Retirement System such accumulated amount within five years from the end of the year in which the said service was rendered.

Contributions to the Retirement System required of the City shall be charged by the Controller against the General Fund or the Utility, Bond or other Special Fund under which the service was rendered, on account of which the contribution is required; provided that contributions required on account of service rendered by any such person prior to becoming a member of the System, under a temporary fund, such Bond Funds, or a fund that no longer existing, may be charged against the General Fund.

Actuarial investigations

Periodically, at periods fixed by the City Council, the Board shall make an actuarial investigation into the mortality, service and other experience under the System, and further shall make an actuarial valuation of the assets and liabilities of the System, and upon the basis of such investigation and valuation as interpreted by the actuary, any necessary revisions of the tables and rates being used under the System, shall be made, provided that this paragraph shall not apply to contributions required of persons who become members of the Retirement System under Sec. 173 of this Charter.

Definitions

Definitions. Continuous service.

Sec. 170. "Continuous service" shall be defined by the City Council but the absence of any officer or employee of the City from service caused by reason of the service of such officer or employee in the military or naval forces of the United States in any war in which the United States has engaged or may become engaged, or during other national emergency, shall not be deemed to be such an absence from service as shall break the continuity of service required of such officer or employee to entitle him to a pension or retirement allowance as provided under the Retirement System. The City Council may elect in case of war to provide funds sufficient to continue the contributions of members absent and in such service, in which case the period of such absence shall be deemed service for the City. Absence from duty without salary or wages at any other time due to other causes shall not be so deemed. The City Council may fix the number of days and months per year to be required of per diem and monthly employees, respectively, for a year of service and proportionate parts thereof, but not more than one year shall be credited for all service in any year.

Compensation earnable

"Compensation earnable" shall mean the average compensation as determined by the Retirement Board, upon the basis

of the average period of employment in the same group of class of employment and at the same rate of pay.

"Retirement allowance" or "allowance" shall mean equal monthly payments for life unless a different term of payment is provided by the context, provided that any person to whom or on whose account benefits are payable, may elect to have the actuarial equivalent of such benefits paid in different form, all subject to such restrictions, regulation and conditions as may be prescribed by the City Council, but the action of the City Council shall not prevent such benefits when elected by a member, from taking the form of cash refund annuities, as applied to the member's accumulated contributions only, or reversionary annuities, these terms to have the meaning commonly accepted in life insurance practice. Allowance.

"Final compensation" shall mean the average compensation earnable by a member during the ten years immediately preceding his retirement. Final compensation

"Employee" shall mean "officer and employee". Employee

"Member" shall mean member of Retirement System unless clearly indicated otherwise. Member

For the purposes of the Retirement System, any officer or employee of the Police or the Fire Departments whose employment therein was or shall be subject to a Charter maximum age at the time of employment, of not over thirty-five years in the Police Department and forty years in the Fire Department, shall be considered to be a member of the Police Department or the Fire Department, respectively. Any fire or police service outside the limits of the city performed by a member of the Retirement System and under the orders of a superior officer of any such member, shall be considered as City service, and any disability or death incurred therein shall be covered under the provisions of the Retirement System. Police and Fire Departments

Retired Persons

Sec. 171. No person retired for service or disability and in receipt of a retirement allowance under the retirement System shall serve in any appointive position in the City service, including membership on Boards and Commissions, nor shall such person receive any payment for service rendered, except in an elective office, to the City after retirement, provided that service as an election officer or juror shall not be affected by this section. Pensioner ineligible to appointive office.

Should any retired person, prior to attaining the minimum age required of members in his class for service retirement after less than thirty years of service, engage in a gainful occupation, the Retirement Board shall reduce that part of his monthly retirement allowance which is provided by contributions of the City, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed his compensation at the time of retirement. Reduction when employed

Injury in Performance of Duty

Physical disability

Sec. 172. Any city employee who shall become physically disabled by reason of any bodily injury received in the performance of his duty, shall be entitled to such medical, surgical, and hospital treatment, including nursing, medicines, and medical and surgical supplies and apparatus, as may be required on account of such injury, the same to be provided by the City. Such injured employee shall receive full pay from the City during the continuance of his disability or until retired upon a retirement allowance, but not to exceed one year. That portion of any allowance payable because of the death or retirement of any such employee which is provided by contributions of the City shall be reduced, in the manner fixed by the City Council, by the amount of any benefits payable to or on account of such person, under the Workmen's Compensation Insurance and Safety Law of the State of California. The City Council may provide for the administration of each case under this section by the City Manager independently of the Retirement Board, until the retirement of the injured employee.

Present Employees

Who are members.

Sec. 173. Persons who shall be in the employ of the City on the effective date hereof shall become members of the Retirement System on that date, subject only to the following provisions in addition to the provisions contained in Sections 167 and 172 both inclusive, of this Charter.

Retirement for age.

(a) Members of the Retirement System shall be retired upon reaching the age of seventy years. The Retirement Board may retire and relieve from service any member of the Police or Fire Department who has passed the age of fifty-five years, or any other employee who has passed the age of sixty years, who may be ascertained by the Board to be unfit for the performance of his duty. Said Retirement Board shall, at the request of any member of the Police and Fire Department who has arrived at the age of fifty-seven with twenty-five years of continuous service, or the age of sixty with twenty years of continuous service, or who has thirty years of such service, irrespective of age, or any other employee who has passed the age of sixty-two with thirty years of continuous service, or the age of sixty-five with twenty years of continuous service, or who has thirty five years of such service, irrespective of age, retire and relieve such member of employee making such application. Such retired member shall receive a retirement allowance equal to one-half of the average monthly salary paid him one year prior to his retirement. No retirement allowance shall be paid under the provisions of this paragraph unless the member has rendered at least twenty years of continuous service to the City preceding his retirement, and, except as hereinafter provided, said pension shall cease at his death. Dismissal of a member from service for

any cause whatever, after he has qualified as to age and/or service for service retirement, shall not deprive him of the right to retire and receive the retirement allowance under this paragraph.

Retirement for disability in line of duty.

(b) Any member of the Retirement System, who shall become disabled by reason of any bodily injury received in the performance of his duty may be retired upon a retirement allowance equal to seventy-five per centum of the average monthly salary paid him one year prior to his retirement, said allowance to cease at his death, except as hereinafter provided. In case his disability shall cease, his allowance shall cease, and he shall be restored to the service in the rank occupied at the time of his retirement.

Retirement for other disability

(c) Any member of the Retirement System who shall become disabled from any cause not included in Paragraph (b) immediately preceding, and who has completed at least twenty years of continuous service to the City, may be retired upon an allowance equal to one-half of the average monthly salary paid him one year prior to his retirement, such allowance to cease at his death, except as hereinafter provided. In case his disability shall cease, his allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

Death benefit.

(d) Upon the death of any person who has been retired or who, at the time of death was eligible for service retirement under the provisions of this section, leaving a widow, provided she was the wife of such member at the time of his retirement, she shall receive an allowance equal to two-thirds of the allowance received by such person or to which he was eligible at the time of his death; or if such widow dies, or if he leaves no widow, and either he or his widow leave a child or children, under the age of eighteen years, said amount shall be paid to such child, or children, in equal shares, while under the age of eighteen years; provided, however, that if such widow, or child or children, shall marry, then such person so marrying shall thereafter receive no further allowance and provided further that if such deceased person leave neither widow, nor child nor children, under the age of eighteen years, but leaves a parent or parents dependent solely or partially upon him for support, an allowance shall be paid to the parent or parents during such time and in such amount as the Retirement Board may determine its necessity, but not to exceed two-thirds of the allowance received by such person or to which he was eligible at the time of his death.

Benefit for death in line of duty

(e) The Retirement Board shall provide as follows for the family of any member of the Retirement System who may die as the result of injuries received in the performance of duty:

Widow.

(1) Should the decedent leave a widow, she shall, as long as she remains unmarried, be paid an allowance equal to one-half of the monthly salary paid the decedent at the time of his death.

Children

(2) Should the decedent leave no widow, but leave any child or children under the age of eighteen years, or should he leave a widow who shall die and leave his children under the age of eighteen years, such child or children collectively shall receive an allowance equal to one-half the monthly salary paid to the father at the time of his death, until the youngest child attains the age of eighteen years; provided, that no child shall receive any such allowance after attaining the age of eighteen years.

Parents.

(3) Should the decedent leave no widow or orphan child, or children, but leave a parent or parents, dependent solely or partially upon him for support, such parents so dependent shall, collectively, receive an allowance during such time and in such an amount as the Retirement Board may determine, but not to exceed one-half of the monthly salary paid to the decedent at the time of his death.

Benefit for death after ten years' service.

(f) When a member of the Police or Fire Department shall die while in the employ of the City, and before retirement, and if no allowance is payable to his widow and/or children, from causes other than those specified in preceding subdivision (e) and after ten years of continuous service in such department, then his widow, and if there be no widow, then his children, and if there be no widow or children, then his parent or parents, if dependent upon him for support, shall be entitled to the sum of One Thousand ($1,000.00) Dollars. When any member of the Retirement System shall die before retirement, and if no allowance is payable to his widow and/or children, from causes other than those specified in the immediately preceding subdivision (e), the contributions standing to his credit under the Retirement System shall be paid, with interest, to such beneficiary as he shall have nominated by written designation duly executed and filed with the Retirement Board.

Contribution by members

(g) Each person who becomes a member of the Retirement System under the provisions of this section shall contribute each month to the Retirement System, commencing on the effective date hereof, four per cent if he be a member of the Police or Fire Department, otherwise three and one-half per cent, of his gross salary before deduction for any reason other than absence from duty, to be applied on the cost of the benefits at death or retirement provided for him under this section. Should any person who is a member under the provisions of this section be separated from City service through any cause other than death or retirement, then all of his contributions, with interest shall be refunded to him.

Credit for contributions.

(h) The contributions made under this section shall be credited to the individual account of the member from whose compensation they were deducted, and no amendment to this Charter or repeal thereof, shall prevent the payment to the member or his beneficiary, of such contributions made prior to the effective date of such amendment or repeal, with inter-

est, upon death or other separation from City Service as provided in this section.

(i) Persons who are eligible for membership under this section, shall have the option, to be exercised in writing on or before ninety days after the effective date hereof, of becoming members of the Retirement System under the provisions of Section 175, which applies to persons who become employees after the effective date hereof. If such persons shall affirmatively exercise such option within the time specified, then they shall not receive any benefit under this section, but shall become members of the Retirement System and shall receive benefits and make contributions, all dating back to the effective date hereof, on the same basis as persons who become members after such effective date, provided that a pension, upon retirement for service at or over age sixty-five, or age sixty if the person be a member of the Fire or Police Department, for each person affirmatively exercising such option shall be payable on account of service rendered to the City prior to such effective date, by contributions of the City, which pension shall be the same percentage of his final compensation, for each year of such service, as the contributions of the member and the City are calculated to provide upon retirement at age sixty in the case of members of the Fire and Police Departments and age sixty-five in the case of other members of the System, for each year of service rendered as a member of the Retirement System. Option of present employees.

Existing Pensions Continued

Sec. 174. Allowances existing in favor of or on account of employees of the City, at the time of the adoption of this Charter shall be continued in force, subject to change under the provisions of Section 173. Existing pensions continued

Future Employees

Sec. 175. Persons who shall enter the employ of the City after the effective date hereof shall become members of the Retirement System on the date of such entry subject only to the following provisions, in addition to the provisions contained in Sections 167 to 172, both inclusive, of this Charter: Future employees

(a) Members of the Fire and Police departments may retire for service at their option upon attaining an age of at least sixty years, and other members of the System upon attaining an age of at least sixty-five years, but only after rendering at least fifteen years of continuous service to the City; provided that any member may retire for service regardless of age after rendering at least thirty years of continuous service to the City. Dismissal of a member from service from any cause, after he has qualified as to age and service for service retirement, shall not deprive him of the right to retire under the sentence immediately preceding. Any member of the System may be retired for disability, regardless of age Retirement for age.

and amount of service, if incapacitated for the performance of duty as the result of an injury received in the performance of his duty. Any member incapacitated for the performance of duty by reason of a cause not included under the immediately preceding sentence, may be retired regardless of age but only after ten years of continuous service to the City. Retirement shall be compulsory at the age of seventy years.

Retirement for service

(b) Upon retirement for service, a member shall receive a retirement allowance equal in value, when computed upon the basis of tables and rates recommended by the actuary and approved by the Retirement Board, as provided in Section 169 of this Charter, to twice the normal contributions, plus accumulated interest thereon, made by him and standing to his credit under the Retirement System, at the date of his retirement.

Retirement for disability in line of duty.

Upon retirement for disability resulting from injury received in performance of duty, a member shall receive a retirement allowance of seventy-five per centum of his final compensation.

Retirement for other disability.

Upon retirement for disability resulting from any cause not included in the immediately preceding paragraph, a member shall receive a retirement allowance of (1) one and one-half per centum of his final compensation multiplied by the number of years of service credited to him, if such allowance exceeds one-fourth of his final compensation; otherwise, (2) one and one-half per centum multiplied by the number of years which would be creditable to him were his service to continue until his attainment of the age of sixty-five years, but such allowance shall not exceed one-fourth of his final compensation.

Cessation of disability.

If the disability for which a member was retired shall cease, his allowance shall cease, and he shall be reinstated to the rank or position of the same grade as that he occupied at the time of his retirement.

Additional contributions.

To the allowances provided in this section, shall be added the allowance which the additional contributions of the retiring member will provide when applied in the same manner as his normal contributions.

Death benefit.

(c) Upon the death before retirement of a member, the Retirement System shall be liable for a death benefit, which, if an amount be due under paragraph (3) next following, and if there be a surviving wife or surviving children, shall be paid in monthly installments and to the Surviving wife and children as prescribed therein, otherwise such death benefit shall be paid to his estate, or to such person having an insurable interest in his life as he shall nominate by written designation duly executed and filed with the Retirement Board, and such death benefit shall consist of:

(1) His accumulated contributions, and in addition thereto,

(2) An amount equal to his average monthly compensation earnable during the six months immediately preceding his death, multiplied by his completed years of service as a

member of the System, not to exceed six, and if in the opinion of the Retirement Board, death be the result of bodily injury sustained while in the performance of duty, in addition thereto,

(3) An amount sufficient, when added to the amounts provided in the next preceding paragraphs (1) and (2), to provide when applied according to mortality tables adopted by the Board, a monthly death benefit allowance, equal to one-half of the compensation earnable by such member during the ten years immediately preceding his death, to be paid to the surviving wife to whom said member was married at the time of sustaining the said injury, to continue as long as she shall live or until her remarriage; or if there be no widow, or if the widow die before any child of such deceased member shall have attained the age of eighteen years, then to his child or children under said age collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after attaining the age of eighteen years. If payment of the allowance be stopped because of remarriage of the widow or attainment of the age of eighteen years by a child, before the sum of the monthly payment made shall equal the sum of the amounts provided in the next preceding paragraphs (1) and (2), then an amount equal to the difference between said sums shall be paid in one amount to the remarried widow, or if there be no widow, to the surviving children of the deceased member, share and share alike.

Normal contributions

(d) The normal contributions required of each member shall be such as will provide on the average for such member, when accumulated with interest, added to the equal accumulated contributions of the City and applied according to the tables and rates recommended by the actuary and approved by the Retirement Board as hereinbefore provided, a retirement allowance upon retirement at the age of sixty years if the member be a member of the Fire or Police Department, and sixty-five years in the case of any other member, equal to one and one-half per centum of his monthly final compensation, for each year of service rendered by him to the City as a member of the Retirement System. Members may contribute at rates in addition to the normal rates provided for in the immediately preceding sentence, to provide additional benefits, but the City shall not contribute any amount because of such members' additional contributions. Such additional contributions shall be administered in the same manner as the normal contributions.

Additional contributions.

Refund on separation from service

(e) Should any person who is a member under the provisions of this section be separated from City Service through any cause other than death or retirement, then all of his contributions, with interest, shall be refunded to him.

Credit to individual account.

(f) The contributions made under this section shall be credited to the individual account of the member from whose compensation they were deducted, and no amendment to this Charter or repeal thereof, shall prevent the payment to the member or his beneficiary, of such contributions made prior

to the effective date of such amendment, with interest, upon death or other separation from City service as provided in this section.

Rewards

Reward for meritorious service.

Sec. 176. The City Council may, on notice from the City Manager, reward any City employee for conduct which is heroic or meritorious. The form or amount of such reward shall be discretionary with the City Council, but shall not exceed in any one instance one month's salary.

PROPOSAL NO. 2

To Amend Section 45 of the Charter of the City of Sacramento to Read as Follows:

Preferences

Civil service preference to veterans.

Sec. 45. In all such tests, honorably discharged soldiers, sailors and marines, and women who have served in the forces of the United States in time of war, as described in Political Code of California, and who have attained a percentage qualifying them for any position under civil service regulations, shall be allowed an increase of ten (10) points above the credit they have attained in such examination. Preference under this section does not apply to promotions, nor to promotion examinations.

PROPOSAL NO. 3

To Amend Section 200 of the Charter of the City of Sacramento to Read as Follows:

Polls Open and Close

Opening and closing polls

Sec. 200. At all elections held under the provisions of this Charter, the polls shall open at six o'clock a.m. and close at seven o'clock p.m. of the same day; provided, however, that if at the hour of closing there are any other voters at the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote; but no person who shall arrive at the polling place after the time provided for closing the polls shall be entitled to vote, although the polls may be open when he arrives.

PROPOSAL NO. 4

To Amend Section 70 of the Charter of the City of Sacramento to Read as Follows:

Payment of Claims

Payment of claims

Sec. 70. Payment by the City, excepting redemption of bonds and interest coupons, shall be made only upon vouchers

certified by the head of the appropriate department and approved by the City Manager, and by means of warrants on the City treasury issued by the Controller. The Controller shall examine all payrolls, bills and other claims and demands against the City, and shall issue no warrant for payment unless he finds the claim is in proper form, correctly computed and duly certified; that it is justly and legally due and payable; that an appropriation has been made therefor which has not been exhausted or that the payment has been otherwise legally authorized; and that there is money in the City treasury to make payment. He may require any claimant to make oath to the validity of the claim. He may investigate any claim, and for such purpose may examine witnesses under oath; and if he finds it fraudulent, erroneous or otherwise invalid, he shall not issue a warrant therefor. No suit shall be brought on any claim for money against the City or any officer, board or commission of the City until a demand for the same has been presented, as herein provided, and rejected in whole or in part. If rejected in part, suit may be brought to recover the whole. Except in those cases where a shorter period of time is otherwise provided by law, all claims for damages against the City must be presented within six (6) months after the occurrence for which damages arose; and all other claims and demands shall be presented within six (6) months after the last item of the account or claim approved. Nor shall suit be brought against the City or any officer, board or commission thereof upon any claim or demand which has been approved and audited; provided, that nothing herein shall be construed so as to deprive the holder of any demand of his right to resort to writ of mandamus or other proceeding against the City Council or any officer, board or commission to compel him or it to act upon such claim or demand, or to pay the same when audited.

Claims for damages.

That each said proposed amendment was, on the 27th day of September, 1933, published and advertised in accordance with the provisions of Section Eight, Article Eleven of the Constitution of the State of California in the "Sacramento Union," a daily newspaper of general circulation published in the said City of Sacramento and the official newspaper of said City of Sacramento.

Certificate.

That copies of said proposed amendments were printed in convenient pamphlet form and in type of not less than ten point and copies thereof were mailed to each of the qualified electors of said City of Sacramento; that, until the date fixed for the election hereinafter described, an advertisement was published in said "Sacramento Union" that such copies could be had upon application therefor at the office of the City Clerk of said City of Sacramento.

That such copies could be had upon application therefor at the office of the said City Clerk until the date fixed for the election hereinafter described.

That, in accordance with the provisions of the Charter of said City of Sacramento and a resolution of the legislative body thereof, there was duly held in the said City of Sacramento, on the 7th day of November, 1933, a special municipal election and that the said proposed charter amendments, and each of them, were duly and regularly submitted to the qualified electors of said City for their ratification at said election and that at the said election the majority of the qualified electors voting thereon voted in favor of the ratification of and did ratify each of the said proposed amendments to the Charter of said City hereinabove set out.

That the results of said election were duly and regularly canvassed and certified to and it was duly found and determined and declared by the proper officers of said City that a majority of the qualified electors of said City voting thereon had voted for and ratified each of said proposed amendments.

That we have compared the foregoing amendments with the original proposals submitting the same to the electors of said City and find that the foregoing is a full, true, correct and exact copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of said City of Sacramento to be affixed hereto this 28th day of November, 1933.

C. H. S. BIDWELL,
[SEAL] Mayor of the City of Sacramento.

H. C. DENTON,
[SEAL] City Clerk of the City of Sacramento.

Subscribed and sworn to before me this 28th day of November, 1933.

HUGH B. BRADFORD,
Notary Public in and for the County of Sacramento, State of California.

[SEAL]

Ratification.

WHEREAS, The said proposed amendments so ratified as hereinbefore set forth have been and are now duly presented and submitted to the Legislature of the State of California for approval or rejection, as a whole without power of alteration, in accordance with section 8, Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, That said amendments to the charter of the city of Sacramento, as proposed to and adopted and ratified by the electors of said city and as hereinbefore fully set forth, be and the same are hereby approved, as a whole, without amendment or alteration, for and as amendments to and as a part of the charter of the city of Sacramento.

CHAPTER 51.

Senate Concurrent Resolution No. 20—Relative to inviting Secretary of Labor Perkins to address a joint session of the Senate and Assembly.

[Filed with Secretary of State March 20, 1935.]

Invitation to Secretary of Labor Perkins to address Legislature.

WHEREAS, The United States Secretary of Labor, Miss Frances Perkins, has been extended an invitation by the Governor of California, Honorable Frank F. Merriam, to visit Sacramento; and

WHEREAS, The Senate and Assembly of the State of California would be honored to have Miss Perkins address them; now, therefore, be it

Resolved by the Senate, the Assembly concurring, That an invitation be extended to Secretary of Labor Perkins to address the Senate and Assembly in joint session assembled; and be it further

Resolved, That on the twenty-second day of March, 1935, or at such time as may be more convenient, the Senate and Assembly shall assemble in joint session in the Assembly Chamber for the purpose of greeting Secretary of Labor Perkins and listening to an address by her.

CHAPTER 52.

Assembly Concurrent Resolution No. 27—Relative to the retirement of Edward J. Hanna as Archbishop of the Archdiocese of San Francisco.

[Filed with Secretary of State March 20, 1935.]

Retirement of Archbishop Hanna.

WHEREAS, It has come to the attention of the members of the Legislature of the State of California that Edward J. Hanna has, because of his advancing years and with the approval of the Holy See, resigned from the position of archbishop of the Archdiocese of San Francisco; and

WHEREAS, The score of years during which Edward J. Hanna held the position of archbishop of the Archdiocese of San Francisco was marked by distinguished service not only to his church but also to the people of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That this expression of the regret of the Legislature of California upon the retirement of Edward J. Hanna and appreciation of the distinguished services rendered the State of California on many occasions be spread upon the minutes of each house of the Legislature, and that a copy of this resolution, suitably engrossed, be sent to Edward J. Hanna.

CHAPTER 53.

Assembly Concurrent Resolution No. 28—Relative to the adjournment of the Legislature out of respect to the memory of Dr. T. H. Stice.

[Filed with Secretary of State March 20, 1935.]

Death of Dr. T H Stice.

WHEREAS, Divine Providence has seen fit to remove from this earthly sphere, Dr. T. H. Stice, the superintendent of Napa State Hospital; and

WHEREAS, The members of this Legislature have learned with profound regret and deepest sorrow of his passing; now, therefore, be it

Resolved by the Assembly, the Senate concurring, That when the Legislature adjourns this day it do so out of respect to the memory of said Dr. T. H. Stice; and be it further

Resolved, That the Chief Clerk be and he is hereby instructed to have prepared a suitable memorial resolution properly engrossed and mailed to the family of the deceased.

CHAPTER 54.

Assembly Joint Resolution No. 31—Memorializing Congress to appropriate sufficient funds and enact additional legislation to provide a comprehensive plan for the deporting of undesirable aliens and aliens who are illegally within this nation.

[Filed with Secretary of State March 25, 1935.]

Deportation of undesirable aliens and aliens illegally within this country

WHEREAS, The United States Department of Labor is and has been charged with the duty of deporting from this nation undesirable aliens and aliens who are illegally in this nation; and

WHEREAS, It has been publicly stated that funds are not available in sufficient quantity to permit active, militant action in the matter of illegally entered or undesirable aliens; and

WHEREAS, It is the sense of the Legislature of the State of California that the Department of Labor requests the full cooperation of the United States Department of Justice in the deporting of undesirable aliens and aliens who are illegally in this country; and

WHEREAS, The Departments of Labor and Justice have limited funds available for the carrying out of this important duty; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests and memorializes the Congress of the United States to provide permanent bureaus of record free from political interference or interruption, to carry on

a continuous investigation of all subversive activities in the United States; and be it further

Resolved, That this Legislature respectfully requests and memorializes the Congress of the United States to make such immediate appropriations as needed to carry on this extensive investigation and that any and all additional laws be enacted by the Congress of the United States as will further the extensive plan as proposed by the Departments of Justice and Labor.

CHAPTER 55.

Assembly Joint Resolution No. 32—Memorializing Congress to prepare proper legislation providing for the deportation of aliens who are dependent upon public relief.

[Filed with Secretary of State March 25, 1935.]

Deportation of aliens dependent upon public relief.

WHEREAS, The problem of public relief is of paramount importance to every city, county, State and the Federal government, and as the projects of public relief in every community, State, and the nation find thousands of instances in which aliens having failed to apply for citizenship in the United States are enjoying such benefits; and

WHEREAS, The prerequisite of admission to citizenship requires that aliens submit proof that they are not likely to become a public charge; and

WHEREAS, The problem of unemployment for our citizens is distinctly hampered in consequence of the competition of aliens occupying public relief jobs in this country and receiving assistance from public relief projects to the obvious detriment of our own people either directly or indirectly; and

WHEREAS, It is the duty of the city, county, State, and Federal government to provide primarily for its citizens and taxpayers who are confronted with the impossibility of maintaining their own existence by gainful labors in commerce and industry; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests and memorializes the Congress of the United States to pass immediately national legislation requiring the deportation of all unemployed aliens now dependent upon public charity and relief and those who may be occupying positions of employment on relief projects under the administration of any city, county, State, or the Federal government; and it is further

Resolved, That the Legislature of the State of California respectfully requests and memorializes that in order to not impose undue hardship on those aliens having accustomed themselves to our standards of living that an exemption from the provisions of such proposed legislation be granted to such aliens over sixty years of age who have resided continuously in the United States for a period of twenty or more years.

CHAPTER 56.

Assembly Joint Resolution No. 10—Relative to memorializing the Public Works Administration to approve the application of the Los Angeles County Flood Control District for a grant of $5,882,000 to be used for the immediate construction and permanent improvement of the flood channel of Ballona Creek between Vineyard Station on the Pacific Electric Railway and the ocean, the same being commonly known as the Ballona Creek Project at Culver City, Del Rey and Venice Bay districts, Los Angeles County, California.

[Filed with Secretary of State March 25, 1935.]

Flood control in Los Angeles County

WHEREAS, There are within the State of California a number of important projects which remain incompleted, because of lack of sufficient funds without the aid of Federal funds; and

WHEREAS, The construction of the Ballona Creek Project is one of the important projects which remains incompleted, because of lack of sufficient funds without the aid of Federal funds; and

WHEREAS, The Culver City, Del Rey and Venice Bay districts are practically flooded out each year by the annual torrential rainfalls, because of the lack of construction of the Ballona Creek Project; and

WHEREAS, Since the annexation of the Del Rey and Venice Bay districts to the city of Los Angeles, approximately eleven more inlets have been added to those districts but no outlets for same have been provided for; and

WHEREAS, Outlets are vitally necessary and should be immediately provided for; and

WHEREAS, An acute condition of unemployment now exists, and the immediate commencement of construction of the Ballona Creek Project will give employment to a large number of unemployed citizens; and

WHEREAS, The Legislature of the State of California do hereby endorse the application of the Los Angeles Flood Control District to the Public Works Administration for a grant of $5,882,000 for the construction of the Ballona Creek Project; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Public Works Administration be and the same is hereby respectfully urged to approve the application of the Los Angeles County Flood Control District for a grant of $5,882,000 to be used for the immediate construction and permanent improvement of the flood channel of Ballona Creek between Vineyard Station on the Pacific Electric Railway and the ocean, the same being commonly known as the Ballona Creek Project at Culver City, Del Rey and

Venice Bay districts, Los Angeles County, California; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the Federal Administrator of the Public Works Administration.

CHAPTER 57.

Assembly Joint Resolution No. 39—Relating to memorializing Congress to incorporate in a National old age pension plan the principles and objectives of the Townsend plan.

[Filed with Secretary of State March 25, 1935.]

Townsend Old Age Pension Plan.

WHEREAS, Various proposals for the establishment of old age pensions are now under consideration by the Congress of the United States; and

WHEREAS, The revolving old age pension plan originated by Dr. F. E. Townsend, of California, has been presented to the United States Senate and the National House of Representatives; and

WHEREAS, The program contemplates both relief for the aged and widespread adjustments in our economic system certain to result in improved working conditions and in extensive reduction of unemployment among thousands of men and women under the age of sixty years; and

Resolved by the Assembly and the Senate of the State of California, jointly, That the Congress of the United States is respectfully urged to enact H. R. 3977, introduced in the House of Representatives, January 16, 1935, and cited as the "Townsend Old-Age Revolving Pension Act," which is as follows:

"Sec. 2. That every citizen of the United States, sixty years of age and over, or who shall attain the age of sixty years after the passage of this act, while actually residing in the United States, shall be entitled to receive, upon application and qualification, a pension in the sum of $200 per month during the life of the pensioner: Provided, that (a) the pensioner shall discontinue and refrain from all gainful competitive pursuits or salaried positions of any kind; (b) the pensioner shall covenant and agree that he or she will within thirty days of receipt of said pension expend all of the same for goods, commodities, or services within the jurisdiction of the United States; (c) proof of age and citizenship shall be according to the law and procedure of the State of residence of the pensioner; and (d) this pension shall be wholly exempt from attachment, garnishment, or execution.

Sec. 3. There is hereby levied a tax of 2 per centum on the gross dollar value of each business, commercial, and/or financial transaction done within the United States. The President of the United States is hereby empowered by Exec-

Townsend Old Age Pension Plan.

utive order to increase or decrease the 2 per centum tax by not more than 50 per centum, when in his discretion he deems it advisable, in order to adequately finance the said pension roll. This tax shall be levied in addition to any other Federal tax on goods or commodities. This tax so levied shall be paid by the seller once each calendar month, calculated on the seller's aggregate gross sales, in accordance with rules and regulations to be promulgated by the Secretary of the Treasury of the United States.

(a) It is hereby provided in order to facilitate the collection of this tax that all sellers of goods, commodities, and commercial things of value shall obtain a license upon payment of a fee, the amount thereof to be fixed by the Secretary of the Treasury, who is empowered with full authority to use his discretion as to methods and means of collecting this tax.

Sec. 4. Any qualified pensioner who, for any justifiable reason, has failed to legally receive and disburse said pension, may, upon proper proof, be reinstated and thereafter receive the pension.

(a) All pensioners under this act shall be permitted to expend not more than 15 per centum of each monthly pension for charity, church, and fraternal organizations.

(b) Pensioners under this act shall receive no other pension from the United States nor from any State nor any political subdivision thereof, except all disabled war veterans now receiving or who may receive disability allowance, compensation, or pension from the United States Government.

(c) The benefits of this act shall not accrue to any person while an inmate of an insane asylum, eleemosynary institution, or while under penal sentence in any jail or penitentiary.

Sec. 5. Immediately after the passage of this act, the Secretary of the Treasury shall authorize all National and State banks, members of the Federal Insurance Deposit Corporation, to credit each properly identified pensioner the first day of each calendar month in the sum of $200, and said banks shall be reimbursed by the United States Treasury for the amounts so credited to pensioner or pensioners.

Sec. 6. All salaries for individual services are hereby exempted from the tax provisions of this act.

Sec. 7. Pensions under this act shall be forfeited or discontinued for the following reasons:

(a) Any person who has been duly convicted of a felony shall be ineligible for this pension for a period of ten years following the completion of his sentence.

(b) Any pensioner under this act who is convicted of a felony shall immediately forfeit his said pension.

(c) Any pensioner who violates the conditions imposed by (a) and (b) of section 2 of this act may be deprived of the said pension.

Sec. 8. The Secretary of the Treasury shall appoint pension boards of three members, who shall constitute a district pension board. No two members of this board may belong to the same

political party. Such boards may appoint deputies within their districts. All members of the board shall serve without compensation other than their pensions. Such boards shall have supervision of the administration of this act in their respective districts and shall be governed by rules and regulations promulgated by the Secretary of the Treasury. A pension board shall be so set up for each county in the United States other than the areas of metropolitan cities wherein boards shall be created in each ward or similar political subdivision.

Sec. 9. Any and all oaths or affirmations required under the provisions of this act may be administered by any officer authorized by the law of any State to take acknowledgments for the conveyance of real property or by any member of a duly constituted pension board as herein provided.

Sec. 10. It shall be a felony and punishable as such for any pensioner or seller as herein described to misrepresent or make a false statement with regard to any provisions of this act, with intent to defraud the Government of the United States under penalty of a fine of not more than $1,000 or imprisonment for not more than two years, or both."

Resolved, That the Governor of the State of California is hereby requested to forward a copy of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and member of the House of Representatives from California in the Congress of the United States.

CHAPTER 58.

Assembly Joint Resolution No. 45—Relative to memorializing the President and the Congress to enact the required legislation for complete and adequate anti-aircraft equipment and personnel as defensive measures for the Pacific coast.

[Filed with Secretary of State April 1, 1935.]

Antiaircraft defenses on Pacific coast.

WHEREAS, During recent times there has been a great deal of public interest and discussion in regard to the inadequacy of aircraft and personnel defense on the Pacific coast; and

WHEREAS, As a result of such discussion and study on the part of representative organizations of the State of California, and military authorities, it seems clear that there is very apparent weakness in the anti-aircraft defense and personnel of the Pacific coast; and

WHEREAS, Investigations made and information compiled by Joseph G. McComb Post No. 46 of the American Legion conclusively demonstrates the inadequacy of the anti-aircraft defense on the Pacific coast; and

WHEREAS, California has only one anti-aircraft detachment with a complement of twenty-four officers and three hundred

twenty-three men to cover and protect the entire length of the California coast line; and

WHEREAS, At some forts on the Pacific coast there are only eight fixed anti-aircraft guns, and in other instances only two such guns; and

WHEREAS, The War Department of the United States has recommended that the minimum number of anti-aircraft units, in time of peace, should total ten complete regiments; and

WHEREAS, Anti-aircraft equipment and personnel are essential as defense measures for the Pacific coast and form one arm of the military services which can not possibly be construed as anything but purely defensive in nature; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and the Congress of the United States are respectfully urged to enact the legislation required for complete anti-aircraft equipment and personnel on the Pacific coast; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and member of the House of Representatives from California in the Congress of the United States, and that such Senator and members from California are hereby respectfully urged to support such legislation.

CHAPTER 59.

Assembly Joint Resolution No. 7—Relative to memorializing the President and Congress to favorably consider and ***submit to the States an amendment to the Constitution*** *enabling Congress to grant federal suffrage to residents of the District of Columbia.*

[Filed with Secretary of State April 2, 1935.]

Suffrage for citizens of District of Columbia.

WHEREAS, The District of Columbia with its half-million people, is the only community in the United States which is denied representation in the national government;

WHEREAS, The men and women residing in the District of Columbia have no voice in determining through a vote for President, Vice President, and spokesmen in Congress the policies of the Nation in which they live, either in war or in peace;

WHEREAS, The District of Columbia taxpayers must pay what they are assessed without opportunity to determine the nature of their taxes or the purposes for which the money is spent;

WHEREAS, It is a fundamental principle of our republic that governments derive their just powers from the consent of the governed; be it therefore

Resolved, by the Assembly and the Senate of California, jointly, That the President and the Congress of the United States is hereby respectfully urged to set in motion the machinery for correcting this present un-American condition of the residents of the District of Columbia by submitting to the States for ratification the constitutional amendment enabling Congress to make it possible for residents of the District of Columbia to vote for President, Vice President, and Representatives of Congress; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Member of the House of Representatives from California in the Congress of the United States, and that such Senators and Members from California are hereby respectfully urged to support such legislation.

CHAPTER 60.

Assembly Joint Resolution No. 38—Relative to memorializing the President and Congress to enact House Joint Resolution No. 143, introduced January 30, 1935, authorizing the awarding of Distinguished Service Medals to Tony Siminoff, Oliver F. Rominger, and Robert E. Beck, veterans of the Philippine Insurrection.

[Filed with Secretary of State April 10, 1935.]

Distinguished Service Medals for Tony Siminoff, Oliver F Rominger and Robert E. Beck.

WHEREAS, Tony Siminoff, Oliver F. Rominger, and Robert E. Beck volunteered and served in the regular army of the United States, and saw service in the same in the Philippine Insurrection; and

WHEREAS, Said Tony Siminoff, as member of Company K, Eighteenth Regiment United States Infantry; Oliver F. Rominger, as member of the band of the Eighteenth Regiment United States Infantry; and Robert E. Beck, as member of Company A, Eighteenth Regiment United States Infantry, at great risk to themselves and under fire of the enemy rendered first aid to Lieutenant F. C. Bolles, commander of Company F, Eighteenth Regiment United States Infantry, and carried him from the field of battle, and thus saved his life, so that he is now serving his country as a Major General in the United States Army; and

WHEREAS, Such brave and meritorious action on the part of said Tony Siminoff, Oliver F. Rominger, and Robert E. Beck, is deserving of award in commemoration thereof for such meritorious conduct in action involving an actual conflict with an enemy, said act taking place on February 12, 1899, during the action near Jaro, Philippine Islands; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the President and Congress of the United States be hereby respectfully urged to enact House Joint Resolution No. 143 awarding the Distinguished Service Medals to Tony Siminoff, Oliver F. Rominger, and Robert E. Beck, veterans of the Philippine Insurrection; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and member of the House of Representatives from California in the Congress of the United States, and that such Senators and members from California are hereby respectfully urged to support such legislation, and that a copy of this resolution also be transmitted to the Secretary of War.

CHAPTER 61.

Assembly Joint Resolution No. 46—Relative to memorializing the President of the United States and Congress in connection with transpacific air mail service.

[Filed with Secretary of State April 10, 1935.]

Establishment of trans-Pacific air mail service

WHEREAS, Various aviation groups in the United States are actively engaged in a study of the need for and the requirements of a transpacific airplane service; and

WHEREAS, It appears that such a service soon will be established through the enterprise and pioneering spirit of the American aviation industry; and

WHEREAS, The success of such a worthwhile undertaking will depend to some extent upon Federal contracts for carrying mail to and from continental United States and other localities in and bordering upon the Pacific Ocean; and

WHEREAS, It is understood that the Post Office Department is at present considering the early establishment of an air mail service across the Pacific; now, therefore, be it

Resolved, That the Assembly of the State of California, the Senate concurring, does herewith respectfully urge the President of the United States, the United States Senators and the members of the House of Representatives from California, to approve and recommend the establishment of such transpacific air mail service, together with such appropriations and other legislative action by the National Congress as may be necessary to accomplish the purposes herein set forth; and be it further

Resolved, That a copy of this resolution be sent to the President of the United States, the Vice President of the United States, Senators Johnson and McAdoo, and the members of the National House of Representatives from California.

CHAPTER 62.

Senate Concurrent Resolution No. 24—Approving an amendment to the charter of the city of Alameda, a municipal corporation in the county of Alameda, State of California, voted for and ratified by the qualified electors of said city at a special election held therein on the twelfth day of March, 1935.

[Filed with Secretary of State April 17, 1935.]

City of Alameda: Charter amendment.

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of a certain amendment hereinafter set forth, to the charter of the city of Alameda, a municipal corporation in the county of Alameda, State of California, as set out in the certificate of the mayor and city clerk of said city, as follows, to wit:

STATE OF CALIFORNIA,
COUNTY OF ALAMEDA, } SS.
CITY OF ALAMEDA.

Certificate.

We, the undersigned, WILLIAM F. MURRAY, Mayor of the City of Alameda, and D. ELMER DYER, City Clerk of said City, do hereby certify and declare as follows:

That the City of Alameda, a municipal corporation in the County of Alameda, State of California, is now and at all times herein mentioned was, a city containing a population of more than three thousand five hundred inhabitants, and less than fifty thousand inhabitants, and has ever since the 25th day of January, 1917, and is now, organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8, of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city at an election duly held for that purpose on the 9th day of January, 1917, and approved by the Legislature of the State of California by a concurrent resolution approved by the Legislature of the State of California on the 25th day of January, 1917, (Statutes 1917, page 1752).

That pursuant to, and in accordance with, the provisions of Section 8 Article XI of the Constitution of the State of California, the Council of the City of Alameda, being the legislative body thereof, on its own motion, duly and regularly submitted a certain proposal for the amendment of the charter of said city to be voted on by the qualified electors of said city at a special election called and held for that purpose in said city on the 12th day of March 1935, which said proposal was designated as Proposal No. 1.

That pursuant to resolution duly adopted by the City Council of said City of Alameda the said proposed charter amendment was published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, on the 28th day of January, 1935, in the Alameda Times-Star, a daily newspaper of general circu-

Alameda city charter.

lation published in said City of Alameda, and the official newspaper of said City, and in each edition thereof, during the day of said publication.

That copies of said proposed charter amendment were printed in convenient pamphlet form and in type of not less than ten point, and an advertisement that copies thereof could be had upon application therefor at the office of the City Clerk of the City of Alameda was published in said Alameda Times-Star, a daily newspaper of general circulation in said City, on the 28th day of January, 1935, and on each day thereafter until and including the day fixed for said special election, all as required by Section 8 of Article XI of the Constitution of the State of California.

That copies of said proposed charter amendment could be had upon application therefor at the office of said City Clerk until the day fixed for the said special election.

That the Council of the City of Alameda, being the legislative body of said City, by its resolution No. 1902, did order the holding of a special election for the purpose of submitting to the qualified electors of said City said proposal to amend the Charter of said City, pursuant to the provisions of Section 8, Article XI of the Constitution of the State of California, on the 12th day of March, 1935, in said City of Alameda, said day being at least forty days after the completion of the advertising of the proposed charter amendment in said official newspaper of said city, and not more than sixty days after the completion of said advertising, and did provide in said resolution for the submission of the proposed amendments to the charter of said City to the qualified electors of said City for their ratification at such special election.

That thereafter said special election was duly and regularly held on Tuesday, March 12, 1935, and the City Council of said City of Alameda did, in the manner provided by law, duly and regularly canvass the returns of said election, and did, on the 19th day of March, 1935, by Resolution No. 1914, duly declare and certify the result of said special election as determined from the canvass of the returns thereof.

That at said election a majority of the qualified electors voting on said proposal to amend the Charter of said City of Alameda voted in favor thereof, and the said City Council of said City did by said resolution No. 1914, find, determine and declare that the said proposed amendment to the Charter of the City of Alameda, being said Proposal No. 1, was ratified by a majority of the qualified electors of said City voting thereon.

That said amendment to the Charter so ratified by the qualified electors of the City of Alameda, at said special election, is in words and figures as follows, to-wit:

PROPOSAL NO. 1

That there be added to Article X of the Charter of the City of Alameda a new section, to be known as Section 19, and which shall read as follows:

Sec. 19. Notwithstanding anything to the contrary in this article contained, unless and until the assent of two-thirds of the qualified voters of the City voting on the proposition at a general or special election at which the proposition shall be lawfully submitted, shall be obtained, neither the City nor the Department of Public Utilities shall: (1) issue any revenue or other bonds or incur any indebtedness maturing more than one year after the date thereof, or (2) enter into any contract, either conditional or unconditional, creating a charge on the revenues derived or to be derived from any public utility service or business for a longer period than one year, or, (3) engage in or acquire any public utility service or business in which the City or said Department is not now engaged.

Creation of indebtedness maturing later than one year.

Public utility services

And we further certify that we have compared the foregoing amendment with the original proposal filed and submitted to the qualified electors of the City of Alameda as aforesaid, and find that the foregoing is a full, true and exact copy thereof.

Certificate

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of said City of Alameda to be affixed hereto this 23rd day of March, 1935.

WILLIAM F. MURRAY,
Mayor of the City of Alameda.
D. ELMER DYER,
City Clerk of the City of Alameda.

and

WHEREAS, Said proposed charter amendment has been and is now submitted to the Legislature of the State of California, for approval or rejection as a whole, without power of alteration or amendment, in accordance with section 8 of Article XI of the Constitution of the State of California; now therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, a majority of all the members elected to each house voting therefor, and concurring therein, That said amendment to said charter, herein set forth, as submitted to and ratified by the qualified electors of said city, be, and the same is hereby, approved as a whole, without alteration or amendment, for and as an amendment to, and as part of, the charter of said city of Alameda.

Ratification.

CHAPTER 63.

Assembly Concurrent Resolution No. 30—Relative to experimental winter feeding of deer.

[Filed with Secretary of State April 17, 1935.]

WHEREAS, In certain portions of the State the deer are unable to find sufficient food during the winter months in which there is a heavy fall of snow; and

Feeding of deer.

WHEREAS, The starvation of deer during the winter months presents a serious problem from the standpoint of the female deer and the potential increase by fawning; and

WHEREAS, It is desirable and necessary that the deer in California be given every protection to avoid any possible future extermination; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Fish and Game Commission of the Department of Natural Resources be and it is hereby requested to experiment, during the winter seasons of 1935–1936 and 1936–1937, on the winter feeding of deer in the heavy snow areas of the counties of Modoc, El Dorado, and Mariposa; and be it further

Resolved, That, after the commission has made such experiment, it shall report the results thereof and the advisability and practicability of the future winter feeding of deer where needed throughout the State to the fifty-second session of the Legislature; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to transmit copies of this resolution to the members of the Fish and Game Commission.

CHAPTER 64.

Assembly Joint Resolution No. 49—Relative to memorializing the United States Forest Service to undertake the laying out of ski trails in the snow region of the National forests between Placerville and Auburn highways.

[Filed with Secretary of State April 23, 1935.]

Ski trails in Sierras

WHEREAS, Winter sport activities have been rapidly developing in the higher mountain regions of California, thereby contributing to both the recreational and economic development of this State; and

WHEREAS, The construction of a system of ski trails and ski huts is necessary to the adequate development of winter sports, and to secure access to the higher mountain regions in winter; and

WHEREAS, Such a trail system would facilitate the making of snow surveys for the purpose of determining the probable seasonal run-off, a determination which is vital to the irrigation and power interests of this State; and

WHEREAS, A summit trail and connecting laterals have been scouted and cabin locations selected by various interested organizations in that portion of the Sierra Nevada Mountains lying between the Placerville highway and the Auburn highway; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the United States Forest Service be and it is hereby urged and requested to undertake the laying out

of a program for the construction of a system of ski trails in the snow regions of the National forests, and that during the summer of 1935 such ski trail and hut system be actually constructed, at least in the area between the Placerville and Auburn highways, such system to consist of a crest trail, together with connecting trails to each skiing center in the area involved, each trail to be adequately marked, signed, cleared and equipped with necessary shelter huts; and be it further

Resolved, That His Excellency, the Governor of the State of California, be requested to forward a copy of this resolution to the United States Regional Forester for the State of California.

CHAPTER 65.

Senate Concurrent Resolution No. 25—Relative to the appointment of a joint legislative committee to study pending revenue and taxation measures.

[Filed with Secretary of State April 23, 1935.]

Joint legislative committee on revenue and taxation

Resolved by the Senate of the State of California, the Assembly thereof concurring, That a joint committee of fourteen members be appointed, seven of whom to be appointed by the President of the Senate, and seven by the Speaker of the Assembly, to confer on pending revenue and taxation measures; and be it further

Resolved, That such joint committee study all pending revenue and taxation measures for the purpose of advising the Senate and Assembly and the various standing committees thereof.

CHAPTER 66.

Senate Concurrent Resolution No. 26—Approving certain amendments to the charter of the city of Porterville, county of Tulare, State of California, voted for and ratified by the qualified electors of the said city of Porterville at a special municipal election held therein for that purpose on the fifth day of February, 1935.

[Filed with Secretary of State April 23, 1935.]

City of Porterville. Charter amendments

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendments hereinafter set forth to the charter of the city of Porterville, a municipal corporation, in the county of Tulare, State of California, as set out in the certificate of the president and ex officio mayor and city clerk of the city of Porterville as follows, to wit:

STATE OF CALIFORNIA, }
COUNTY OF TULARE, } SS.
CITY OF PORTERVILLE }

Certificate

We, the undersigned, H. A. Frame, President of the City Council, and Mayor of the City of Porterville, and W. R. Means, City Clerk of the City of Porterville, do hereby certify and declare as follows:

That the City of Porterville is a municipal corporation in the County of Tulare, State of California, and is now and at all times hereinafter referred to was a city containing a population of more than thirty-five hundred (3500) inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States;

That said City of Porterville is now organized, existing and acting under a freeholder's charter adopted under and by virtue of Section VIII, Article 11 of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city at an election duly held for that purpose on October 5th, 1926, and approved by the Legislature of the State of California, by concurrent resolution filed with the Secretary of State on the 27th day of January, 1927, (Statutes 1927, Chapter 27, Page 2172);

That in pursuance of Section VIII of Article 11 of the Constitution of the State of California, and on its own motion, the Council of the City of Porterville, being the legislative body of said City, by and in pursuance of a certain resolution passed and adopted by the City Council on the 5th day of February, 1935, by more than a two-thirds vote of the said council duly submitted to the qualified electors of said City of Porterville seven proposals for the amendment of the charter of said City, to be voted on by said qualified electors at a general municipal election held in said City on the 2nd day of April, 1935, which said proposals are hereinafter set forth at length;

That said proposed amendments were published and advertised in the form and manner and for the length of time, and in accordance with the provisions of Section VIII, Article 11 of the Constitution of the State of California, in the Porterville Evening Recorder, which was then and there a daily newspaper printed and circulated at and within the City of Porterville, County of Tulare, State of California, and the official newspaper of said City;

That said City Council caused copies of said proposed amendments to be printed in convenient pamphlet form and kept in the office of the City Clerk of said City, and did until the date fixed for the election upon said amendments advertise in the Porterville Evening Recorder a notice that such copies might be had upon application therefor, all in accordance with the provisions of Section VIII, Article 11 of the Constitution of the State of California;

That said proposed amendments were so published and advertised within fifteen days after they were filed with the

City Clerk, and that the election at which they were voted on was by resolution of the said City Council adopted and passed on February 5th, 1935, set for April 2nd, 1935, which was not less than forty, and not more than sixty days after the completion of the advertising in the official paper as aforesaid;

That thereafter the City Council of the City of Porterville did in the manner provided by law, duly and regularly canvass the returns of said election, and that said City Council by resolution adopted on the 8th day of April, 1935, declared the result of said municipal election as determined from the canvass of the returns thereof;

That at said municipal election held on the 2nd day of April, 1935, six of said proposed amendments were ratified and adopted by a majority of the electors of said City voting thereon, to-wit, Charter Amendments Nos. 2, 3, 4, 5, 6 and 7, and that one of said proposed charter amendments, to-wit, Proposal No. 1 received less than a majority of the votes of the qualified electors voting thereon, and was not ratified;

That said six charter amendments so ratified by the electors of said City of Porterville are in words and figures as follows, to-wit:

"Proposition 2. Shall the ninth paragraph of Section 17 of the Charter of the City of Porterville be amended to read as follows:

"Provided, however, that no removal, except for cause stated shall be made by the council within thirty days next succeeding a general municipal election, or by the City Manager within thirty days next succeeding his qualification as such; provided, further, that removals for cause stated may be made, as herein prescribed at any time." Removal of employees

Proposition 3. Shall paragraph first of Section 18 of the Charter of the City of Porterville be amended to read as follows:

"The Council shall fix the compensation of all of its appointees. Also the compensation of all deputies, assistants and employees of its appointees, except officials and members of boards, commissions and committees serving gratuitously. Said compensation shall be fixed, increased or changed by ordinance, adopted by a three-fifths ($\frac{3}{5}$) vote of the council, only subject to the provisions of this Charter regarding the minimum compensation." Compensation of employees.

Proposition 4. Shall Section 19 of the Charter of the City of Porterville be amended to read as follows:

"The Mayor shall be the executive head of the City. In case of riot, insurrection or extraordinary emergency, he shall assume general control of the city government, or the suppression of disorders and the restoration of normal conditions. In the name and on behalf of the City, he shall sign all contracts, deeds, bonds and other legal instruments in which the City is a party. He shall represent the City at all ceremonial functions of a social or patriotic character when it is desirable or appropriate to have the City represented officially thereat." Duties of Mayor.

Proposition 5. Shall subdivision (M) of Section 21 of the Charter of the City of Porterville be amended to read as follows:

Powers of City Manager

"Subdivision (M). To possess such other powers and perform such additional duties as are prescribed by this Charter, or may be prescribed by ordinance."

Proposition 6. Shall subdivision (c) of Section 44 of the Charter of the City of Porterville be amended to read as follows:

Libraries and reading rooms.

"Subdivision (c). For the maintenance and support of free public libraries and reading rooms in said City, at the rate of not more than two mills on each dollar thereof."

Proposition 7 Shall Section 59 of the Charter of the City of Porterville be amended to read as follows:

Investigation of accounts.

"Section 59. The City shall employ a qualified public accountant annually to investigate the accounts and transactions of all city officers and employees having the collection, custody or distribution of public money or property, or the power to approve, allow or audit demands on the City Treasurer."

Certificate.

That the returns of said election were in accordance with law in such cases made and provided, duly and regularly canvassed and certified to, and it was duly found, determined and declared by the proper officers thereunto duly authorized, that a majority of the qualified electors voting thereon had voted for and in favor of said six proposals for the amendments to the charter, and had ratified said six proposed amendments to said charter, as hereinbefore set forth, and that we and each of us further certify that we have compared the foregoing and enclosed and ratified amendments to the charter of the City of Porterville with the original resolution and proposals submitting the same to the electors of said City at the general municipal election held on the 2nd day of April, 1935, and that the foregoing is a full, true and correct and exact copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the City of Porterville to be affixed this eighth day of April, 1935.

H. A. FRAME,
President of the City Council,
and Ex Officio Mayor.

W. R. MEANS,
City Clerk of the City of Porterville.
(SEAL)

WHEREAS, Said proposed amendments have been and are now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment in accordance with section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Ratification.

Resolved by the Senate of the State of California, the Assembly thereof concurring, A majority of all of the members

elected to each house voting therefor and concurring therein, that said amendments to said charter herein set forth as submitted to and ratified by the qualified electors of said city, be and the same are hereby approved as a whole without alteration or amendment, for and as amendments to and as part of the charter of the city of Porterville.

CHAPTER 67.

Relative to memorializing and petitioning the President and the Congress of the United States to include the Central Valley Project in the National program of work-relief.

[Filed with Secretary of State April 23, 1935.]

Central Valley Project.

WHEREAS, California has one of the gravest unemployment problems in the United States, due to the fact that the State has become the haven of unemployed from every section of the country; and

WHEREAS, One of the most constructive methods of coping with the unemployment problem is the building of useful and necessary public works which will confer permanent and lasting benefits as well as afford immediate work-relief; and

WHEREAS, California is in urgent need of the development, conservation and stabilization of its water resources to prevent the abandonment of thousands of farms and homes, and to avert tremendous financial losses; and

WHEREAS, The State of California has prepared a comprehensive coordinated plan for the progressive economic development of the water resources of the State, carefully formulated over a period of fourteen years, which provides for the control of floods and salinity encroachment, the improvement of navigation, the conservation and stabilization of water supplies for municipal, irrigation, industrial and mining uses, and for the generation of electric power; and

WHEREAS, The Legislature of the State of California in 1933 passed the Central Valley Project Act which was signed by the Governor and was thereafter approved by vote of the people of the State at a special election held on December 19, 1933; and

WHEREAS, The said Central Valley Project Act created the Water Project Authority of the State of California, to execute and administer the Central Valley Project, which project is designated as the first step in the comprehensive plan for the Great Central Valley of California; and

WHEREAS, Said Central Valley Project has been investigated and approved by thirteen agencies of the Federal government and has been recommended for Federal financing; and

WHEREAS, Said project has further been recommended by the President's Committee on Water Flow and by the National

Central Valley Project.

Resources Board as one of the country's foremost projects for a National program of public works; and

WHEREAS, There is now pending before the Federal Emergency Administration of Public Works an application by the Water Project Authority for a grant and loan of funds to construct said project; and

WHEREAS, The House of Representatives has passed H. R. 6732, authorizing the improvement of the Sacramento River in accordance with the plan as set forth in House of Representatives' Document numbered 35, Seventy-third Congress, which recommends a Federal contribution of $12,000,000 to the cost of the Kennett Dam of the Central Valley Project; and

WHEREAS, The said project will be self-liquidating under Public Works Administration financing, and the cost thereof will be returned with interest to the Federal government from revenues obtained by the sale of water and power; and

WHEREAS, Said project is ready for immediate construction when funds are made available for such purpose; and

WHEREAS, The consummation of the said project will enable 50,000 American people to sustain themselves by their present means of livelihood, and will prevent their being thrown into the ranks of the unemployed, and further will stop the reversion to desert of one-half million acres of highly developed and settled lands valued at $100,000,000; and

WHEREAS, A greater degree of flood protection in the Sacramento Valley is highly desirable as evidenced by the recent floods on the Sacramento River and its tributaries; and

WHEREAS, The construction of said project will give employment to thousands of workers, now unemployed, not only in California but throughout the Nation, thereby relieving unemployment in many branches of industry, particularly in the heavy manufacturing industries in the East and Middle West; and

WHEREAS, Congress has appropriated $4,880,000,000 for work-relief, with the approval of the President of the United States, a large portion of which is intended for projects of the nature of the Central Valley Project; and

WHEREAS, The public interest, welfare, convenience and necessity require immediate provision for adequate financing of said Central Valley Project; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the State of California, through its Legislature, recommends the Central Valley Project to the President and to the Congress of the United States as of first and prime importance to the State of California, and respectfully requests that adequate funds be made available from the work-relief appropriation for immediate construction of the project, thereby conferring lasting benefits upon the people of the State of California and affording substantial unemployment relief now vitally necessary, all in a manner conforming admirably with the splendid program initiated by the Presi-

dent of the United States to speed National recovery; and be it further

Resolved, That the Governor is requested to transmit copies of this resolution to the President and to the Vice President of the United States, the Speaker of the House of Representatives, and to the Senators and Representatives of the State of California in the Congress.

CHAPTER 68.

Senate Concurrent Resolution No. 28—Approving certain amendments to the charter of the city of Bakersfield, county of Kern, State of California, voted for and ratified by the electors of said city of Bakersfield at a special election held therein on the nineteenth day of March, 1935.

[Filed with Secretary of State April 25, 1935.]

City of Bakersfield: Charter amendments

WHEREAS, the city of Bakersfield in the county of Kern, State of California, has at all times mentioned herein been and now is a municipal corporation of the State of California, containing a population of more than three thousand five hundred inhabitants, and is now and has been ever since the twentieth day of January, 1915, organized, existing and acting under a freeholders' charter adopted under and by virtue of section 8, Article XI, of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city at an election held for that purpose on the fifth day of May, 1914, and approved by the Legislature of the State of California, on the twentieth day of January, 1915; and

WHEREAS, On the fourth day of February, 1935, the legislative body of the city of Bakersfield, to wit: the city council, on its own motion passed a resolution to submit to the electors of said city, at a special election to be called, proposed amendments to the city charter of the city of Bakersfield, to be designated as follows: Proposition No. 1, Proposition No. 3 and Proposition No. 4; whereupon and on the fourth day of February, 1935, the city council of the said city of Bakersfield duly and regularly called a special election for the purpose of voting on said proposed amendments, to be called and held on the nineteenth day of March, 1935, and which said date was fixed by the said city council of the city of Bakersfield as the time for voting upon said amendments as proposed; and

WHEREAS, All of said proposed amendments were published on the sixth day of February, 1935, in each edition of The Bakersfield Californian, a newspaper of general circulation printed and published in the city of Bakersfield, and having a general circulation therein, the said paper being the official newspaper of the city of Bakersfield, and said publication was made at the time and in the manner prescribed in section 8 of

Article XI of the Constitution of the State of California, and copies of said proposed amendments to said charter were printed in convenient pamphlet form, and from February 13, 1935, until the date fixed for the election at which the said amendments were to be submitted to the voters, the legislative body of said city of Bakersfield, to wit: the city council, caused to be published in said The Bakersfield Californian, the official newspaper of the city of Bakersfield, a newspaper of general circulation printed and published in said city of Bakersfield, a notice that copies of said proposed amendments to said charter could be had in the office of the city clerk of the city of Bakersfield, upon application therefor, which said copies were duly provided; and

WHEREAS, said election was duly called and regularly held on March 19, 1935, which said date of the election was not less than forty nor more than sixty days after the completion of the advertising in said official newspaper, and at said election the said proposed amendments to said charter were voted upon by the qualified electors of the city of Bakersfield, and at said election a majority of the qualified electors voting thereon voted in favor of ratifying and did ratify each of the following proposed amendments to said charter, said proposed amendments so ratified being in words and figures as follows, to wit:

Proposition No. 1.

That Article II of the Charter of the City of Bakersfield be amended to read as follows:

ARTICLE II.

POLITICAL SUBDIVISION.

Ward Divisions.

Wards

Section 3. The City of Bakersfield shall be divided into seven political subdivisions, which shall be known as wards and shall be described, bounded and numbered as follows:

First Ward.

Section 4. All that portion of the City of Bakersfield lying East of the center line of Baker Street.

Second Ward.

Section 5. All that portion of the City of Bakersfield lying West of the center line of Baker Street and East of the East line of Union Avenue.

Third Ward.

Section 6. All that portion of the City of Bakersfield lying West of the East line of Union Avenue, East of the center line of Chester Avenue, North of the center line of Truxtun Avenue.

Fourth Ward.

Section 7. All that portion of the City of Bakersfield lying West of the center line of Chester Avenue and North of the center line of 18th Street.

Fifth Ward.

Section 8. All that portion of the City of Bakersfield lying West of the center line of Chester Avenue, South of the center line of 18th Street, North of the center lines of Chester Lane, Forrest Street and 8th Street.

Sixth Ward.

Section 9. All that portion of the City of Bakersfield lying South of the center lines of Chester Lane, Forrest Street and 8th Street, West of the center line of Chester Avenue; and all that portion of the City known as the Virginia Tract.

Seventh Ward.

Section 10. All that portion of the City of Bakersfield lying West of the East line of Union Avenue, East of the center line of Chester Avenue, South of the center line of Truxtun Avenue, North of the South line of Brundage Lane.

Voting Precincts.

Section 11. The council shall establish voting precincts under the provision of state law, but each shall be wholly in one ward, nor shall the boundaries of a precinct be changed within twenty days before election.

Voting precincts

PROPOSITION NO. 3

That that portion of the Charter of the City of Bakersfield designated as Section 11 of Proposition No. 2 entitled "Civil Service for the Fire Department" ratified by the qualified voters of the City of Bakersfield on the 4th day of November, 1930, at an election held in conjunction with the general state election held therein on the 4th day of November, 1930, being a portion of Senate Concurrent Resolution No. 16, 1931 Statutes of the State of California, Page 2718, be and the same is hereby amended to read as follows:

SECTION 11. QUALIFICATIONS.

Every appointee to the Fire Department at the time of appointment shall be not less than twenty-one (21) years of age nor more than thirty-five (35) years of age, and must possess the physical qualifications prescribed by the Civil Service Board (which shall not be less stringent than those required for recruits of the United States Army) and before his appointment must pass a satisfactory examination under the rules and regulations as may be prescribed by the Civil Service Board.

Qualifications of members of Fire Department

PROPOSITION NO. 4.

That that portion of the Charter of the City of Bakersfield designated as Section 4 of Proposition No. 2 entitled "Civil Service for the Police Department of the City of Bakersfield" ratified by the qualified voters of the City of Bakersfield on the 24th day of March, 1931, at a special election held therein on the 24th day of March, 1931, and being a portion of Senate Concurrent Resolution No. 27, 1931 Statutes of the State of California, page 2821, approving certain amendments to the

Charter of the City of Bakersfield, be and the same is hereby amended to read as follows:

SECTION 4. Examination of Applicants.

Examination of members of Police Department.

All applicants for places on the Police Department or for promotion, shall be subjected to examination, which shall be public, competitive, and free. Such examinations shall be practical in their character, and shall relate to those matters only which will fairly test the relative capacity of the person examined to discharge the duties of the positions to which they seek to be appointed. Every appointee to the Police Department, at the time of appointment, shall be not less than twenty-five (25) years of age, and not more than forty-five (45) years of age, and must pass the physical tests prescribed by the Civil Service Commission which shall not be less stringent than those required of recruits to the United States Army.

No question in any examination shall relate to political or religious opinion or affiliations.

——oOo——

Certificate.

AND WHEREAS, the Council of the City of Bakersfield, County of Kern, State of California, in accordance with the law in such cases made and provided, did meet at their usual place of meeting, at the time and in the manner provided by law, and duly canvassed the returns of said election as certified by the Election Board, and duly found, determined and declared that the majority of the qualified electors of said City voting thereon had voted in favor of, and ratified each of the amendments to the Charter of the City of Bakersfield as hereinabove last set forth, and alleged to have been so ratified; and

WHEREAS, that the foregoing is true is shown by the affidavit of J. R. Gist, Mayor of the said City of Bakersfield, and Vance Van Riper, Clerk of said City, whose affidavit is in words and figures as follows, to-wit:

State of California
County of Kern } SS.
City of Bakersfield

This is to certify that we, J. R. Gist, Mayor of the City of Bakersfield, and Vance Van Riper, Clerk of the City of Bakersfield, have compared the foregoing proposed and ratified amendments to the City of Bakersfield with the original proposed amendments submitted to the qualified electors of the said City of Bakersfield at a special election held within the City of Bakersfield on March 19, 1935, and find that the foregoing is a full, true, correct and exact copy of said amendments.

We further certify that the facts set forth in the preamble preceding said amendments to said Charter, and the matter set forth therein are and each of them is true.

IN WITNESS WHEREOF we have hereunto set our hands and caused the corporate seal of the City of Bakersfield to be attached this 1st day of April, 1935.

J. R. GIST,
Mayor of the City of Bakersfield.

[SEAL]

VANCE VAN RIPER,
Clerk of the City of Bakersfield.

AND WHEREAS, the said amendments to the charter of the city of Bakersfield so ratified as hereinbefore set forth have been duly presented and submitted to the Legislature of the State of California, for approval or rejection, without power of alteration or amendment, all in accordance with section 8 of Article XI of the Constitution of the State of California,

Now, Therefore, Be It Resolved by the Senate, the Assembly concurring (A majority of all members elected to each house voting for the adoption of this resolution and concurring therein), That the said amendments to the charter of the city of Bakersfield herein set forth as presented and submitted to and ratified and adopted by the qualified electors of the city of Bakersfield, be and the same are hereby adopted as a whole for and as amendments to the said charter of the city of Bakersfield. Ratification

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CHAPTER 69.

Assembly Joint Resolution No. 51—Relative to memorializing the President and the Congress to enact legislation (H. R. 2772) declaring Admission Day a holiday for all officers and employees of the United States whose headquarters are in California.

[Filed with Secretary of State April 26, 1935.]

WHEREAS, The ninth day of September is the day when all persons residing in California celebrate the admission of the "Golden State" into the Union; and Admission Day as holiday for Federal officers and employees in California

WHEREAS, This day of celebration is one of great sentiment to the people of the State of California; and

WHEREAS, The ninth day of September of each year is an official holiday for all public employees of the State of California and political subdivisions thereof; and

WHEREAS, Many organizations, together with the Native Sons of the Golden West, have sponsored the plan to allow officers and employees of the United States whose headquarters are in California to celebrate and honor the Admission Day of California; and

WHEREAS, On January 3, 1935, there was introduced by Mr. Englebright, of California, a bill known as H. R. 2772, which proposes to declare the ninth day of September of each year, which is the date California was admitted to the Union,

a legal holiday for all officers and employees of the United States whose headquarters are in the State of California; now, therefore, be it

Resolved, That the Assembly and the Senate of the State of California, jointly, respectfully urge the President and the Congress of the United States to enact H. R. 2772, which proposes to provide a legal holiday for Federal employees; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and the Vice President of the United States, and to the Speaker of the House of Representatives and to each Senator and member of the House of Representatives from California in the Congress of the United States, and that such Senators and members from California are hereby respectfully urged to support such legislation.

CHAPTER 70.

Assembly Concurrent Resolution No. 31—Approving an amendment to the charter of the city of Santa Monica, State of California, ratified by the qualified electors of said city at a special municipal election held therein on the thirtieth day of March, 1935.

[Filed with Secretary of State April 26, 1935.]

City of Santa Monica. Charter amendment

WHEREAS, The city of Santa Monica in the county of Los Angeles, State of California, contains a population of over thirty thousand (30,000) inhabitants, and has been ever since the year 1907, and now is, organized and acting under a freeholders' charter, adopted under and by virtue of section 8, Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the twenty-eighth day of March, 1906, and approved by the Legislature of the State of California, February, 1907 (Statutes of 1907, page 1007); and

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of a certain amendment to the charter of said city of Santa Monica as set out in the certificate of the commissioner of public safety, ex officio mayor and commissioner of finance, ex officio city clerk and ex officio clerk of the city council of the city of Santa Monica, as follows, to wit:

CERTIFICATE OF ADOPTION BY THE QUALIFIED ELECTORS OF THE CITY OF SANTA MONICA AT A SPECIAL MUNICIPAL ELECTION HELD THEREIN ON THE THIRTIETH DAY OF MARCH, 1935, OF

A CERTAIN AMENDMENT TO THE CHARTER OF THE CITY OF SANTA MONICA, STATE OF CALIFORNIA.

State of California,
County of Los Angeles, } ss.
City of Santa Monica,

Certificate

Whereas, the City of Santa Monica in the County of Los Angeles, State of California, contains a population of over thirty thousand (30,000) inhabitants and has been ever since the year 1907, and now is, organized and acting under a freeholders' charter, adopted under and by virtue of section 8, article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said City at a special election held for that purpose on the twenty-eighth day of March, 1906, and approved by the Legislature of the State of California, February, 1907, (statutes of 1907, page 1007; and

Whereas, the legislative body of said City, namely, the City Council of the City of Santa Monica did, pursuant to the provisions of section 8 article XI of the Constitution of the State of California, by ordinance adopted February 9, 1935, being Ordinance No. 549 (Commissioners' Series), entitled: "AN ORDINANCE OF THE CITY OF SANTA MONICA PROPOSING AN AMENDMENT TO SECTION 23, ARTICLE 9 OF THE CHARTER OF THE CITY OF SANTA MONICA, AND PROVIDING FOR SUBMISSION OF THE SAME TO THE QUALIFIED ELECTORS THEREOF FOR ADOPTION AND RATIFICATION AT A SPECIAL MUNICIPAL ELECTION TO BE HELD ON THE 30th DAY OF MARCH, 1935", duly propose to the qualified electors of the City of Santa Monica, one amendment to the charter of said City, being therein designated as proposed charter amendment No. 1, and did order that said amendment be submitted to said qualified electors at the special municipal election to be held on the thirtieth day of March, 1935, which date was fixed in said ordinance as the date for holding said special municipal election, which said ordinance was signed by the mayor of said City on the said ninth day of February, 1935, and was published on the ninth day of February, 1935, in the Santa Monica Evening Outlook, a newspaper of general circulation in said City, being the official paper and so designated by said Council.

Whereas, the City Council of the City of Santa Monica caused said proposed charter amendment number one to be and it was, on the ninth day of February, 1935, duly published in the Santa Monica Evening Outlook, and in each edition thereof during the day of publication, a daily newspaper of general circulation printed, published and circulated in the said City of Santa Monica, and designated by said Council, as the official paper for that purpose; and which said paper is

Santa Monica city charter.

and was at all times herein mentioned the official paper of the City of Santa Monica; and

Whereas, said proposed amendment was printed in convenient pamphlet form, and from February 9, 1935 to March 29, 1935, both inclusive, a notice was published in said Santa Monica Evening Outlook, the newspaper aforementioned, that said copies could be had upon application therefor at the office of the City Clerk of said City, and said proposed amendment in such pamphlet form were in fact available at the office of said City Clerk; and

Whereas, the said Council of said City did by ordinance duly adopted on the fifteenth day of February, 1935, being Ordinance No. 550 (Commissioners' Series), entitled: "AN ORDINANCE OF THE CITY OF SANTA MONICA CALLING A SPECIAL ELECTION TO BE HELD ON SATURDAY, MARCH 30, 1935, OF THE CITY OF SANTA MONICA FOR THE PURPOSE OF SUBMITTING A PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF SANTA MONICA UNDER THE PROVISIONS OF SECTIONS 8 AND 8½ OF ARTICLE 11 OF THE CONSTITUTION OF THE STATE OF CALIFORNIA, ESTABLISHING ELECTION PRECINCTS AND POLLING PLACES IN THE CITY OF SANTA MONICA, APPOINTING THE OFFICERS FOR SAID SPECIAL ELECTION AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE", order the holding of a special municipal election in said City of Santa Monica on the thirtieth day of March, 1935, which said date was more than forty days and less than sixty days after the completion of the publication of said proposed amendment as aforesaid; which said ordinance was signed by the mayor of said City on the said fifteenth day of February, 1935, and was published on the fifteenth day of February, 1935, in said newspaper, the Santa Monica Evening Outlook; and

Whereas, said special municipal election was held in said City of Santa Monica on the thirtieth day of March, 1935, which date was more than forty days and less than sixty days after said proposed amendment to said charter had been published in the Santa Monica Evening Outlook, and said election was also held during the six months next preceding a regular session of the Legislature of the State of California; and

Whereas, thereafter the said Council of said City of Santa Monica had duly canvassed the returns of said special municipal election, and did on the 2nd day of April, 1935, duly and regularly declare the canvass of the returns of said election; and

Whereas, at said special municipal election held on the said thirtieth day of March, 1935, said proposed amendment was ratified by a majority of the electors of said City voting thereon; and

Whereas, said charter amendment so ratified by the electors of the City of Santa Monica, is now submitted to the Legisla-

ture of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with section 8 of article XI, of the Constitution of the State of California, and is in words and figures as follows, to-wit:

"PROPOSED CHARTER AMENDMENT"

"SEC. 23. All lands and real property located in the City of Santa Monica which have been heretofore, or which may be hereafter, set apart or dedicated for the use of the public as a public park or parks, shall forever remain to the use of the public; except that the City Council may, whenever in its discretion the public interests demand, sell, or grant by exchange for other lands of equal area contiguous thereto, a part of the lands lying situate being in and forming part of that certain city park known and designated as Clover Field". Public parks. Transfer of Clover Field.

Now, therefore, we, the undersigned, William H. Carter, Commissioner of Public Safety, ex-officio Mayor of the City of Santa Monica, State of California, and T. D. Plumer, Commissioner of Finance, ex-officio City Clerk and ex-officio Clerk of the City Council of the said City, do hereby certify that the foregoing ratified amendment to the charter of the City of Santa Monica, submitted to the electors of said City at a special municipal election, held in said City on the thirtieth day of March, 1935, has been compared by us, and each of us, with the respective proposed amendment set forth in the ordinance adopted by the Council as hereinbefore stated, and that the foregoing is a full, true, correct and exact copy thereof, and we further certify that the facts set forth in the preamble preceding said amendment to said charter are, and each of them is true. Certificate.

In testimony whereof, we have hereunto set our hands and caused the same to be authenticated by the seal of said City of Santa Monica, this 6th day of April, 1935.

WILLIAM H. CARTER
Commissioner of Public Safety, ex-officio Mayor of the City of Santa Monica.

T. D. PLUMER
Commissioner of Finance, ex-officio City Clerk, ex-officio Clerk of the City Council of the City of Santa Monica.

WHEREAS, Said amendment has been submitted to the Legislature of the State of California for approval or rejection without alteration or amendment, in accordance with section eight (8) of Article eleven (XI) of the Constitution of the State of California; now therefore be it

Resolved by the Assembly of the State of California, the Senate thereof concurring (a majority of all members elected to each house voting therefor and concurring therein), That said amendment to the charter of the city of Santa Monica, Ratification.

State of California, as proposed to, adopted and ratified by the electors of said city as hereinbefore fully set forth, be and the same is hereby approved as a whole without amendment or alteration for and as an amendment to and as a part of the charter of the said city of Santa Monica.

CHAPTER 71.

Assembly Concurrent Resolution No. 32—Approving amendment to the charter of the city of Pasadena.

[Filed with Secretary of State April 26, 1935.]

City of Pasadena: Charter amendment.

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of an amendment hereinafter set forth to the charter of the city of Pasadena, a municipal corporation in the county of Los Angeles, as set out in the certificate of the chairman of the board of directors of the city of Pasadena and of the city clerk, as follows, to wit:

CERTIFICATE OF RATIFICATION BY ELECTORS OF THE CITY OF PASADENA OF A CERTAIN CHARTER AMENDMENT.

STATE OF CALIFORNIA }
County of Los Angeles } ss
City of Pasadena. }

Certificate.

We, the undersigned Edward O. Nay, Chairman of the Board of Directors of the City of Pasadena, State of California, and Bessie Chamberlain, City Clerk of said City, do hereby certify and declare as follows:

That the City of Pasadena, a municipal corporation of the County of Los Angeles, State of California, now is and at all times herein mentioned was a city containing a population of more than 3500 inhabitants, and now having a population of over 50,000 inhabitants, and has been ever since the year 1901 and now is organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the majority of the qualified electors of said City at a special election held for that purpose on the 20th day of November, 1900, and approved by the Legislature of the State of California on the 29th day of January, 1901, (Statutes of 1901, page 884).

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the Board of Directors of the City of Pasadena, being the legislative body thereof, on its own motion, by Ordinance No. 3203 adopted on the 2nd day of February, 1935, duly proposed to the qualified electors of the City of Pasadena a certain amend-

ment to the Charter of said City to be submitted to said qualified electors at a special election to be held in said City not less than forty (40) nor more than sixty (60) days after the publication of said ordinance in the official paper. Said election was called, authorized and provided for by said Board of Directors by Ordinance No. 3204 adopted on the 2nd day of February, 1935, which said ordinance called said special election for the submission of said amendment to be held in said City on the 14th day of March, 1935. Said amendment was and is in words and figures as follows:

"That Section 2 of Article 12 of the Charter of the City of Pasadena be amended to read as follows:

Duties of Assessor, Tax and License Collector

'SECTION 2. On or before the first Monday of July of each year the City Assessor, Tax and License Collector shall complete his list or assessment roll and shall attach his certificate thereto and deliver it and the books and maps he may have accompanying the same and all original lists of property given to him to the City Controller, and the City Controller shall thereupon notify the legislative body and the City Clerk shall thereupon notify the taxpayers of the fact and of the time the legislative body will meet to equalize assessments, by publication of such notice in a daily newspaper published in the city, and in the meantime the assessment roll, books, maps and other papers accompanying the same must remain in the office of the City Controller for the inspection of all persons interested.' "

Certificate

That said Board of Directors, the legislative body of said City, on the 2nd day of February, 1935, caused said amendment to be published and caused said amendment to be advertised, and said proposed amendment was published on the 2nd day of February, 1935, and was advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, in the Pasadena Star-News, a daily newspaper of general circulation published in the said City of Pasadena, and the official newspaper of said City, and in all the editions thereof issued during the day of publication.

That the legislative body of said City caused copies of said proposed amendment to be printed and copies of said proposed amendment were printed in convenient pamphlet form and in type of not less than ten point, and caused copies thereof to be mailed and copies thereof were mailed to each of the qualified electors of such city, and until the date fixed for the said election upon said amendment, and as required by Section 8 of Article XI of the Constitution, a notice was advertised and published in the said Pasadena Star-News and Pasadena Post, the same being newspapers of general circulation in said City, that such copies might be had upon application therefor at the office of the City Clerk of the City of Pasadena.

That such copies could be had upon application therefor at the office of said City Clerk until the date fixed for said election.

That in accordance with the provisions of Section 8 of Article XI of the Constitution and in accordance with the Charter of the said City of Pasadena and said ordinances of the legislative body thereof, there was held in the said City of Pasadena on the 14th day of March, 1935, a special election, and that pursuant to the provisions of Section 8 of Article XI of the Constitution and the Charter and said ordinances, the proposed Charter amendment was submitted to the qualified electors of said City for their ratification at said election, and that at said election a majority of the qualified electors voting thereon voted in favor of the ratification of said amendment, and did ratify said proposed amendment to the Charter of the said City hereinabove set out.

That in accordance with the provisions of the Charter of the City of Pasadena and said Ordinance No. 3204, said special election called to be held on the 14th day of March, 1935, was consolidated by the legislative body of said City with the primary nominating election to be held in said City on said March 14, 1935.

That the results of said election were duly and regularly canvassed and certified to and it was duly found, determined and declared by the proper officers of said City that a majority of the qualified electors of said City voting on said amendment had voted in favor of and ratified said proposed amendment.

That as to said amendment this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection with the submission and ratification of said proposed amendment.

That we have compared the foregoing amendment with the original proposal submitting the same to the electors of said City, and find that the foregoing is a full, true, correct and exact copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the said City of Pasadena to be affixed hereto this 19 day of March, 1935.

EDWARD O. NAY
Chairman of the Board of Directors
of the City of Pasadena.

[SEAL] BESSIE CHAMBERLAIN
City Clerk.

WHEREAS, The proposed charter amendment has been and is now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Ratification.

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, that the amendment to the charter herein set forth, be and the same is hereby approved as a whole without alteration or amendment for and as an amendment to and as part of the charter of the city of Pasadena.

CHAPTER 72.

Senate Joint Resolution No. 16—Relative to Federal legislation granting subsidy or assistance to the American merchant marine.

[Filed with Secretary of State April 29, 1935.]

American merchant marine subsidy

WHEREAS, It is deemed desirous by the government of the United States to give consideration to the development of the American merchant marine through assistance by the government in the matter of sale of vessels constructed by the government, in the matter of subsidies, mail contracts, or otherwise; and

WHEREAS, Steamships operating over the various trade routes of the world are grouped into conferences or associations granting to the shipping industry a certain amount of self-government and coordination in the matter of rates and services; and

WHEREAS, Under Federal laws enacted by the Congress, these conferences or groups are relieved of the Sherman Act preventing combinations in the restraint of trade; and

WHEREAS, These conferences in the majority of cases having a preponderance of foreign ownership through their policies and rules have seen fit to prevent their members from serving certain American ports; and

WHEREAS, It is believed to be a sound policy for the government of the United States to require that all vessels receiving assistance from it through the medium of subsidy, ship purchase, or otherwise, should partake in a free and unrestricted flow of traffic through all ports of the United States which have been improved by the use of Federal funds; now, therefore, be it

Resolved by the Legislature of the State of California, That the Congress of the United States in connection with any legislation granting subsidy or assistance to the American merchant marine, be requested to incorporate therein the provision that no steamship line operating vessels belonging to the United States or purchased or being purchased from the United States or any agency thereof; or any steamship company receiving from the United States or any agency thereof any subsidy or payment through contract for the carrying of mails, or otherwise, shall belong to any conference or association relieved of the Sherman Act which either through official acts or policies prevents or attempts to prevent either directly or indirectly the serving of any port within the continental limits of the United States located on any improvement project designed for the accommodation of ocean going vessels, authorized by the Congress or through it by any other agency of the Federal government; and be it further

Resolved, That a copy of this joint resolution be transmitted to the President and to the Vice President of the United States and to each member of the Senate and of the House of Representatives of the United States.

CHAPTER 73.

Senate Concurrent resolution No. 31—Relative to the approval of amendments to the charter of the city of San Bernardino.

[Filed with Secretary of State April 29, 1935.]

STATE OF CALIFORNIA,
COUNTY OF SAN BERNARDINO, } SS.
CITY OF SAN BERNARDINO,

City of San Bernardino Charter amendments

WHEREAS, the City of San Bernardino, in the County of San Bernardino, State of California, has, at all times mentioned herein, been, and now is, a municipal corporation of said State of California, having a population of more than thirty-five hundred inhabitants, and is now, and has been, ever since the 8th day of February, 1905, organized and existing and acting under a freeholders charter adopted under and by virtue of Section Eight, Article Eleven of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said City, at an election held for that purpose, on the 6th day of January, 1905, and approved by the Legislature of the State of California on the 8th day of February, 1905, (Statutes 1905, page 940, et seq.); and

WHEREAS, the Common Council of the City of San Bernardino did, by Resolution designated "Resolution No. 272", entitled "A Resolution proposing certain amendments to the City Charter of the City of San Bernardino, providing for the publication thereof, and describing and setting forth such amendments", adopted by said Common Council on the 25th day of February, 1935, at a special meeting of the said Mayor and Common Council, by four members of said Common Council concurring in its adoption, after the failure and refusal of the Mayor of said City to approve said Resolution which was theretofore adopted by the Common Council at a regular meeting of the Mayor and Common Council of said City held on the 18th day of February, 1935; and

WHEREAS, said proposed amendments hereinafter set forth were published on February 26, 1935, for one day, and in each edition issued during the day of publication, in DAILY ORANGE BELT NEWS, a daily newspaper printed and published in said City, and of general circulation therein, there being no official newspaper in said City; and

WHEREAS, copies of said proposal containing said proposed amendments were printed in convenient pamplet form, and until the date fixed for the election hereinafter described and as required by law, an advertisement was published in the DAILY ORANGE BELT NEWS, a daily newspaper of general circulation, printed, published and circulated in the said City, that copies could be had upon application therefor at the office of the City Clerk; and

WHEREAS, copies could be had upon application therefor at the office of the City Clerk until the date fixed for the election hereinafter described; and

San Bernardino city charter.

WHEREAS, the Mayor and Common Council of said City did, by an Ordinance designated "Ordinance No. 1541", which was duly passed and adopted on the 4th day of March, 1935, and which was approved by the Mayor of said City on the 5th day of March, 1935, call and order the holding of a special municipal election in the City of San Bernardino on the 8th day of April, 1935, which said last mentioned date was at least forty days, and not more than sixty days after the completion of the publication of such proposed amendments to said charter for one day in the said DAILY ORANGE BELT NEWS, said newspaper, and which said Ordinance calling such election specified, ordered and ordained that the said proposed amendments be submitted to the qualified electors of said City, at the said special election, for ratification or rejection, and designated the time of such election, and provided for the election precincts and the polling places therein and the election officers for each such precinct, and which said Ordinance was published for three consecutive times in the SAN BERNARDINO DAILY SUN, the last day of said publication being on the 13th day of March, 1935; and

WHEREAS, said amendments were duly submitted to the qualified electors of said City of San Bernardino, at said special election held on said April 8, 1935, which said special election was held not less than forty days, nor more than sixty days after the completion of the publication of such proposal for one day in said Daily Orange Belt News, said daily newspaper; and

WHEREAS, in and by said Ordinance so passed, approved and published, as aforesaid, said proposed amendments were submitted to the qualified electors of said City at a special municipal election; and

WHEREAS, said proposed amendments were duly submitted to the qualified electors of said City of San Bernardino at said special election; and

WHEREAS, in and by said Ordinance, said Mayor and Common Council ordered that said special election be consolidated with a general election to be held in the City of San Bernardino on said date, which said election was and is the general City election; and

WHEREAS, the Mayor and Common Council of the City of San Bernardino duly met on April 10, 1935, in accordance with law, and did then and there duly and regularly canvass the returns that had been so far filed; and it appearing that part of the returns had not yet been filed by the Clerk, the meeting was adjourned to April 15, 1935, for a further canvass of the votes cast at said election; that on April 15, 1935, the Mayor and Common Council of the City of San Bernardino duly met, and did then and there duly and regularly canvass the returns which had not been filed by the

Clerk on April 10, 1935, and said Mayor and Common Council did find and determine therefrom that said proposed amendments to said charter, hereinafter particularly set forth, were voted for and against at said election, as follows:

	Votes Yes	Votes No	Total Votes
Proposed Charter Amendment No. 1,	3961	2447	6408
Proposed Charter Amendment No. 2,	3651	2452	6103
Proposed Charter Amendment No. 3,	3611	2402	6013
Proposed Charter Amendment No. 4,	3740	2161	5901
Proposed Charter Amendment No. 5,	4556	1878	6434

And thereafter, the City Clerk and Ex-Officio Clerk of the Mayor and Common Council of the City of San Bernardino did enter the record thereof in the minutes of said Mayor and Common Council; and

WHEREAS, said Mayor and Common Council did thereupon cause said canvass to be entered upon its minutes, and did find and determine and declare that said proposed amendments had been ratified and adopted by a majority of the electors of said City voting thereon; and

WHEREAS, said amendments so ratified by the electors of the said City of San Bernardino, at said special election, are now submitted to the Legislature of the State of California, for approval or rejection, as a whole, without power of alteration or amendment, in accordance with the provisions of Section Eight of Article Eleven of the Constitution of the State of California;

NOW, THEREFORE, the undersigned, JOHN H. OSBORN, the City Clerk and Ex-officio Clerk of the Mayor and Common Council of the City of San Bernardino, authenticated his signature with the official seal of said City, does hereby certify that said amendments to said charter of said City, so ratified by a majority of the qualified electors voting thereon at said special municipal election held on the 8th day of April, 1935, as submitted to said electors, are in words and figures as follows, and are and shall, if so approved by said Legislature, be in the words and figures following, to-wit:

"PROPOSED CHARTER AMENDMENT NO. ONE

It is hereby proposed that Section 160 of the City Charter of the City of San Bernardino be amended to read as follows, to-wit:

Board of Water Commissioners

'Section 160: There is hereby created a commisison consisting of three members, to be known as the Board of Water Commissioners. Members of such Board shall be appointed by the Mayor, subject to the confirmation of the Common Council The term of office of each of such Commissioners shall be six years; provided, however, that on or after twelve o'clock noon

on the second Monday in May, 1935, one member of the Board of Water Commissioners shall then be appointed for a term of six years; that on or after twelve o'clock noon on the second Monday of May, 1937, one member of such Board of Water Commissioners shall be appointed for a term of two years, and one member shall be appointed for a term of six years; and thereafter, on or after twelve o'clock noon on the second Monday of May of each odd numbered year one member of the Board of Water Commissioners shall be appointed for a term of six years. Any member of the Board of Water Commissioners may be removed at any time by a four-fifths vote of the Common Council, and upon any such removal, the vacancy shall be filled by the Mayor, with the consent of the Common Council, for the unexpired term. No person shall be eligible to appointment as a member of said Board unless he shall have been a qualified elector of said City for the period of five years next preceding the date of his appointment.'

PROPOSED CHARTER AMENDMENT NO. TWO

It is hereby proposed that Section 164 of the City Charter of the City of San Bernardino be amended to read as follows, to-wit:

Powers of Board of Water Commissioners Expenditures

'Section 164: The Board shall have power to control and order the expenditure of all money received from sale or use of water, for the defraying of expenses for maintenance and repairs and operation of the water system, and for any expenses or additions to the same; and for supplying the City with water for any and all purposes; provided that all such money shall be deposited in the treasury of the City to the credit of a fund to be known as the Water Fund, and shall be kept separate and apart from other moneys of the City, and shall only be drawn from said fund upon demands authenticated by the signatures of the President and Secretary of the Board, or in the absence of the President, by the signatures of two members and the Secretary of the Board, except that the Common Council may, in its discretion, monthly transfer from the Water Fund to the General Fund not more than ten per cent of the revenues of the Water Department during the preceding month, and except that the Mayor and Common Council may, in its discretion, monthly transfer from the Water Fund to the proper bond fund an amount of money equal to one-twelfth of the amount which will become due and payable during the current year for interest or principal, or for interest and principal, upon any or all outstanding water works bonds.'

PROPOSED CHARTER AMENDMENT NO. THREE

It is hereby proposed that Section 163 of the City Charter of the City of San Bernardino be amended to read as follows, to-wit:

Powers of Board of Water Commissioners: Powers.

'Section 163: The Board of Water Commissioners is hereby authorized and empowered as follows:

FIRST: To establish and collect all water rates, collect all rentals from water bearing lands, and generally regulate, control, manage, renew, repair and extend the entire water system of the City; provided, however, that no indebtedness shall be incurred by said Board unless there shall be sufficient moneys on hand in the Water Fund of the City at the time the indebtedness is incurred to pay the same.

SECOND: To employ such help as the necessities of the water service may demand, and fix the compensation of any and all employes in said water service. And said employes to be paid out of the Water Fund. And said Board shall have power to require of any employe in the Water Department an adequate bond for the faithful performance of his duties.

THIRD: To generally regulate, control, manage, renew, repair and extend the sewer system of said City. All costs and expenses of such sewer system shall be paid from the Water Fund.

FOURTH: To make rules and regulations governing the conduct of said Board, and the members thereof.'

PROPOSED CHARTER AMENDMENT NO. FOUR

It is hereby proposed that Section 140 of the City Charter of the City of San Bernardino be amended to read as follows, to-wit:

Expenditure of over $500.

'Section 140: No supplies, material or other item of expenditure, for an amount exceeding five hundred dollars, except for personal services, shall be ordered, or purchased by the Mayor and Common Council, or any board, or department of the City, authorized to incur any expenditure, except after first advertising for sealed proposals and awarding a contract to the lowest and best bidder. Each proposal must be accompanied by a certified check in an amount not less than ten per cent of the sum bid, which check must be forfeited to the City upon failure of the person, firm or corporation bidding to enter into the contract awarded. All contracts awarded by the Mayor and Common Council shall be by Ordinance or Resolution. A sufficient bond, payable to the City, with two or more sureties, or a surety company bond, shall be required to secure a faithful performance of each contract awarded.'

PROPOSED CHARTER AMENDMENT NO. FIVE

It is hereby proposed that one new Section be added to the City Charter of the City of San Bernardino, to be designated 'Section 10', and to read as follows:

Primary election.

'Section 10: A primary election shall be held in said City on the third Monday in March of each odd numbered year, for the nomination of candidates to be elected at the ensuing general election, and a general election shall be held in said

City on the second Monday in April of each odd numbered year, for the election of City officers. Said election shall be conducted in the manner provided for by general law; provided, however, that the Mayor and Common Council shall have power, by Ordinance, to provide for the manner of holding such election.' "

And said JOHN H. OSBORN, as Clerk of said City and Ex-officio Clerk of the Mayor and Common Council of said City, does hereby further CERTIFY that he has this day carefully compared the foregoing and proposed ratified amendments to the charter of the City of San Bernardino with the original submission thereof and said Resolution No. 272 and Ordinance No. 1541 and the proceedings of the Common Council of said City, on file and of record in the office of said City Clerk, subsequent to the passage of said Resolution and said Ordinance, and from said comparison and examination he finds and hereby CERTIFIES that the foregoing contains a true, full, exact and correct copy of said charter amendments to said charter of said City of San Bernardino, as ratified aforesaid. Certificate.

And I further hereby CERTIFY that the facts set forth in the preamble of this certificate preceding said amendments to said charter, and each of them, are true.

And, for and on behalf of said City, I, being hereinbefore duly authorized, do hereby request the Legislature of the State of California to adopt said amendments to said charter as a whole, and to take such other and further steps and proceedings as may be necessary to perfect such approval.

IN WITNESS WHEREOF, I have hereunto set my hand and caused my signature, authenticated by the official seal of said City, to be hereunto attached, this 23rd day of April, 1935.

JOHN H. OSBORN
City Clerk of the City of San Bernardino, and Ex-official Clerk of the Mayor and Common Council of said City of San Bernardino.

(SEAL)

WHEREAS, Said proposed amendments to the charter of the city of San Bernardino have been submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with the provisions of section 7½ of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, a majority of all the members elected to each house voting for the adoption of the resolution and concurring therein, That said amendments to the charter of the city of San Bernardino, as proposed, adopted and ratified by the electors of said city of San Bernardino, and as hereinbefore set forth, be, and the same are, hereby approved as a whole without amendment or alteration, as amendments to and as a part of the charter of the city of San Bernardino. Ratification

CHAPTER 74.

Assembly Joint Resolution No. 52—Relative to regulation of the production of crude petroleum.

[Filed with Secretary of State April 29, 1935.]

Oil and gas conservation

WHEREAS, The past history of the sovereign State of California is replete with illustrations of its earnest endeavor to jealously guard the States' rights prerogatives granted under the Constitution of the United States; and

WHEREAS, There is continuing evidence of a desire on the part of some officials in Washington to compel a surrender of these rights in whole or in part; and

WHEREAS, The oil and gas conservation statutes of this State have been rigidly enforced to prevent physical waste in the production of crude petroleum or natural gas, and to protect the underlying strata that hold these natural resource reserves; and

WHEREAS, There is now pending before the Congress of the United States a bill, generally known as the "Thomas Bill," which has for its purpose the attempted regulation of the production of crude petroleum with the several oil-producing States; and

WHEREAS, The objective of the main portion of this bill is contrary to the principles of our dual form of government in that it provides for an attempted invasion of the sovereign powers of California, and would permit Federal encroachment upon the exclusive power of this State to control the production of its natural resources; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That Senators and Representatives in Congress from this State, be urged to use their utmost endeavor to defeat the passage of this proposed measure and other measures of a similar nature; and be it further

Resolved, That the Governor of the State of California be requested to transmit a copy of this resolution to the members of the California delegation in Congress, to the presiding officers of the Senate and House of Representatives, and to the chairman of the Committee on Mines and Mining of the United States Senate, and to the chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives.

CHAPTER 75.

Assembly Concurrent Resolution No. 35—Relative to the death of the mother of Assemblyman Augustus F. Hawkins.

[Filed with Secretary of State April 29, 1935.]

Death of mother of Assemblyman Hawkins.

WHEREAS, The members of the Assembly and the Senate of the State of California have learned with profound sorrow

of the passing of the mother of one of our most beloved members, Assemblyman Hawkins; and

WHEREAS, We know that the death of this loving individual has brought sorrow to Mr. Hawkins and the immediate members of his family; and

WHEREAS, It is God's wisdom that she be taken from this earth, and be given her just reward in the life beyond for the many kind deeds she has rendered to humanity during her lifetime; and

WHEREAS, Her loss will not only be a loss to the immediate members of her family but a loss to those who knew her while she was living; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, That when the Legislature adjourns this day, it do so out of respect to the memory of the late Mrs. Hawkins; and be it further

Resolved, That the Chief Clerk be and is hereby instructed to have prepared a suitable memorial resolution properly engrossed and mailed to the family of the deceased.

CHAPTER 76.

Assembly Concurrent Resolution No. 33—Approving five certain amendments to the charter of the city of Long Beach, State of California, ratified by the qualified electors of said city at a special municipal election held therein on the fifth day of April, one thousand nine hundred thirty-five.

[Filed with Secretary of State April 29, 1935.]

City of Long Beach Charter amendments

WHEREAS, The city of Long Beach, in the county of Los Angeles, State of California, contains a population of over fifty thousand inhabitants, and has been, ever since the year 1921, and now is, organized and acting under and by virtue of a freeholders' charter, adopted under and by virtue of section 8, Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the fourteenth day of April, 1921, and approved by the Legislature of the State of California, on the twenty-sixth day of April, 1921 (Statutes of 1921, page 2054), and amendments thereto duly ratified by the qualified voters of said city and by resolutions of said Legislature as set out in the certificate of the mayor and city clerk of said city of Long Beach, hereinafter set forth; and,

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of certain amendments to the charter of said city of Long Beach, as set out in the certificate of the mayor and city clerk of said city of Long Beach, as follows, to wit:

CERTIFICATE OF ADOPTION BY THE QUALIFIED ELECTORS OF THE CITY OF LONG BEACH AT A SPECIAL MUNICIPAL ELECTION HELD THEREIN ON THE FIFTH DAY OF APRIL, ONE THOUSAND NINE HUNDRED THIRTY-FIVE, OF CERTAIN AMENDMENTS TO THE CHARTER OF THE CITY OF LONG BEACH, STATE OF CALIFORNIA.

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES, } ss.
CITY OF LONG BEACH.

Certificate.

We, Carl Fletcher, Mayor of the City of Long Beach, and E. L. Macdonald, City Clerk of the City of Long Beach, do hereby certify as follows:

That said City of Long Beach, in the County of Los Angeles, State of California, is now, and was at all of the times herein mentioned a city containing a population of more than fifty thousand inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States; and,

That said City of Long Beach is now, and was at all of the times herein mentioned, organized and existing under a freeholders' charter adopted under the provisions of Section Eight, Article Eleven, of the Constitution of the State of California, which charter was duly ratified by a majority of the electors of said city at a special election held therein on the fourteenth day of April, 1921, and approved by the legislature of the State of California, on the twenty-sixth day of April, 1921, and amendments thereto duly ratified by the qualified voters of said city, and approved by resolution of said legislature and filed with the Secretary of State of the State of California the 27th day of April, 1923, (Statutes 1923, Page 1624), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the eighteenth day of April, 1925, (Statutes 1925, page 1330), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the fifteenth day of January, 1929, (Statutes 1929, Page 1977), and amendments thereto duly ratified by the qualified voters of said City and approved by resolution of said legislature and filed with said Secretary of State the twenty-ninth day of March, 1929, (Statutes 1929, page 2062), and amendments thereto duly ratified by the qualified voters of said City and approved by resolution of said legislature and filed with said Secretary of State the second day of March, 1931, (Statutes 1931, page 2780), and amendments thereto duly ratified by the qualified voters of said City and approved by resolution of said legislature and filed with said Secretary of State the nineteenth day of April, 1933, (Statutes 1933, page 3006); and

Long Beach city charter

That the legislative body of said city, namely, the City Council of said city, did, by motion duly adopted on the twenty-first day of February, 1935, on its own motion, and pursuant to the provisions of Section 8, of Article XI, of the Constitution of the State of California, duly propose to the qualified electors of said City of Long Beach twenty amendments to the charter of said city designated as Proposition No. 1, Proposition No. 2, Proposition No. 3, Proposition No. 4, Proposition No. 5, Proposition No. 6, Proposition No. 7, Proposition No. 8, Proposition No. 9, Proposition No. 10, Proposition No. 11, Proposition No. 12, Proposition No. 13, Proposition No. 14, Proposition No. 15, Proposition No. 16, Proposition No. 17, Proposition No. 18, Proposition No. 19 and Proposition No. 20, and ordered that said proposed amendments be submitted to said qualified electors of said city at a special municipal election to be held in said city on the fifth day of April, 1935; and

That said twenty proposed amendments were, and each of them was, on February 22nd, 1935, duly published in the Long Beach Sun and in each edition thereof during said day of publication; and

That said Long Beach Sun was, upon the date of said publication, and at all times since has been, and now is, a daily newspaper of general circulation within said City of Long Beach, and was upon the date of the publication of said proposed amendments, and at all times since has been, and now is, published in said City and said newspaper was, upon the date of the publication of said proposed amendments, and at all times since has been and now is, the official newspaper of said City, and was the newspaper designated by said City Council for the publication of said proposed amendments; and

That said twenty proposed amendments were duly and regularly printed in convenient pamphlet form and, at and during the time and in the manner provided by law, a notice was published in said Long Beach Sun that such copies of said proposed amendments could be had upon application therefor in the office of the City Clerk of said City, and said twenty proposed amendments so printed in convenient pamphlet form were duly and regularly distributed in the manner provided by law; and

That said City Council did, by ordinance designated as Ordinance No. C-1348, order the holding of a special municipal election in said City of Long Beach on the fifth day of April, 1935, which date was not less than forty nor more than sixty days after the completion of the publication of said twenty proposed amendments as aforesaid and which ordinance was published at least ten successive days before the day of said election, to-wit: On the twentieth, twenty-first, twenty-second, twenty-third, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth and thirtieth days of March, 1935, in the Long Beach Sun, the official newspaper of the City of Long Beach and a newspaper of general

circulation and published in said city, and said ordinance was posted in three conspicuous places in the City of Long Beach, and said Council of said City did, by said Ordinance No. C-1348, order said special municipal election consolidated with the Long Beach City School District election authorized by law to be held in said city on the fifth day of April, 1935; and

That said special municipal election was held in said City of Long Beach on the fifth day of April, 1935, which day was not less than forty days nor more than sixty days after the completion of the publication of said twenty proposed amendments once in the Long Beach Sun as aforesaid; that said election was held during a regular session of the legislature and before the final adjournment thereof; and

That at said special municipal election held as aforesaid, a majority of the qualified voters of said City of Long Beach voting thereon, voted in favor of five of said proposed amendments to the charter of the City of Long Beach, and duly ratified the same; and

That said proposed amendments to said charter, so ratified, as aforesaid, were and are amendments numbered 1, 6, 7, 9 and 16; and

That the City Council of said City of Long Beach did, at the time and in the manner and form provided by law, to-wit, on the 12th day of April, 1935, regularly canvass the returns of said special municipal election, and did then and there duly find, determine and declare that a majority of the qualified voters of said city of Long Beach voting thereon had voted in favor of and ratified five of said proposed amendments to the charter of the City of Long Beach, to-wit, amendments numbered 1, 6, 7, 9 and 16, and that all of the other of said proposed amendments received less than a majority of the votes of the qualified electors voting thereon and were not ratified; and

That said proposed amendments to the charter of the City of Long Beach ratified by the electors of said City as aforesaid are in words and figures as follows, to-wit:

PROPOSITION NO. 1

That Section 27 of the Charter of the City of Long Beach be amended to read as follows:

Creation of additional departments and divisions

Sec. 27. To create such additional departments, or additional divisions of departments, or positions in the executive branch of the city government as may be required for the proper transaction of the business of the city; to create positions other than those established by this charter or by the general laws, whenever the public convenience or necessity may require the same, and to prescribe all duties pertaining to the positions thus created, and to provide for the appointment and to fix the compensation of the persons to fill the same. Provided, however, this shall not be construed to authorize the creation of new offices or new positions and the appointment of other officers or persons to perform the duties by this charter assigned to officers or persons provided for

herein, other than the necessary deputies, assistants and clerks of such officers and persons provided for herein; provided further, that the City Council may, by ordinance, consolidate departments provided for in this charter, or consolidate divisions of such departments whether such divisions be a part of the same department or not, and may provide for the appointment of one officer or person as the head of such consolidated department or consolidated division; provided further, that nothing herein contained shall be construed to authorize or permit the consolidation of any department of which the head is an elective officer, with any other department, or with any division of any department.

PROPOSITION NO. 6.

That Section 66b of the Charter of the City of Long Beach be amended to read as follows:

Elections

Sec. 66b. The City Council shall, by ordinance, order the holding of all elections. Such ordinance shall conform in all respects to the general law of the State of California governing the conduct of municipal elections, now or hereafter in force, except as in this Charter otherwise provided. All ordinances ordering the holding of elections shall be published at least three times in the official newspaper of the City of Long Beach ten days prior to the date of the election.

PROPOSITION NO. 7.

Repeals.

That Sections 76a, 76b, 76c, 77, 77a, 77b, 77c, 78, 78a, 78b, 78c, 79, 79a and 79b of the Charter of the City of Long Beach be, and the same are, hereby repealed.

That Sections 76 and 117 of the Charter of the City of Long Beach be amended to read as hereinafter in this proposition set forth.

That the Charter of the City of Long Beach be amended by adding a new section thereto to be known as Section 117a and to read as hereinafter in this proposition set forth.

School elections

Sec. 76. The foregoing provisions of this article shall not apply to elections for members of the Board of Education, or issuing bonds of the "Long Beach City School District", or propositions to be submitted to the people of said school district.

Conduct of elections

Sec. 117. All elections for members of the Board of Education, or issuing bonds of the school districts, or on propositions to be submitted to the people of the school districts, shall be called, held, conducted and the vote canvassed and declared in accordance with the laws of the State of California governing the election of city boards of education, except as to the time of holding said election and the terms of office of the members of said board of education, in which particulars the provisions of this Charter shall govern. The costs and expenses incurred in connection with or incident to any elec-

tion held under this article shall not be a charge upon the funds of the City.

Compensation of members of Board of Education

Sec. 117a. Whenever it shall be provided by the laws of the State of California that the compensation of members of boards of education may constitute a legal charge against the funds of school districts, then, and in that event, each member of the Board of Education shall be paid, as compensation for all services rendered by him, the sum of Ten Dollars ($10.00) for each and every meeting of the Board of Education attended by him; provided, however, that there shall not be paid to any member for any one calendar month a sum greater than Fifty Dollars ($50.00); provided further, however, that until the laws of the State of California shall provide that the compensation of members of boards of education may constitute a legal charge against the funds of school districts, the City Council of the City of Long Beach may, by ordinance, provide for the payment, out of the funds of the city, of such compensation or so much thereof as shall be determined by the City Council.

PROPOSITION NO 9.

That Article No. XXIV of the Charter of the City of Long Beach be amended to read as follows:

ARTICLE XXIV

Revenue and Taxation

THE FISCAL YEAR

Fiscal year.

Sec. 250. The fiscal year of the City of Long Beach shall commence on the first day of July of each year and shall end on the thirtieth day of June next following, or as provided for by ordinance upon the recommendation of the City Manager.

TAX SYSTEM

Taxation

Sec. 251. The City Council shall by ordinance provide a system for the assessment, levy, equalization and collection of all city taxes. All taxes assessed together with any charges imposed for delinquency and the cost of collection shall constitute liens on the property assessed. All cost of removing weeds from property shall be a lien upon the property from which such weeds have been removed. Every tax upon the personal property shall be a lien upon the real property of the owner thereof. The time when the liens so provided shall attach shall be fixed by ordinance by the City Council.

MANAGER'S RECOMMENDED BUDGET

Budget

Sec. 252. The City Manager shall prepare and submit to the City Council his recommended budget for the forthcoming fiscal year based upon detailed estimates which shall be fur-

nished to him, in a form prescribed by him, by the several departments, offices, boards and commissions of the City.

This proposed budget shall present in comparative form the estimated income and expenditure for the current fiscal year, the income and expenditure for the last preceding fiscal year, and the recommended budget and anticipated revenue for the forthcoming fiscal year, and such additional information as the City Council or City Manager may require.

This estimate shall be delivered to the City Council at a date set by them, which shall be on or before three weeks preceding the date set for passage of the annual Appropriation Ordinance.

The Manager's recommended budget shall be presented in detail according to a uniform classification showing the elements of expense in each department, office or division of the city and the actual expenditures under the appropriation ordinance shall be recorded according to the same classifications.

The term "budget" as used in this article shall mean the financial program of the city and shall include a statement of the estimated revenues and appropriations.

ANNUAL BUDGET AND APPROPRIATION ORDINANCE

Sec. 253. The City Council may amend or may require the City Manager to amend his recommended budget, and shall adopt the recommended or amended budget as the official budget of the city for the forthcoming fiscal year, and shall not later than three weeks after the close of each fiscal year pass an appropriation ordinance conforming thereto, establishing the funds and appropriations for the forthcoming fiscal year and the amounts thereof, and the ratio of apportionment thereto. Amendment of budget

The total amount of the appropriations shall not exceed the estimated revenues of the city.

APPROPRIATIONS TO GOVERN EXPENDITURES

Sec. 254. No purchase, employment, encumbrance or commitment shall be allowed in any fiscal year in excess of the amount established for each fund or appropriation, or in excess of the moneys to be available as determined by the City Manager. Expenditures.

No department, division, office, board, commission, employee or other agency of the city shall make any contract, purchase or employment on the part of the city in any manner or for any purpose, exceeding in any year the income and revenue provided for it for such year, as shown by the budget and its classifications and appropriation ordinance, without the assent of two-thirds of the qualified electors of the city voting at an election to be held for that purpose. Contracts exceeding available funds

No indebtedness or liability incurred in any one year shall be paid out of the income or revenue of any future year;

PROVIDED, that collections during any fiscal year of income accrued during a prior fiscal year may be used to pay indebtedness incurred during that prior fiscal year.

CASH AVAILABLE

Reduction of expenditures

Sec. 255. During the progress of the fiscal year the City Manager shall determine the probable amount of money to be received during that year and the probable amounts available to each fund and appropriation and if in his opinion such amounts are insufficient to provide the full amount originally appropriated the Manager shall reduce the expenditures of the city accordingly. At the direction of the City Manager all departments, divisions and offices including the offices of elected officials, shall curtail their activities sufficiently to keep within their budget allowances or appropriations as so reduced. The City Manager shall have authority to determine the specific activities which shall be curtailed except in the departments of elective officials. PROVIDED, however, that this section shall not operate to eliminate or seriously curtail activities made mandatory by this charter, or State Constitution.

TAX LEVY AND LIMITATIONS

Taxation.

Sec. 256. The City Council shall have the power to levy and collect taxes upon all real and personal property within the City for municipal purposes; PROVIDED, that the tax levy for any one year for municipal purposes other than the Municipal Library, the Municipal Band, Public Recreation, the amount necessary to pay the principal and interest on the bonded indebtedness of the City, and any other special tax provided by this Charter or voted by the qualified electors of the City under constitutional provisions, shall not exceed one dollar on each one hundred dollars ($100.) of all real and personal property within the city. This provision shall apply so long as the City Assessor establishes the assessments.

In setting the amount of appropriations and in fixing tax rates the City Council shall have the power to provide for income in addition to the estimated requirements to offset anticipated delinquency in payment of taxes.

PROCEDURE FOR MUNICIPAL TAXATION

General laws relating to taxation adopted

Sec. 257. Except as otherwise provided by ordinance or by the provisions of this charter, the assessment of property taxable in the city for municipal purposes, the equalization of assessments and collection of taxes, the sale of property for unpaid taxes and the redemption of property sold for taxes, shall be made and had at the same time and manner, and with like effect, as now or may be hereafter provided by law for the assessment of property, equalization of assessments, levy and collection of taxes and sale of property for unpaid taxes for state and county purposes and redemption thereof; and all

provisions of law applicable to such assessment, equalization, levy, collection and sale for state and county purposes, are hereby applied to and shall be the law governing such assessment, equalization, levy, collection and sale for municipal purposes, and the respective officers of the city shall have, possess and perform the same powers and duties in all matters concerning revenue and taxation for municipal purposes as are by law conferred or imposed upon county officials in matters concerning revenue and taxation for state and county purposes.

CREATION OF FUNDS

Disposition of money

Sec. 258 The City Council shall, in the annual appropriation ordinance, establish the various funds to which money collected may be apportioned and out of which the money appropriated may be expended. The term "fund" as used in this article shall mean resources of the city legally segregated and set aside for a specific purpose. The term "appropriation" shall mean an assignment from estimated revenues to meet specific expenditures, and shall constitute an authorization to incur liabilities. The term "apportionment" shall mean a proportional distribution according to an established ratio.

The ordinance fixing the tax levy, and all other ordinances requiring payment of money to the city, shall fix the funds to which collections shall be apportioned and the manner and proportion of their apportionment.

All moneys received by the city shall be apportioned as directed by the various ordinances and this charter by the close of each calendar month. Moneys received during the course of a month may be distributed direct to the proper funds and appropriations, or may be placed in the Unapportioned Fund, and distributed at the close of the month in accordance with Section 259 of this Charter.

UNAPPORTIONED FUND

Sec. 259. There is hereby established an Unapportioned Fund for the following purposes:

Unapportioned fund

At the close of a fiscal year all money remaining in general purpose funds in excess of the amount required to be reserved to pay outstanding and unpaid claims, encumbrances or commitments, or to pay for services rendered during the fiscal year just closed, shall be transferred, by order of the City Manager and the approval of the City Council to the Unapportioned Fund. The sum so transferred shall be the amount shown to be available for that purpose on the balance sheet and financial statements prepared from the general and subsidiary ledgers of the city.

At the beginning of a fiscal year all sums of money on hand in the Unapportioned Fund shall be transferred to the general purpose funds of the forthcoming year and shall be distributed proportionately according to the ratio established by the appropriation ordinance.

Money received may be deposited in the Unapportioned Fund under regulations issued by the City Manager and approved by the City Council, PROVIDED, that all money so deposited during a calendar month shall be apportioned to the funds and appropriations entitled thereto at the close of each calendar month in the ratio established by the appropriation ordinance.

CENTRAL SERVICES

Revolving funds.

Sec. 260. For purposes of economy, and upon the recommendation of the Manager, the council may establish funds and appropriate money thereto for the purpose of quantity purchasing, repair and maintenance of municipal equipment, and other central services, and the funds so established shall be revolving funds, not subject to transfer at the close of a fiscal year, and may be represented by cash, inventories of supplies and material, or credits receivable from other funds or appropriations. Charges for materials or services from central service funds to other funds or appropriations for materials delivered or services rendered shall be made on the books of the City by journal entry in the manner approved by the City Manager, and such action shall not be considered a transfer of money from one fund to another.

TRUST FUNDS

Funds for special purposes

The City Manager with the approval of the City Council, may establish trust and special deposit funds, for the deposit of money received by the City in trust or for special purposes. Disbursements may be made from such funds according to the conditions of the deposit, and under rules to be issued by the City Manager.

GENERAL BOND REDEMPTION AND INTEREST FUND

Tax for bonded indebtedness

Sec. 261. The City Council shall annually provide, by a special tax levy upon real and personal property, a sum sufficient to pay the principal and interest coming due upon the bonded indebtedness of the city during the fiscal year.

LIBRARY

Library tax

Sec. 262. The City Council shall levy and collect annually, on all the taxable property in the City of Long Beach, as in other cases, a special tax sufficient to maintain the Long Beach Public Library and branch libraries, and all fees and moneys received by the Public Library in connection with its operations shall be deposited to the Library Fund including all receipts for the fiscal year 1934–35, and this money shall be used for the purpose of supporting and maintaining the library department, and establishing, supporting and maintaining branch libraries, and purchasing or leasing such real and personal property, books, papers, publications, furniture and fixtures, and erecting such buildings as may be necessary therefor. No

indebtedness exceeding the amount provided for by the Appropriation Ordinance for this purpose shall be incurred in any one year; PROVIDED, this limitation shall not be construed to prevent the incurring of indebtedness for permanent improvements, to be liquidated by the proceeds of municipal bonds issued by the City of Long Beach, in accordance with the provisions of this Charter and of the general laws of the State of California, for the purpose of defraying the cost of such improvements.

THE MUNICIPAL BAND

Sec. 263 The City Council shall levy and collect annually on all taxable property in the City of Long Beach, as in other cases, a special tax sufficient to support, employ and maintain a municipal band. Municipal band tax

INSURANCE

Sec. 264. In order to create a fund to enable the City to carry its own insurance, the City Council may in its discretion create a separate fund, to be known as "The Insurance Fund". The City Council may, from time to time, appropriate to said fund a sum which shall be used to meet losses of buildings or other property through destruction or damage from any cause, and losses through liability for injuries to persons or property which the city may sustain. Such fund shall be a continuing fund, the principal and accrued interest of which shall be used only for the payment of such losses and liabilities. In a like manner the body having control of the funds of any public utility operated by the city may annually set aside from the income derived from the public utility of which said body has control, a similar fund to be used only to meet such losses to the property of such utility or the payment of liability through the operation of such utility. Insurance fund

CREATION OF CASH BASIS FUND

Sec. 265. The City Council shall in each of the fiscal years of 1921–1922, 1922–1923 and 1923–1924 levy and collect, on all the taxable property in the City of Long Beach, as in other cases, a special fund to be designated the "Cash Basis Fund" of five cents on each one hundred dollars ($100) of the value of all real and personal property of the city, as assessed for city purposes. The Cash Basis Fund shall be created, maintained and used as a revolving fund for the purpose of putting and maintaining the payment of the running expenses of the city on a cash basis, and to meet all legal demands against the city treasury for the first four months, or other necessary period, of each fiscal year, salary and wages to be paid first. The City Council shall have the power to transfer from the Cash Basis Fund, after all demands for salary and wages have been paid, such sum or sums as may be required for the purpose "Cash Basis Fund" tax

of placing such fund or funds, as nearly as possible, on a cash basis; salary and wages to be provided for before any other transfers are made. It shall be the duty of the City Council to provide that all money so transferred from the Cash Basis Fund be returned thereto before the end of the fiscal year.

FUNDS ESTABLISHED BY CHARTER

Funds enumerated.

Sec. 266. The funds of the city as established by this Charter are enumerated as follows:

Relief and Pension Fund, established in Sec. 187 (6)
Recreation Fund, established in Sec. 202 (g)
Water Revenue Fund, established in Sec. 217 (12)
Public Utility Fund, established in Sec. 224 (2)
Harbor Revenue Fund, established in Sec. 229 (d)
Unapportioned Fund, established in Sec. 259.
General Bond and Interest Fund, established in Sec. 261.
Library Fund, established in Sec. 262.
Municipal Band Fund, established in Sec. 263.
Insurance Fund, established in Sec. 264.
Cash Basis Fund, established in Sec. 265.
General Purpose Fund or Funds created by the Council under Sec. 258.
Central Services Fund or Funds, established under authority of Sec. 260.
Trust and Special Deposit Funds required by Sec. 260.
Such other fund or funds as may now or hereafter be established by this Charter or any amendment thereof.

Transfers from funds.

Except as specifically provided in this Charter, no money shall be transferred from one fund to another, or from one appropriation to another, PROVIDED, that in cases of extreme emergency so declared by the City Council, requiring an expenditure from a fund or appropriation having insufficient money on hand or anticipated during the fiscal year for the purpose, and there is surplus money available in other funds or appropriations, the City Council may authorize a transfer of money between such funds.

An emergency shall be defined as an extraordinary and unforseen occurrence but in no wise shall the underestimating of the cost of the normal and ordinary operations of a department, office, board or commission be deemed an emergency.

No warrant shall be drawn against any fund or appropriation in favor of another fund or appropriation, except upon the recommendation of the Manager and the approval of the City Council in each instance. Such transactions between funds or appropriations as are legal and proper shall be made upon the books of the city by journal entry in the manner determined by the City Manager.

DISPOSITION OF COLLECTIONS

Deposit of money.

Sec. 267. All collections of money belonging to or for the use of the city shall be deposited with the City Treasurer, at

intervals of not more than one week, according to regulations to be issued by the City Manager. All deposits shall be apportioned to the various funds and appropriations in the manner outlined in this Charter.

EFFECTIVE DATE

Sec. 267a. This article shall become effective upon the first day of the first fiscal year following the approval of this amendment to the Charter of the City of Long Beach by the Legislature of the State of California; PROVIDED, that section 262 shall become effective immediately upon the approval of this amendment by the Legislature of the State of California. Effective date.

PROPOSITION NO. 16.

That Section 305 of the Charter of the City of Long Beach be amended to read as follows:

Sec. 305. The registered qualified electors of the City of Long Beach may propose and submit to the City Council ordinances in the following manner: By petition signed by registered qualified electors equal in number to twenty-five per cent of the entire vote cast at the last preceding general municipal election. The petition shall set forth the proposed ordinance, or ordinances, and contain a request that the same be enacted into law by the city council. The signatures to such petition need not all be appended to one paper, but each signer must add to his signature his place of residence, giving street and number, the date of signing and the number of his election precinct. One of the signers of each paper shall make oath, before some officer authorized to administer oaths, that each signature to the paper appended was made in his presence and that, to the best of his knowledge and belief, it is the genuine signature of the person whose name purports to be thereunto subscribed. Within ten days from the date of filing of such petition the city clerk shall examine the same and, from the list of registered qualified electors of the City of Long Beach, ascertain whether or not said petition is signed by the requisite number of registered qualified electors, and he shall attach to said petition his certificate showing the result of such examination, stating the number of registered qualified electors found upon said petition and the number of persons not qualified to vote, and, in checking said petition, the city clerk shall designate the names of persons found thereon not qualified to vote with the letters "D. V." in red ink opposite such name or names If by the city clerk's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of the return of said certificate to the petitioners. The city clerk shall, within ten days after such amendment is filed with him, make a like examination and check off the names thereon, and, if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a Initiative

new petition to the same effect If the petition is shown to be sufficient by the certificate of the city clerk, he shall submit the same to the city council without delay, and the city council shall either:

(a) Pass the ordinance set out in said petition without alteration within ten days after the date of the city clerk's certificate of sufficiency thereon; or

(b) Submit the same to a vote of the registered qualified electors of the City of Long Beach at a special municipal election to be called for that purpose within forty days from the date of said certificate, unless a general municipal election is to be held within ninety days thereafter, and then at such general municipal election, such ordinance shall be submitted without alteration of any kind. The ballot used in voting upon such proposed ordinance shall set forth the title thereon in full and state its general nature, and shall contain the words: "For the Ordinance" and "Against the Ordinance". If a majority of the qualified votes cast is in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city, and any ordinance, so enacted, shall not be repealed or amended except upon a vote of the people. Any number of ordinances may be voted upon at the same election in accordance with the provisions of this article. The city council may submit a proposition for the repeal of any such ordinance or for amendments thereto to be voted upon at any general municipal election or at any special municipal election, and, should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly.

Certificate. That the foregoing is a full, true and correct copy of said proposed amendments to the charter of the City of Long Beach ratified by the electors of said city as aforesaid, on file in the office of the City Clerk of said City of Long Beach.

IN WITNESS WHEREOF, Carl Fletcher, Mayor, as aforesaid, and E. L. Macdonald, City Clerk, as aforesaid, have hereunto set their hands and caused the corporate seal of the City of Long Beach to be thereunto duly affixed, on this 17th day of April, 1935.

CARL FLETCHER,
Mayor of the City of Long Beach.
E. L. MACDONALD,
City Clerk of the City of Long Beach.

WHEREAS, Said proposed amendments to the charter of the city of Long Beach ratified by the electors of said city, as aforesaid, have been, and are now, submitted to the Legislature of the State of California for approval or rejection without power of alteration or amendment, in accordance with section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Ratification *Resolved by the Assembly of the State of California, the Senate thereof concurring,* a majority of all the members

elected to each house voting therefor and concurring therein. That said five amendments to the charter of the city of Long Beach, as proposed to, adopted and ratified by the qualified electors of said city of Long Beach, as hereinabove fully set forth, be and the same are, and each of them is, hereby approved as a whole without amendment or alteration, for and as amendments to and as a part of the charter of the city of Long Beach.

CHAPTER 77.

Senate Concurrent Resolution No. 30—Relative to approving the charter of the City of Roseville.

[Filed with Secretary of State May 2, 1935.]

WHEREAS, The city of Roseville was at all times herein mentioned a municipal corporation duly organized and existing under the general laws of the State of California as a city of the sixth class; and City of Roseville Charter

WHEREAS, Proceedings have been duly had in and by the city of Roseville for the preparation, proposal, adoption and ratification of a charter for the government of the city of Roseville, all as set out in the following certificate of the mayor and the city clerk of the city of Roseville, to wit;

STATE OF CALIFORNIA }
County of Placer } ss.
City of Roseville }

We, the undersigned, R. J. Rolufs, Mayor of the City of Roseville, and F. R. Chilton, City Clerk of the City of Roseville, hereby certify and declare as follows: Certificate

That the city of Roseville, in the County of Placer, is now and at all times herein mentioned was a city containing a population of more than 3500 inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States.

That pursuant to section 8 of Article XI of the Constitution of the State of California, the City Council, which was and is the legislative body of the City of Roseville, did by a two-thirds vote of all of its members pass a resolution submitting to the electors the proposition of choosing a body of fifteen freeholders to prepare and propose a charter for the government of the City of Roseville, which proposition was submitted to the voters of the city at an election held therein on April 9, 1934.

That at the election held on April 9, 1934, a board of fifteen freeholders was chosen by the electors of the City to prepare and propose a charter for the government of the City, the names of the freeholders being as follows:

Roseville city charter.

Charles Cope
Kate V. Cosgrove
P. H. Dunbar
W. F. Eich
Leroy Etzel
D. J. Gautier
Mrs. E. F. Givens
J. H. Hanson
Luther M. Johnson
H. A. Linthicum
Chas. Livoti
W. E. Parrish
H. A. Richardson
M. J. Royer
H. L. Schmitt

That the results of the election were declared April 16, 1934.

That the board of freeholders did within one year after the result of the election was declared, prepare and propose a charter for the government of the City of Roseville, which was signed by a majority of the board of freeholders and filed on August 29th, 1934, in the office of the clerk of the legislative body of the city; namely, the city clerk.

That the City Council did on September 5, 1934, and within fifteen days after such filing, cause the charter to be published once in the Roseville Tribune and Register, the official newspaper of the city, and in each edition thereof during the day of publication.

That the date fixed for the election by the board of freeholders before the filing of the charter in the office of the city clerk, and designated on the charter, was November 6, 1934, which was the date of the next general election following the expiration of sixty days after the publication of the charter.

That on October 17, 1934, a resolution calling a special election to vote on the charter was rejected upon roll call by the city council.

That the city council was commanded on February 27, 1935, by a writ of mandate issued by the Superior Court of the State of California in and for the County of Placer, to hold an election within thirty days after service of the writ.

That the election was held, pursuant to the writ of mandate, on March 26, 1935.

That a majority of the qualified voters voting thereon at such election did vote in favor of and ratify such proposed charter.

That the charter so prepared, proposed, filed and ratified is in words and figures as follows:

ARTICLE I.

NAME OF CITY.

Name of city

SECTION 1. Name: The municipal corporation now existing and known as "The City of ROSEVILLE," shall remain and continue a body politic and corporate, as at present, in fact and in law, by the name of the "City of ROSEVILLE," and by such name shall have perpetual succession.

ARTICLE II.

BOUNDARIES.

SECTION 1. Boundaries: The boundaries of the City of ROSEVILLE shall continue as now established until changed in some manner authorized by law. Boundaries

ARTICLE III.

RIGHTS AND LIABILITIES.

SECTION 1. Rights and Liabilities: The City of ROSEVILLE shall remain vested with and continue to have, hold, and enjoy, all property, rights or property and rights of action of every nature and description, now pertaining to said municipality, and is hereby declared to be the successor of the same. It shall be subject to all the liabilities that now exist against this municipality. Succession to present municipality

ARTICLE IV.

POWERS OF CITY.

SECTION 1. Powers: The City of ROSEVILLE, by and through its Council and other officials, shall have and may exercise all powers necessary or appropriate to a municipal corporation and the general welfare of its inhabitants which are not prohibited by the Constitution of the State of California and which it would be competent for this Charter to set forth particularly or specifically, and the specification herein of any particular powers shall not be held to be exclusive of or any limitation upon this general grant of powers. General powers

ARTICLE V.

LEGISLATIVE DEPARTMENT.

SECTION 1. The Council: The legislative body of said City shall consist of five persons elected at large, which body shall be known as the Council. The members of the Council shall be elected by the qualified voters of said City at a general municipal election to be held therein, every even-numbered year as hereinafter provided. They shall hold office for the period of four years from and after the Monday next succeeding the day of their election and until their successors are elected and qualified; provided, however, that the members of the City Council who shall be in office at the time this Charter is approved by the Legislature shall retain the office to which each was elected and become and constitute the Council, and that two members of the Council shall be elected at the regular municipal election held as herein provided in 1936, and three members thereof at such election in 1938, and thereafter in similar rotation each even-numbered year. Council

SECTION 2. Calling for Elections: The Council shall by ordinance order the holding of all elections. Such ordinance Election

shall establish precincts for the holding of such elections, either by adopting or consolidating precincts established for holding general elections, or by setting forth their boundaries, and shall specify the objects and time for holding such elections, and the number and the names of the officers of election and the polling place for each voting precinct. The number of election officers at each precinct shall not exceed six, at least three of whom shall be present at all times during the election. Said ordinance shall be published once in the official newspaper, not more than sixty days nor less than twenty days before the time appointed for holding the election, and no other notice thereof need be given.

Nomination

SECTION 3. Nominations: The mode of nomination of officers to be voted for at any general municipal election shall be as follows:

(1) Not earlier than the sixtieth day nor later than twelve o'clock noon on the twentieth day before any general municipal election electors of the city may, by written nomination paper present names of candidates for election. Each candidate shall be proposed by not less than five nor more than ten qualified electors, but only one candidate shall be named in any one nomination paper. No elector may sign more than one nomination paper for the same office, but each seat on the board of councilmen shall be deemed a separate office. Any person or persons who are qualified electors may circulate a nomination paper.

(2) The signatures to each nomination paper shall all be appended on the same sheet of paper and each signer shall add thereto his occupation, date and place of residence. All nomination papers shall be filed with the city clerk not later than twelve o'clock noon on the twentieth day before such election, and shall have annexed thereto an affidavit of the person who circulated the same to the effect that he saw all the signatures appended thereto and knows that they are the bona fide signatures of the persons whose names they purport to be. Each nomination paper shall be accompanied by a verified statement of the candidate that he will accept the nomination and also accept the office in the event of his election.

(3) Upon the filing of such nomination paper the City Clerk shall immediately examine the great register, and therefrom shall ascertain whether such paper is signed by the requisite number of qualified electors, and shall, within five days of said filing attach his certificate thereto showing the result of his examination.

(4) It shall not be necessary to print or send out sample ballots or polling place cards for any election, but, in case of an election to fill offices, the City Clerk shall publish a list of the names of the nominees, in alphabetical order, and the respective offices for which they have been nominated, once in the official newspaper at least ten days before the election.

SECTION 4 Filing the Returns: The returns of each election precinct shall be filed with the clerk, and no person shall be permitted access to them until canvassed by the the Council. On the first Monday after any election, and at the usual hour and place of meeting, the Council shall meet and canvass the returns and declare the result. After having been canvassed the returns shall be sealed up by the clerk for six months and no person shall have access to them except on order of a court of competent jurisdiction. Election returns

SECTION 5. Notifying the Successful Candidates: After the result of an election is declared, the clerk, under his hand and official seal, shall issue a certificate thereof and deliver the same personally or by mail to the person elected. Certificate of election

SECTION 6. Provisions of State Law to Apply: The Council may, by ordinance, make further provisions as to the manner of holding and conducting elections. The provisions of the laws of the State of California relating to elections, the qualifications of electors, the manner of voting, the duties of election officers, and all other particulars so far as they may be applicable, shall govern all municipal elections, except as otherwise provided in this Charter, or by such ordinance; provided, that no primary elections shall be held for municipal officers. General election laws adopted

SECTION 7. Initiative, Referendum and Recall: Ordinances may be initiated, or the referendum exercised on ordinances passed by the Council, under and in accordance with the Constitution and general laws of the State, and any elective officer may be recalled from office under and in pursuance of the provisions of the Constitution and general laws; provided, however, that if a minority of the Council are recalled a candidate or candidates shall be elected to fill the place or places of any officer recalled. Initiative, referendum and recall laws adopted

Petitions for exercising the initiative, referendum or recall may be circulated and/or deposited for signatures in not less than three public places in the City, to be designated by the Council. Notice of the deposit thereof shall be given by publication three or more times in the official newspaper. The Council shall provide by ordinance the detailed procedure for carrying out the provisions of this section.

ARTICLE VI

OFFICERS, DEPUTIES AND EMPLOYEES AND THEIR COMPENSATION.

SECTION 1. Officers and Employees: The administrative officers of the City of Roseville shall consist of five members of the Council, A Controller, a City Clerk, a City Treasurer, a City Attorney, a City Assessor, a City Tax Collector, a Superintendent of Streets, a City Judge, a Chief of Police, a Fire Chief, five members of the Board of Education, five Park Commissioners and five Library Trustees, provided the Council may, by ordinance or resolution, provide for such other or Officers

subordinate officers, assistants, deputies, and employees as it may deem necessary, including a City Engineer, who need not be a resident of the City.

Terms of office

The members of the Council, the City Clerk, the City Treasurer, and the Chief of Police shall be elected from the City at large, and with the exception of the Chief of Police, shall hold office for four years, and until their successors are elected and qualified; the Chief of Police shall hold office for two years and until his successor is elected and qualified; the members of the Board of Education shall be elected from the Roseville School District at large; provided, however, that all qualified electors of the Roseville School District shall have the right to vote for members of the Board of Education. All other officers and employees, except as otherwise herein provided, shall be appointed by the Council and hold office during the pleasure of the Council. The City Clerk shall be ex-officio Assessor and ex-officio Tax Collector. The Council may by ordinance combine or consolidate any two or more offices, and require the duties of the same to be performed by one official, except that the office of Controller may not be combined or consolidated with the offices of City Clerk, or City Treasurer.

Compensation

SECTION 2. Compensation: The members of the Council, the Park Commissioners and the Library Trustees, shall serve without compensation. The compensation of all officers and employees of the City, except officials and members of boards, commissions and committees, serving gratuitously, shall be fixed or changed by the annual appropriation ordinance adopted by three-fifths vote of the Council.

No officer or employee shall be allowed any fee, perquisite, emolument or stipend, in addition to, or save as embraced in, the salary or compensation fixed for such office by the Council, and all fees received by such officer in connection with his official duties shall be paid by him into the City Treasury.

Classification of employees.

SECTION 3. Classification and Standardization: The Council shall by ordinance, provide for a systematic classification of positions and a standardization of salaries of all paid appointive officers and employees of the City.

Residence requirements

SECTION 4. Eligibility for Office: No person shall be eligible for election to, or to hold, any elective office of said City unless he shall have been a resident and an elector thereof or of territory legally annexed thereto, on or prior to the date of such election or appointment, for at least two years next preceding his election thereto, or his appointment to fill a vacancy therein.

Councilman ineligible to certain offices.

SECTION 5. Disability of Councilmen: No councilman shall be eligible during the term for which he was appointed or elected or within six months thereafter, to hold any other appointive office or employment with the City, except as a member of any board, commission or committee thereof, of which he is constituted such member by general law or by this Charter.

SECTION 6. Financial Interest: No officer, appointee, or employee of the City, shall be interested in any contract or transaction with the City, or with any department, board, officer or employee thereof, nor become surety for the performance of any contract or sub-contract made with or for the City, upon any bond given for the performance thereof to the City, or contractor. No officer, appointee, or employee shall receive any commission, money or thing of value, for or by reason of any dealings with or services for the City by himself or others, except his lawful compensation as such officer, appointee or employee. The violation of any of the provisions of this section shall be a misdemeanor and shall also work the forfeiture of such office or employment on order of the Council or court of competent jurisdiction. Financial interest in city contracts.

ARTICLE VII

LEGISLATIVE, THE COUNCIL, POWERS AND DUTIES.

SECTION 1. Legislative Power: The legislative power of the City of Roseville shall be vested in the people through the initiative and referendum, and in a body to be designated the Council. Legislative power.

SECTION 2. Meetings: The Council shall meet in the Council Chambers at the City Hall in regular session on the Monday following their election, at ten A.M. and shall organize as herein required. Thereafter the Council shall meet at such times as have been or may be prescribed by ordinance or resolution, except that it shall meet regularly at least once each month. All of the meetings of the Council shall be held in the City Hall, unless by reason of fire, flood, or other disaster, said City Hall cannot be used for that purpose, and all meetings shall be open to the public. Special meetings may be called by the Mayor, or by three members of the Council, but written notice of every such meeting must be served personally upon every member not joining in the call not less than three hours before the time of such special meeting or left at the place of residence or of business of such person to be so served not less than six hours before the time of such special meeting. Meetings of council.

Such notice must state the subject or subjects to be considered or acted upon and must state the time of such meeting. All meetings of the Council and all records thereof, shall be open to the public, and no citizen shall be denied the right personally or through counsel, to present grievance, or offer suggestions for the betterment of municipal affairs.

SECTION 3. Quorum: Three members of the Council shall constitute a quorum, but a less number may adjourn from time to time. No franchise shall be granted, ordinance passed, budget adopted, supplemented or amended, appropriation made, or payment of money ordered, unless three members of the Council concur in said action. Quorum

SECTION 4. General Powers of the Council: Subject to the provisions and restrictions in this Charter contained, General powers of council.

and the valid delegation by this Charter of any powers to any person, officer, board or committee, which delegation of power, if any, shall control, the Council shall have the power, in the name of the City, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants and which are not specifically forbidden by the Constitution of the State of California, of which now or hereafter it would be competent for this Charter to specifically enumerate No enumeration or specific statement herein of any particular powers shall be held to be exclusive of, or a limitation of, the foregoing general grant of powers.

Enumeration of powers

SECTION 5. Certain Powers and Duties Enumerated: The Council shall:

1. Judge of the qualifications of its members and of election returns;

2. Establish rules for its proceedings;

3. Cause a correct record of its proceedings to be kept. The ayes and noes shall on demand of any member be taken and entered therein, and they shall be recorded on all votes passing any ordinance or dismissal of any officer, or authorizing the execution of contracts, or the appropriation or payment of money.

4. Choose one of its members as presiding officer, to be called Mayor. His term as Mayor shall be two years. The Mayor shall preside over the sessions of the Council, shall sign official documents when the signature of the Council or Mayor is required by law, and he shall act as the official head of the City on public and ceremonial occasions. He shall have power to administer oaths and affirmations and he shall have the power to make or second any motion and to present and discuss any matters not withstanding the fact that he is the presiding officer of the Council, but shall have no power to veto. When the Mayor is absent from any meeting of the Council, the members of the Council may choose another member to act as Mayor pro tem, and he shall, for the time being, have the power of the Mayor

Ordinances

SECTION 6. Ordinances: The enacting clause of every ordinance passed by the Council shall be: "Be it ordained by the Council of the City of Roseville." The enacting clause of every ordinance initiated by the People shall be: "Be it ordained by the People of the City of Roseville." At least five days must elapse between the introduction and the final passage of any ordinance: provided, that amendments germane to the subject of any proposed ordinance may be made when it is brought up for final passage; provided, any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health or safety and containing the reasons for its urgency, may be introduced and passed at once and the same meeting, regular or special, and, if passed by a four-fifths vote, shall become effective immediately upon publication. A final vote on any other ordinance, or any vote on any appropriation, must be

taken only at a regular or adjourned regular meeting. Every ordinance must be signed by the Mayor, attested by the Clerk, and published once in the official newspaper.

SECTION 7. When Ordinances Go Into Effect: Except as otherwise provided in this Charter, every ordinance and every measure passed by the Council granting any franchise or privilege, shall go into effect at the expiration of thirty days after its final passage, unless otherwise provided in said ordinance or measure; provided, however, that no such ordinance or measure shall go into effect in less than thirty days from its final passage. But ordinances declared by the Council to be necessary as emergency measures, as hereinbefore provided, ordinances ordering or otherwise relating to elections, and ordinances relating to public improvements, the cost of which is to be borne wholly or in part by special assessments, may go into effect at the will of the Council. Effective date of ordinances

SECTION 8. Amending Ordinances: No ordinance shall be amended by reference to its title, but the sections thereof to be amended shall be re-enacted at length as amended; and any amedment passed contrary to the provisions of this section shall be void. Amendments to ordinances.

SECTION 9. Public Work and Supplies:

1. All contracts shall be drawn under the supervision of the City Attorney. All contracts must be in writing, executed in the name of the City, by an officer or officers authorized to sign the same, and must be countersigned by the City Clerk, who shall number and register the same in a book kept for that purpose. Contracts

2. Progressive Payment of Contracts: Any contract may provide for progressive payments if in the ordinance authorizing or ordering the work permission is given for such payment. But no progressive payments can be provided for or made at any time which, with prior payments, if there have been such, shall exceed in amount at any time seventy-five per cent of the value of the labor done and the materials used up that time, and no contract shall provide for or authorize or permit the payment of more than seventy-five per cent of the contract price before the completion and acceptance of the work. Payment on contracts

3. Public Work to be Done by Contract: In the erection, improvement and repair of all public buildings and works, and in furnishing any supplies or materials for the same, or for any other use by the City, when the expenditure required for the same exceeds the sum of Five Hundred Dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in the official newspaper by two insertions; the first of which shall be at least ten days before the time for opening bids; provided, that the City Council may reject any and all bids presented and readvertise, in its discretion; provided, further, after rejecting bids, the City Council may declare and determine by a four-fifths vote of all its members that in its opinion the work in question may be performed more economically by day labor or Contracts for over $500.

the materials or supplies furnished at a lower price in the open market, and after the adoption of a resolution to this effect it may proceed to have the same done in the manner stated without further observance of the foregoing provisions of this section; and provided, further, that in case of a great public calamity such as an extraordinary fire, flood, storm, epidemic or other disaster, the City Council may, by resolution passed by vote of four-fifths of all its members declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property, and thereupon it may proceed to expend or enter into a contract involving the expenditure of any sum required in such emergency. In case no bid is received the Council may likewise provide for the work to be done or supplies or materials purchased under the direction of the Council.

Advertising for bids

4. Newspaper Advertising and Printing: The Council shall advertise annually for the submission of sealed proposals or bids from newspapers of general circulation printed and published in the City, for the publication of all ordinances and other legal notices or matters required to be published. A contract shall be awarded to the responsible bidder submitting the lowest bid. The determination of the Council as to the lowest bid shall be final and conclusive. The newspaper to which such contract is awarded shall, during the life of such contract, be designated as the "official newspaper" for the purposes of this Charter. The rates for publishing public notices shall not exceed the customary rates charged for publishing legal notices of a private character. Failure of the Council to designate an official newspaper shall not invalidate any publication, where the same is otherwise in conformity to law, or this Charter.

Bulletin in lieu of advertising

In lieu of newspaper advertising the Council may issue and publish a bulletin containing such matter as is required by law to be published, sending the same by mail to the registered voters of the City, to their addresses as the same shall appear on the great register of Placer County, and shall also post printed copies of such advertisement in three public places in the City of Roseville at least five days before action is taken in response to said publication. Such mailing and posting shall be conclusively deemed to be of the same effect as if the advertisement had been fully published in the official newspaper of the City.

Interest of officer or employee in contracts

5. Illegal Contracts. No officer or employee of the City shall be or become directly or indirectly interested in any contract, work, or business, or in the sale of any article, the expense, price or consideration of which is payable from the City Treasury, nor shall he receive any gratuity or advantage from any contractor or person furnishing labor or materials for the same. Any contract with the city in which any such officer is or becomes interested shall be void.

No officer or employee of the City shall aid or assist a bidder in securing a contract to furnish labor, materials, or other sup-

plies at a higher price or rate than that proposed by any other bidder, or favor one bidder over another or give or withhold information from any bidder not given or withheld from all other bidders, or wilfully mislead any bidder in regard to the character of the materials or supplies called for, or knowingly accept materials or supplies of a quality inferior to that called for by the contract, or knowingly certify to a greater amount of labor performed or material or supplies furnished than has, respectively, been performed or received.

Any officer or employee violating any of the provisions of this section shall be guilty of a misdemeanor and shall also forfeit his office or employment on order of the Council or Court of competent jurisdiction.

Collusion as to contracts

If at any time it shall be found that any person, firm or corporation to whom a contract has been awarded by the City has, in presenting any bid, colluded with any other party or parties, then the contract so awarded shall, if the Council so elect, be null and void and the contractor and his bondsmen shall be liable to the City for all loss and damage which the City may suffer thereby. In such event the Council may advertise anew for bids for said work or supplies.

Hours and wages on public works

6. Hours and Minimum Wages. The time of service of any laborer, workman or mechanic employed upon any of the public works of the City, or upon work done for said City, is hereby limited and restricted to eight hours during any one calendar day; and it shall be unlawful for any officer or agent of said City, or for any contractor or subcontractor doing work under contract upon any public work aforesaid, who employs, or who directs or controls, the work of any laborer, workman, or mechanic employed as herein aforesaid, to require or permit such laborer, workman, or mechanic to labor more than eight hours during any one calendar day, except in cases of extraordinary emergency, caused by fire, flood, or danger to life or property, or except to work upon any public, military or naval defenses or work in time of war. The minimum wage of any laborer, workman or mechanic employed upon any public work, whether so employed directly by the City and its officers, or by contractor or subcontractor, or by any other person or persons, shall be the scale of wages then generally prevailing in the City for like work.

7. Preference to Citizens of the City.

Preference on public works to residents

(a) When laborers, workmen or mechanics are employed upon any public work, whether so employed directly by the City and its officers, or by contractors or subcontractors, or by any other person or persons, such laborers, workmen or mechanics whenever available must be qualified electors of the City; provided that this subsection shall not apply if it shall conflict with the terms of any federal grant to said city. A stipulation incorporating the foregoing provisions of this subsection shall be incorporated in every contract for such public work. The City Council shall by resolution fix the amount of liquidated damages for violation of this subsection.

Preference to local merchants

(b) When making purchases for any department of the City, local merchants shall be given the preference, quality and price being commensurate.

Vacancies in council

SECTION 10. Vacancies in the Council. Any member of the Council who is absent from all meetings thereof for two consecutive months, unless excused by the Council, shall forfeit his office. Any vacancies occurring in the Council shall be filled by a person appointed by a majority vote of the Council. Said person appointed shall serve during the unexpired term or until his successor is elected at the next succeeding municipal election, and qualified.

Committees

SECTION 11. Committees of Council. The Council shall appoint such standing and other committees as it deems necessary.

Transfer of real estate

SECTION 12. Sale or Lease of City Property. No sale of real estate shall be authorized by the Council except by ordinance passed by the affirmative vote of four-fifths of all the members and no lease of any city property shall be made for a period longer than five years except by four-fifths vote of the Council.

Bonds of officers and employees

SECTION 13. Official Bonds. The Council shall, by ordinance, determine what officers and other persons in the service of the City shall give bond for the faithful performance of their duties, and shall fix the amounts of such bonds and each of such officers and other persons shall before entering upon the duties of his office or employment, execute a bond to the City in the penal sum provided by such ordinance, including in the same bond or otherwise, ex-officio incumbent. Such bonds must be examined and approved by the City Attorney. All bonds when approved shall be filed with the Clerk, except the Clerk's bond, if any, which shall be filed with the Treasurer. All the provisions of any law of this State relating to the official bonds of officers as then existing shall apply to such bonds, except as herein otherwise provided. In all cases where surety company bonds are approved by the Council the premium therefor shall be paid by the City.

Oath of office

SECTION 14. Oath of Office. Every officer of the City, before entering upon the duties of his office, shall take and file with the City Clerk the constitutional oath of office, except that the oath of the City Clerk shall be filed with the City Treasurer.

Records

SECTION 15. Records. The City Clerk, or his deputy, shall keep, under the direction of the Council, a full and true record in a book, of all proceedings of the Council, and of the Board of Equalization. He shall keep a book, marked "Ordinances", in which he shall copy all ordinances, with his certificate annexed to said copy, stating that it is a full and true record thereof, and that such ordinance has been duly published. Said record copy, with such certificate, shall be prima facie evidence of the contents of such ordinances and of the passage and publication thereof. He shall also keep an index to the minutes of the Council and to said ordinance book.

The City Clerk shall be the general accountant of the City; he shall receive and preserve in his office all accounts, books, vouchers, documents and papers relating to accounts and contracts of the City, its disbursements, revenues, and other financial affairs. Accounts

The City Clerk shall be the custodian of the City Seal and shall affix the same to all official certificates made by him and to other papers when directed by the Council to attest or execute the same. He shall have power to administer oaths and affirmations, to take affidavits, and to certify the same. He shall have such other powers and perform such other duties as may be provided by this Charter, or by ordinance or resolution. Seal

SECTION 16. Examination of Records. The Council shall employ, at the beginning of each fiscal year, a certified public accountant who shall, from time to time without notice examine the books, records, and reports of the City Clerk and of all other officers and employees who receive or disburse city money, and of such other officers and departments as the Council may direct. The final report at the end of the fiscal year shall be made in triplicate and one each thereof shall be filed with the City Clerk, Council, and City Attorney. Any officer, clerk or employee who shall refuse to give all required assistance and information to such accountant or submit to him for examination such books, papers and records of his office as may be required, shall forfeit his office, by order of the Council or court of competent jurisdiction. No such public accountant shall be employed or shall he act for two successive years. Audit of books

ARTICLE VIII

POLICE COURT

SECTION 1. Police Judge: There shall be a Police Judge, appointed by the Council. He shall be the judge of the Police Court, which is hereby established. The Police Court shall have jurisdiction, concurrently with the Justice's Courts, of all actions and proceedings, civil and criminal, arising within the corporate limits of the City and which might be tried in such Justice's Courts; and said Police Court shall have exclusive jurisdiction of all actions for the recovery of any fine, penalty, or forfeiture prescribed for the breach of any ordinance of said City, of all actions founded upon any obligation created by any ordinance thereof, and of all prosecutions for the violation of any such ordinance. In civil actions where the fine, penalty or forfeiture prescribed for the breach of any ordinance of the City is not more than one hundred dollars, the trial must be by the court; for the breach of any ordinance of the City if over one hundred dollars, the defendant is, upon his demand, entitled to a jury. Except as in this section otherwise provided, the rules and practice and mode of proceeding in said Police Court shall be the same as are, or may be, prescribed by law for Justice's Courts in like cases; and Police Court

appeals may be taken to the Superior Court from all judgments of said Police Court in like manner and with like effect as in cases of appeals from Justice's Courts.

Powers of Police Judge

SECTION 2. Powers of Judge: The Police Judge shall have all powers and perform the duties of a magistrate and may administer and certify oaths and affirmations. He shall make such periodical reports as the Council may require.

Proceedings when Police Judge disqualified

SECTION 3. Inability to Act: In all cases in which the Police Judge is a party, or in which he is interested, or when he is related to either party by consanguinity or affinity within the third degree, or is otherwise disqualified or in the case of sickness or inability to act, he may call upon any Justice of the Peace residing in the County of Placer to act in his stead.

Justice of Peace as Police Judge

SECTION 4. Justice of the Peace: The Council may, by resolution, appoint any Justice of the Peace of the township in which the City of Roseville is located, as Police Judge thereof, regardless of his residence.

Records

SECTION 5. Records: The Police Judge shall keep a record of the proceedings of the Police Court in all matters and cases before said court. Separate dockets shall be kept for civil and criminal cases. All records, files, and other property of the Police Court under the preceding charter of the City shall be the records, filed, and property of the Police Court of said City created by this charter.

Pending proceedings continued

SECTION 6. Continuity of Proceedings: All actions and proceedings pending and undetermined in the Police Court under said preceding charter, shall be proceeded with, heard, tried and determined in said Police Court herein established, before the Police Judge thereof, as if such action or proceeding had been originally commenced therein.

ARTICLE IX

CITY ATTORNEY

City Attorney

SECTION 1. City Attorney: The City Attorney shall be appointed or removed by the Council. He shall be an elector of said City, admitted and qualified to practice before the Supreme Court of the State of California, and shall have been in actual practice in California for at least three years next preceding his appointment. The City Attorney shall be legal advisor of the Council, and all other city officials, boards and departments, and when requested in writing for a legal opinion by any city official or the head of any department of the City (except the Board of Education) concerning City business, his opinion must be given in writing. He shall prosecute all violations of City ordinances and shall draft all ordinances, resolutions, contracts and other legal documents and instruments required by the Council.

Approval of bonds and contracts.

SECTION 2. Approval of Bonds and Contracts: He shall approve, as to form, all official and other bonds given for the benefit of said City, and all contracts with said City, and no

contract shall become enforceable as against said City without the endorsement thereon of such approval.

SECTION 3. Attendance at Council Meetings: He shall perform such other legal services as the Council may direct and shall attend all meetings of the Council unless excused therefrom by three members thereof or by the Mayor. Attendance at council meetings

SECTION 4. Inability to Act: When from any cause the City Attorney is unable to perform the duties of his office he may, with the consent of the Council, appoint some other qualified attorney temporarily to act in his place, and whenever, in the judgment of the Council, the interests of the City require it, it may employ assistant counsel. Proceedings when City Attorney disqualified

SECTION 5. Records: The City Attorney shall deliver all books, records, documents, and personal property of every description, owned by the City, to his successor in office and the City shall provide a means of safeguarding the same. Records

SECTION 6. Additional Powers and Duties: He shall possess such other powers, and perform such additional duties, not in conflict with this Charter, as may be prescribed by ordinance or imposed upon the chief legal officer of municipalities by law. Additional powers and duties

ARTICLE X

HEALTH OFFICER

SECTION 1. Health Officer: The Health Officer shall be a duly licensed physician under the laws of the State of California, or a person trained in public health work. He shall have all the powers and be subject to all the duties conferred upon health officers and boards of health by the general laws of the State, and such other powers and duties as may be conferred by ordinance. Health Officer

ARTICLE XI

CHIEF OF POLICE.

SECTION 1. Chief of Police: The Chief of Police shall have general command and control over the police force. He shall have power to appoint such police officers and other employees as may be authorized by the Council. Chief of Police

ARTICLE XII

FIRE CHIEF

SECTION 1. Fire Chief: The Fire Chief shall have general control over fire protection and prevention. He shall have power to appoint such firemen and other subordinates as may be authorized by the Council. Fire Chief

ARTICLE XIII

CITY ENGINEER

City Engineer

SECTION 1. City Engineer: The City Engineer must when appointed be a registered civil engineer, who has practiced his profession not less than three years. All other things being equal, an engineer who has had special training or experience in municipal engineering shall be appointed to this office, if practicable; he shall possess the same power of making surveys, plats and certificates, as is given by law to city engineers and to county surveyors. He shall be the custodian of and shall be responsible for all maps, plans, profiles, field notes, and other records and memoranda belonging to the City, and pertaining to his office and the work thereof; all of which he shall keep in proper order and condition, with full indexes thereof, and shall turn over the same to his successor, taking from him duplicate receipts therefor, one of which he shall file with the Clerk. All maps, profiles, field notes, estimates and other memoranda of surveys and other professional work made or done by him or under his direction or control during his term of office, or that he may have received from his predecessor, shall remain the property of the City.

Superintendent of Streets

SECTION 2. Superintendent of Streets: The Street Superintendent shall have the general care and supervision of streets and of the maintenance and repair thereof and the care of and custody of tools and implements belonging to the City and used for street construction and repair; He may employ such foremen, laborers and other employees, as the Council may authorize. The Superintendent of Streets shall perform such duties as may be prescribed, now or hereafter, by ordinance or general laws of the State.

ARTICLE XIV

BOARD OF EDUCATION

Board of Education

SECTION 1. Board of Education The control of the Public School Department of the City shall be vested in a Board of Education, which shall consist of five members elected from the district at large

Powers and duties

SECTION 2. Powers and Duties: The powers and duties of the Board of Education shall be such as are prescribed by the Constitution and laws of the State of California.

Term of office and election

SECTION 3. Election and term: The members of the Board of Education shall serve for terms of three years from the first day of May in each year and until their successors are elected and qualified. Provided, however, that the trustees of the Roseville Elementary School District who shall be in office at the time this Charter is approved by the Legislature shall become members of the City Board of Education and each of said members shall remain in office until the expiration of the term for which he was elected school trustee;

and provided that at the first regular school election held on the last Friday in March, next following the approval of this Charter by the Legislature, there shall be elected by the electorate of the Roseville Elementary School District at large two additional members of the Board of Education, provided that the candidate receiving the largest number of votes shall serve until the first day of May in the third year after such approval; and the candidate receiving the next highest number of votes shall serve until the first day of May of the second year after such approval; and thereafter at each annual school election there shall be elected members of the Board of Education to fill the terms of members expiring in that year. All vacancies in the Board of Education shall be filled by a vote of the remaining members of the Board of Education for the unexpired term thereof.

ARTICLE XV

LIBRARY BOARD

SECTION 1. Library Trustees: The control and administration of the Public Library of said City shall be vested in the Board of Library Trustees, which shall consist of five members, appointed as in this Charter provided. Library Trustees

SECTION 2. Powers and Duties: The powers and duties of the Library board shall be such as are prescribed by the Constitution and laws of the State of California. Powers and duties

ARTICLE XVI

FISCAL ADMINISTRATION

SECTION 1. The City Controller shall possess such powers, perform such duties and keep such records in relation to the investigation, approval, disapproval, endorsement, verification, and delivery of claims and demands as are elsewhere set forth in this Charter or required by ordinance or general law. The heads of the departments shall report to the Controller monthly the extent of improvements, expenses and other activities in their respective departments. Controller

He shall keep an account of all moneys paid into and out of the Treasury, and shall draw and sign all warrants on the treasurer for payment of money out of the treasury, except as otherwise provided in this Charter, by ordinance or by general law; his disapproval shall be final, subject to four-fifths vote of the Council. Accounts

All orders for the purchase of goods, materials and supplies, and all orders or contracts proposed to be entered into by the City by virtue of which any money shall or may become payable by the City, except contracts the expense of which is to be paid by assessments upon properties benefited or affected thereby, shall before becoming effective on behalf of the City, be presented to the Controller and have endorsed thereon his certificate that there remains unexpended and unapplied in the City Treasury, as provided by this Charter, a balance of Contracts

the appropriation or fund applicable thereto sufficient to pay the estimated expense to be incurred during the then current fiscal year under said order of contract as estimated by the Board or Officer making the same or that adequate provision therefor has been made in the tax levy, or by other revenues to be received by the City as estimated in the budget. It shall be the duty of the Controller to make such endorsement upon every such contract or order as presented to him if there remains unexpended and unapplied the said estimated amount in any appropriation, fund or tax levy, or other estimated revenue applicable thereto, and thereafter he shall hold and retain the same amount to pay the expense to be incurred under said order or contract until the same is fully performed and expense paid.

Treasurer

SECTION 3. Treasurer. The City Treasurer shall safely keep as received by him, and pay out as directed in this Charter, all moneys belonging to the City and all moneys received by or coming into the hands of any officer, board, department or employee of the City, and shall keep an exact account of receipts and disbursements.

Demands

SECTION 4. Presentation of Demands: All demands against the City shall, before being paid, be presented to and approved by the proper Board, Commissioner or Officer, as herein provided. Demands against the Library Fund shall be presented to the Board of Library Trustees, demands against funds in the control of the Board of Education shall be presented to the Board of Education, demands for which no appropriation has been made shall be presented to the Council.

Warrants

SECTION 5. Warrants on Treasury. All demands approved by the proper Board, Commission or officer shall be presented to the City Controller, who shall examine the same; and if the amount thereof is legally due and there remains on his books an unexhausted balance or an appropriation against which the same may be charged, he shall approve such demand and draw and sign his warrant on the Treasurer therefor, payable out of the proper fund. Objections of the Controller to any demand may be over-ruled by four-fifths vote of the Council, and the Controller shall thereupon draw his warrant as directed by the Council. Such warrants, when presented to the Treasurer, shall be paid by him out of the fund therein designated, if there be sufficient money in such fund for that purpose. A warrant not paid for lack of funds shall be registered, and all registered warrants shall be paid in the order of registration when funds are available therefor; all such registered warrants shall bear interest at the rate of six per cent per annum. The Controller shall draw his warrants for payment of municipal or other bonds payable out of funds in the Treasury upon presentation and surrender of the proper bonds or coupons, without approval of any Body or Officer. The Council may make further regulations by ordinance regarding the presentation, approval and payment of demands against the City, not in conflict herewith.

SECTION 6. Actions against City. No payment shall be made from the Treasury of the City, except as otherwise provided by law or this Charter, except on demands presented and approved and warrants drawn as herein or by ordinance provided. No action shall be brought on any claim or demand for money or damages against the City or any Board, Commission or Officer thereof, until a demand for the same has been presented as provided in this Charter or by ordinance and rejected in whole or in part. If rejected in part, action may be brought to recover the whole. Nor shall any action be brought upon any such demand that has been approved in whole, as herein or by ordinance provided, but nothing herein contained shall prevent the holder of any demand from resorting to proceedings to compel any Officer, Board or Commission to act upon a demand or to pay a demand that has been properly allowed. Action on claims

SECTION 7. Inventory of City Property: At the time for preparing and submitting the budget, as prescribed in this Charter, a complete inventory of all personal property belonging to the City shall be prepared and filed with the City Clerk, and such inventory shall be submitted to the Council at the time of the submission of the annual budget. All department heads of the City shall be responsible for making and transmitting to the Clerk a full and correct inventory of all City personal property in their possession or under their control. Inventory.

SECTION 8. Estimates and Budget. The fiscal year of the City shall begin on the first day of July. On or before the first day of June of each year, each department head shall submit to the Controller a proposed budget for the ensuing year. Said Budget shall include estimates for all the revenues and expenditures of the City departments for the ensuing year. The controller shall combine the department budgets and submit them to the Council. Proposed budget

The classification of the estimates of expenditures shall be as nearly uniform as possible for all departments and shall give the following information.

1. A detailed estimate of the expense of conducting each department and office of the City for the ensuing fiscal year; showing the objects of expenditure such as personal service, contractual service, materials and supplies, equipment, capital outlays and fixed charges; and further consolidated under funds, organization units and character of expenditures. Details of budget

2. Expenditures for the corresponding items for the current year and last preceding fiscal year with reasons for increases and decreases recommended as compared with appropriations for the current year.

3. The total value of supplies and materials on hand at the date of the preparation of the estimate.

4. The total amount of City debt outstanding together with a schedule of maturities of bond issues by departments, and a statement of the borrowing capacity of the City.

5. A statement of the amounts which should be appropriated:

(a) For interest on the City debt;

(b) For paying off any serial bonds maturing during the year or for sinking fund requirements;

(c) For other fixed charges.

6. An estimate of the amount which should be appropriated for contingent or emergency purposes.

7. An itemization of all anticipated revenues of the City from sources other than taxes, shown by departments.

8. An item to be known as "unappropriated balance," which sum shall be available for appropriation later in the fiscal year to meet contingencies which might arise. The budget shall also contain an item to be known as the "cash basis fund" which shall be carried over to the next ensuing fiscal year following the fiscal year for which the budget is prepared, to meet the cash requirements prior to the receipt of taxes.

9. An estimate of the amount of money to be raised from taxes, the tax rate, and bond issues which, with revenue from other sources, would be necessary to meet the expenditures proposed.

10. A long-time program of proposed activities, developments and improvements listed in order of relative importance and specifying whether the work is to be done by bond issue or by taxation.

11. Such other information as may be required by the Council.

12. Sufficient copies of such proposed budget shall be prepared and submitted, that there may be copies on file in the office of the Clerk for the inspection of the public and one copy of each budget furnished each member of the Council. The Council shall have power to revise, correct, or modify said proposed budgets in any particular.

Hearing on budget

SECTION 9. Appropriations. After considering said proposed budgets, the Council shall fix a time for holding a public hearing upon the same and shall publish a notice of the time fixed for said hearing one time in the official newspaper at least ten days before the time of hearing.

After said hearing the Council may further correct or modify said proposed budget and shall by resolution, adopt said expenses for the fiscal year less the amounts to be raised by bond issues and revenues collected from other sources; provided, however, that the total rate of such tax levy for any and all purposes, other than the bonded debt of the City and, special assessments within the City, shall in no event exceed the total aggregate tax rate allowed under all laws now or hereafter applicable to cities of the Fifth Class; provided, however, that such limitation may be altered by ordinance adopted by vote of the people. Such resolution shall operate as an appropriation of funds to the amounts and for the purposes set forth in the budgets so adopted.

Budget appropriation

SECTION 10. Transfer of Appropriations At any meeting after the adoption of the budget or budgets, the Council, by a vote of four members, may amend or supplement such budget or budgets, so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available revenues not included in the annual budget. Transfer of unused balances

SECTION 11. Taxation. The Council shall have power by ordinance to provide a system for the assessment, levy and collection of all City taxes, which system shall conform as nearly as may be to the general laws of this State provided for the assessment, levy and collection of county taxes All taxes levied, together with any penalties imposed for delinquency and the cost of collection, shall constitute liens on the property assessed and every tax upon personal property shall be a lien upon the real property of the owner thereof. The said liens shall attach as of the first Monday in March of each year. Taxes

SECTION 12. County May Perform Fiscal Function. The Council shall have power by ordinance to authorize the transfer to and the assumption and discharge by officers of the County of Placer of any function of the City relating to the assessment of property or taxation and equalization of such assessment, and collection of taxes levied for municipal purposes, the collection of assessments levied for municipal improvements, the sale of property for non-payment of taxes levied for municipal purposes or for non-payment of assessments levied for local improvements, and the redemption of property from sales for either of said purposes and may repeal any such ordinances. Consolidation of functions with county

SECTION 13. Cash Basis Fund. The Council may create and maintain a revolving fund, to be known as the cash basis fund, for the purpose of placing the payment of the running expenses of the City on a cash basis. For this purpose the Council shall provide that, from all the money collected from the annual tax levy and from money received from other sources, a sum equal to not less than two and one-half cents on each one hundred dollars of the assessed value of said property shall be placed in such fund until the accumulated amount thereof shall be sufficient to meet all legal demands against the City for the first four months, or other necessary period of the succeeding fiscal year. The Council shall have power to transfer from the cash basis fund to any other fund or funds such sum or sums as may be required for the purpose of placing such fund or funds, as nearly as possible, on a cash basis. It shall be the duty of the Council to provide that all money so transferred from the cash basis fund be returned before the end of the fiscal year. Cash basis fund

SECTION 14. Special Taxes and Bonds. Whenever the Council shall determine that the public interest demands an expenditure for municipal purposes which cannot be provided for out of the ordinary revenue of the City, it may submit to the qualified voters at a regular or special election, a proposi- Special taxes and bonds

tion to provide for such expenditure, either by levying a special tax, or by issuing bonds, but no such special tax shall be levied nor any such bond issued, unless authorized by the affirmative votes of two-thirds of the electors voting at such election. No bonds shall be issued to meet current expenses.

The proceedings for the voting and issuing of bonds of the City shall be had in such a manner and form and under such conditions as shall be provided from time to time by general laws.

Limit of bonded indebtedness

SECTION 15. Limit of Bonded Indebtedness. The bonded debt of the City shall at no time exceed a total of fifteen per cent of the assessed valuation of all property taxable for City purposes; provided, however, that bonds issued for the acquisition, extension, betterment or maintenance of municipally owned public utilities shall not be considered in fixing such limitation.

Depreciation fund for utilities

SECTION 16. Depreciation Fund. The Council shall annually set aside from the income derived by the City from its revenue producing public utilities, as a separate depreciation fund for each of said public utilities, a sum which, according to the estimate of the Department Heads, and approved by the Council, shall be sufficient to meet the normal depreciation of said public utility. Such funds shall be used only for the replacement, betterment, and extensions of the plants and equipment of said public utilities respectively.

Public Service Sinking Fund

SECTION 17. Public Service Sinking Fund. A fund to be known as the Public Service Sinking Fund is hereby created, to which fund shall be credited, from the receipts of the Public Service Departments a sufficient amount each year to cover the total amount of payment falling due that year, for principal and interest of all bonds issued for the acquisition, improvement or extension of public utilities operated by the City. The Council shall fix from time to time the percentage of the receipts of the Public Service Departments required to cover the principal and interest of such bonds, and such percentage of said receipts shall be credited by the City Treasurer to said Public Service Sinking Fund; provided, however, that if, in the opinion of the Council, the total amount necessary for said Sinking Fund cannot conveniently be taken from the receipts of said Public Service Departments, nothing in this section shall affect or impair their power, after so declaring, to levy such taxes as may be necessary to provide for interest and principal of such bonds.

Surplus of utility funds

SECTION 18. Bond Retirement Fund. Any surplus from the income of such revenue producing public utilities remaining after providing for said Depreciation Fund and said Public Service Sinking Fund shall be used only (first) for the retirement of the bonded debt issued for the public utility producing the same, and (second) to the retirement of any other bonded debt of the City, (third) for any other municipal expense.

SECTION 19. Special Deposit Fund. There is hereby created a fund to be known as the Special Deposit Fund, wherein shall be deposited all moneys received by the City or any Department, Officer, or Board thereof for the purpose of guaranteeing the payment of any costs, charges, or damages accruing or liable to accrue to the City from the depositor, and all moneys deposited as bail to secure the liberation of a person accused of a public offense, and all moneys required to be deposited for the purpose of indemnifying persons whose property is in danger of being damaged or destroyed by the operation of the depositor. The money so deposited may be returned to the depositor should he become entitled to the return thereof, in such manner as the Council may, by ordinance, prescribe, or upon default being made in the payment of such costs, charges or damages, or in the performance of any of such conditions, acts or things, may be declared forfeited in whole or in part and be disposed of as the Council may direct. Special deposit fund.

SECTION 20. Utility Funds. Accounts shall be kept for each public utility owned or operated by the City, distinct from other city accounts and such manner as to show the true and complete financial results of such City ownership, or ownership and operation, including all assets, liabilities, revenues and expenses. Such accounts shall show the actual cost to the City of each public utility owned, the cost of all extensions, additions and improvements, all expenses of maintenance, the amounts set aside for sinking fund purposes, and, in the case of City operation, all operating expenses of every description. The accounts shall show as nearly as possible the value of any service furnished or rendered by any such public utility by or to any other city or governmental department. The accounts shall also show a proper allowance for depreciation, insurance and interest on the investment, and estimates of the amount of taxes that would be chargeable against the property if privately owned. The Council shall annually cause to be printed, in the official newspaper, a report showing the financial results of such City ownership or ownership and operation, which report shall give the information specified in this section, and such other information as the Council shall deem expedient. Accounts of utilities

SECTION 21. Special Assessments. The acquisition, improvement, widening and opening of streets or alleys, the planting of trees, and the making of any other public improvement may be done and assessments therefor may be levied in conformity with and under the authority conferred by general laws; provided, however, that the Council may by ordinance adopt a method and procedure for such improvements; for the laying of pipes, or conduits; or for the removal of dirt, rubbish, weeds and other rank growths and materials which may injure or endanger neighboring property or the health or the welfare of inhabitants of the vicinity, from buildings, lots and grounds, and the sidewalks opposite thereto, and for mak- Special assessments

ing and enforcing assessments against property benefited or affected thereby or from which such removal is made, for the cost of such improvements or removal and may make such assessments a lien on such property superior to all other claims or liens thereon except State, County and Municipal taxes, but no such ordinance shall prevent the Council from proceeding under general laws in whole or in part for said purposes.

Penalty for illegal payments

SECTION 22. Illegal Approval of Payments. Every officer who shall wilfully approve, allow or pay any demand on the Treasury not authorized by law, shall be liable to the City individually and upon his official bond for the amount of the demand so approved, allowed and paid, and shall forfeit such office and be forever disbarred and disqualified from holding any position in the service of the City, by order of the Council or a court of competent jurisdiction.

Deposit of money.

SECTION 23. Deposit of Money Collected. All moneys received from taxes, licenses, fees, fines, penalties and forfeitures, and all moneys which may be collected or received by any officer of the City in his official capacity, or by any department of the City for the performance of any official duty and all moneys accruing to the City from any source, and all moneys directed by law, or by this Charter, to be paid or deposited in the Treasury, shall be paid into the Treasury within forty-eight hours. The Treasurer shall receipt for each such deposit in triplicate, giving the original and duplicate to the depositor who must file the duplicate with the Controller.

Counting of money

SECTION 24 Counting the City's Money. The Mayor, Controller and City Clerk shall together count the money and other securities in the Treasury at least once every three months, and ascertain if the amounts on hand tally with the amounts which should be in the Treasury according to the books of the City. They shall make a written report thereof to the Council at its first regular meeting thereafter.

ARTICLE XVII

FRANCHISES

Franchises

SECTION 1. Power to Grant. Plenary control over use of all property owned, leased, or controlled by the City is vested in the Council. Franchises, permits or privileges may be granted to persons, firms or corporations, upon such terms, conditions, restrictions, or limitations as may be prescribed by the Council by ordinance, but no franchise shall be granted without reserving to the City adequate compensation, provided said compensation shall not be less than 2 per cent of gross revenue, for the privilege conferred, nor shall any franchise be granted for a longer period than fifty (50) years, provided that in all franchises there shall be reserved to the City the right to take over, for public operation, at any time the works, plant and property of all public utilities within the City, except steam railroads and pipe lines originating

outside and passing through and not serving the City, constructed under the grant, at their physical valuation and without compensation for franchise value, good will, going concern, earning power, increased cost of production, severance damage, or increased value of property occupied by its plant and equipment. Provided, that every franchise or other permit shall be granted subject to the right of and in the City at any time, upon reasonable notice, to change the grade, location, alignment or use, of any street or place in or over which such franchise or permit is exercised or operated without liability or obligation on the part of said City in any wise occasioned by any change of location of the pipes, poles, lines or other equipment of such franchise or permit required by such change or grade, location, alignment or use. The Council may by ordinance adopted by four-fifths vote of all its members provide a method whereby franchises may be granted, terminated or extended, and from time to time in like manner change the method so provided. The Constitution and general laws of the State of California shall be applicable in all cases arising outside of the provisions of the ordinances of the Council providing for the granting or termination of franchises.

Indeterminate franchises

SECTION 2. Indeterminate Franchises Indeterminate Franchises may also be granted, subject always to the right of the City at any time and upon six months notice in writing, to acquire and possess the property of the grantee.

Termination of franchises

SECTION 3. Rights of City. All grants, renewals, extensions or amendments of public utility franchises, whether so provided in the ordinance or not, shall be subject to the right of the City.

1. To repeal the same by ordinance at any time for non-use, or for failure to begin construction within the time prescribed, or other violation of the terms of the franchise.

Public utilities

SECTION 4. Establishment of Public Utilities The City may establish, acquire, lease, and/or operate, or cease to operate and dispose of public utilities and quasi-public utilities, at its own option in the manner provided by the laws now existing or hereafter enacted, or by the minority vote of the registered qualified electors of the City in the manner provided by ordinances enacted by the Council by the affirmative vote of four members of such Council. All amendments of such ordinances shall require a like vote. In such ordinances, the Council may define what are public utilities and quasi-public utilities. In acquiring public utilities and quasi-public utilities the City may purchase the same subject to existing bond issues and other obligations thereof, whether secured by mortgages or trust deed against the property of such utilities or not, and may assume and pay such obligations as part of the purchase price.

ARTICLE XVIII

MISCELLANEOUS PROVISIONS

General laws adopted

SECTION 1. General Law Applicable. All general laws of the State applicable to municipal corporations, now or hereafter enacted, and which are not in conflict with the provisions of this Charter or with ordinances or resolutions adopted in pursuance of this Chapter, shall be applicable to the City.

Continuation of officers and employees

SECTION 2. Continuing Officers and Employees. Except as otherwise provided herein, all elective officers holding office when this Charter is approved by the Legislature, shall thereafter continue to hold and perform the duties of their respective offices until the completion of their respective terms, and until the appointment, or election, and qualification of their respective successors. All deputies, police officers, firemen, and other employees of the City at the time this Charter is approved by the Legislature, shall continue in their respective offices or positions or employment, subject to removal and control as in this Charter provided.

Residence of employees

SECTION 3. Except as otherwise provided in this Charter, all employees of the City shall be residents of the City, except that non-resident employees in the employment of the City at the time this Charter is adopted, shall continue in their respective positions, and provided further that the Council may by resolution appoint as temporary part-time employees non-residents of the city.

Pending rights and obligations continued

SECTION 4. Continuity of Rights and Obligations. All vested rights of the City shall continue and shall not in any manner be affected by the adoption of this Charter nor shall any right, liability, pending suit or prosecution, either in behalf of or against the City, be affected by the adoption of this Charter, unless otherwise herein expressly provided. All contracts entered into by the City for its benefit prior to the taking effect of this Charter shall be continued and perfected hereunder. Public improvements for which legislative steps shall have been taken under laws in force at the time this Charter takes effect, may be carried to completion in accordance with the provisions of such laws.

Effect of invalidity of charter

SECTION 5. Invalidity. If any section or part of a section of this Charter proves to be invalid, it shall not be held to invalidate or impair the validity of any other section or part of a section, unless it clearly appears that such other section or part of a section is dependent for its operation upon the section or part of a section so held invalid.

Effective date

SECTION 6. Charter in Effect. For the purpose of nominating and electing all elective officers and all purposes connected therewith, this Charter shall take effect from the time of its approval by the Legislature; all ordinances, regulations and resolutions in force at the of the approval of this Charter by the Legislature, and not inconsistent with the provisions thereof, are hereby continued in force until the same shall be amended or repealed.

SECTION 7. Nothing in this Charter shall be construed as prohibiting the election or appointment of women to any office or employment or as a member of any board or commission, and the words used in this Charter in the masculine gender shall include the feminine.

Women eligible to office or employment

SECTION 8. In case of any uncertainty as to which officer or employee of the city, under the provisions of this Charter, is the successor of an officer or employee of the City under the provisions of the Charter in effect prior to the date on which this Charter takes effect, the Council shall by resolution determine such question. The Council may, by ordinance enact any further legislation not in conflict with the provisions of this Charter necessary or convenient to accomplish the succession of this Charter to the charter of the City in effect prior to the date on which this Charter takes effect.

Determination of succession to office

SECTION 9. Amendments. This Charter may be amended in accordance with the provisions of Section 8, Article XI, of the Constitution of the State of California.

Amendments to charter

CERTIFICATE

Certificate

WHEREAS, the City of ROSEVILLE, for years last past has been and now is a city containing more than three thousand and five hundred inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States; and

WHEREAS, on the ninth day of April, 1934, at a special municipal election duly and regularly called and held on that day in said city, under and in accordance with the provisions of Section 8 of Article XI, of the Constitution of the State of California, the electors of said city did duly choose and elect Charles Cope, Kate V. Cosgrove, P. H. Dunbar, W. T. Eich, Leroy Etzel, D. J. Gautier, Mrs. E. F. Givens, J. W. Hanson, Luther M. Johnson, H. A. Linthicum, Chas. Livoti, W. E. Parrish, H. A. Richardson, M. J. Royer, H. L. Schmitt, who were all electors of said city and eligible as candidates under said section, a board of fifteen freeholders to prepare a charter for the government of said city; and

WHEREAS, the result of said election of freeholders was duly declared by the legislative body of the City of ROSEVILLE, on the 16th day of April, 1934, and the said electors thereafter duly qualified as such freeholders in accordance with law;

Be it known, that in pursuance of the provisions of said Constitution and within the period of one year after the result of said election was so declared, the Board of Freeholders has prepared and does now propose the foregoing as and for the charter of the City of ROSEVILLE; and

Be it further known, that the said Board of Freeholders hereby requests said legislative body of the City of ROSEVILLE to cause the publication of said proposed charter as provided in said Section 8 of Article XI, of said Constitution, and fixes Tuesday, the 6th day of November, 1934, as the date

Certificate

for holding a special municipal election in said city, at which the proposed charter shall be submitted to the qualified electors of the City of ROSEVILLE, for their ratification and adoption.

If the Legislature of the State of California approves this charter, it shall thereupon become the charter and organic law of the City of ROSEVILLE;

In witness whereof, we, the duly elected, qualified and undersigned freeholders of the City of ROSEVILLE, County of PLACER, State of CALIFORNIA, have hereto set our hands at the City of ROSEVILLE, County of Placer, State of California, on this 20th day of August, 1934.

L. ETZEL,
H. A. LINTHICUM,
MRS. FRANK COSGROVE,
MRS. E. F. GIVENS,
H. L. SCHMITT,
W. E. PARRISH,
D. J. GAUTIER,
P. H. DUNBAR,
LUTHER M. JOHNSON,
J. W. HANSON,
H. A. RICHARDSON,
M. J. ROYER,
L. ETZEL, Chairman.
[SEAL] H. A. LINTHICUM, Secretary.

Freeholders of the City of ROSEVILLE, County of Placer, State of California.
Publish, Sept. 5.

CLERK'S CERTIFICATE

I, F. R. CHILTON, the City Clerk of the City of Roseville, Placer County, California, do hereby certify that the annexed copy of Proposed Charter for the City of Roseville has been compared by me with, and is a true and correct copy of the whole of that proposed Charter for the City of Roseville, which was prepared by a Board of fifteen Freeholders in said City, and filed in my office on the 29th day of August, 1934.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Roseville, this 2nd day of April, 1935.

F. R. CHILTON,
CITY CLERK.

We, R. J. Rolufs, Mayor of the City of Roseville, and F. R. Chilton, City Clerk of the City of Roseville, do hereby certify that the foregoing is a full, true and correct copy of the proposed charter of the City of Roseville, and that all of the foregoing facts are true.

IN WITNESS WHEREOF, we have hereunto set our hands and affixed the seal of the City of Roseville, this 17th day of April, 1935.

[SEAL]

R. J. ROLUFS,
Mayor, City of Roseville
F. R. CHILTON,
City Clerk, City of Roseville

STATE OF CALIFORNIA, }
COUNTY OF PLACER } ss

On this 17th day of April in the year one thousand nine hundred and thirty-five before me, Al. B. Broyer a Notary Public in and for the County of Placer, State of California, residing therein, duly commissioned and sworn, personally appeared R. J. Rolufs Mayor and F. R. Chilton City Clerk known to me to be the persons whose names subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, in the County of Placer the day and year in this certificate first above written.

Al. B. Broyer
Notary Public in and for the County of Placer, State of California.

WHEREAS, The charter has been submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment, in accordance with section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein. That the charter prepared, proposed, filed and ratified as above set forth be approved as the charter of the city of Roseville. Ratification

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CHAPTER 78.

Assembly Constitutional Amendment No 20—A resolution to propose to the people of the State of California an amendment to Article IV of the Constitution of the State, by adding section 31c thereto, relating to relief to assessment districts

[Filed with Secretary of State May 3, 1935.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its fifty-first regular session commencing on the 7th day of January, 1935, two-thirds of the members elected to each of the two houses of the Constitution, Art IV, Sec 31c

said Legislature voting in favor thereof, hereby proposes to the people of the State of California that the Constitution of said State be amended by adding to Article IV thereof a new section to be numbered 31c, to read as follows:

Refunding or adjustment of assessment bonds.

Sec. 31c. No provision of this Constitution shall be construed as a limitation upon the power of the Legislature to provide by general law for the refunding, repayment or adjustment, from public funds raised or appropriated by the United States, the State or any city, city and county, or county for street and highway improvement purposes, of assessments or bonds, or any portion thereof, which have become a lien upon real property, and which were levied or issued to pay the cost of street or highway improvements or of opening and widening proceedings which may be or may have become of more than local benefit. Any such acts of the Legislature heretofore adopted are hereby confirmed and declared valid and shall have the same force and effect as if adopted after the effective date of this amendment.

CHAPTER 79.

Senate Joint Resolution No. 17—Relative to memorializing the President and the Congress of the United States to enact S. B. 626 and H. R. 6909, which bills are proposed to aid the position of hop growers.

[Filed with Secretary of State May 3, 1935.]

Hops as basic commodity.

WHEREAS, The State of California has over eight thousand acres now planted to hops which produced in the year 1934 approximately 61,414 bales of hops or in excess of 12,282,800 pounds of hops and expended in excess of $1,500,000 for labor; and

WHEREAS, The hop industry is now demoralized by low prices far below the cost of production and the hop growers of the States of Oregon, Washington and California have asked that hops be made a basic commodity under the Agricultural Adjustment Act; and

WHEREAS, Senate Bill No. 626 and House Bill No. 6909 were introduced at this session of Congress and said bills if passed will greatly improve the position of hop growers; and

WHEREAS, The hop industry is in great need of protection at this time; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the President and Congress of the United States are hereby respectfuly urged to enact the legislation proposed by S. B. 626 and H. R. 6909 as speedily as possible; and be it further

Resolved, That the Secretary of the Senate of the State of California send copies of this resolution to the President and Vice President of the United States, to the Speaker of the

House of Representatives, and to each Senator and member of the House of Representatives from California in the Congress of the United States, and that such Senators and members from California be urged to support such legislation.

CHAPTER 80.

Senate Joint Resolution No. 12—Relative to memorializing the President and the Congress of the United States to enact H. R. 4688 which proposes to aid in the rehabilitation of employable blind persons in the United States and urging the Committee on Labor of the House of Representatives to expedite consideration favorable to said bill.

[Filed with Secretary of State May 8, 1935.]

Operation of stands by blind persons in Federal buildings.

WHEREAS, During recent times there has been a great deal of public interest and discussion on the part of social and welfare organizations and individuals of the necessity to enact immediate legislation for the purpose of rehabilitating employable blind persons in the United States; and

WHEREAS, The problem of the blind and the training thereof for fitness to find lucrative employment in the trades and professions has long challenged resourcefulness of agencies engaged in bettering the conditions of the blind; and

WHEREAS, On January 24, 1935, there was introduced in the House of Representatives by Jennings Randolph of West Virginia a bill known as H. R. 4688 which has as its purpose "to rehabilitate employable blind persons in the United States by permitting them to operate news stands in the Federal buildings, to find other suitable stand locations and to make a National survey of industries wherein blind persons can be employed, and to train, place and advise blind persons in such job"; and

WHEREAS, There is now no form of employment as suitable and as satisfactory for blind persons which enables such persons to approach a normal economic status as the operation of news stands in Federal buildings; and

WHEREAS, Federal and State agencies are now assisting which are capable of administering this humanitarian project; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the President and Congress of the United States are respectfully urged to enact legislation proposed by H. R. 4688, and that the Committee on Labor of the House of Representatives is also urged to expedite consideration favorable to said bill; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to the chairman

of the Committee on Labor of the House of Representatives, and to each member of the Committee on Labor of the House of Representatives and to each Senator and member of the House of Representatives from California in the Congress of the United States and that such Senators and members from California are hereby respectfully urged to support such legislation.

CHAPTER 81.

Assembly Concurrent Resolution No 36—Approving a certain amendment to the charter of the city of Albany, a municipal corporation in the county of Alameda, State of California, voted for and ratified by the qualified electors of said city at an election held therein, April 22, 1935.

[Filed with Secretary of State May 8, 1935.]

City of Albany Charter amendment.

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of a certain amendment hereinafter set forth to the charter of the city of Albany, State of California, as set out in the certificate of the president of the council of the city of Albany and city clerk of said city, as follows:

CERTIFICATE OF MAYOR AND CITY CLERK OF THE CITY OF ALBANY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

State of California, }
County of Alameda, } ss.
City of Albany. }

Certificate

We, the undersigned, Benjamin W. Mowday, President of the Council of the City of Albany, and Herbert W. Brewer, City Clerk of said City, do hereby certify and declare as follows:

The City of Albany, County of Alameda, State of California, is now and at all times mentioned in this certificate has been a city containing a population of more than three thousand, five hundred (3,500) inhabitants, and has ever since the year 1927, and is now, organized and existing under and pursuant to the provisions of a freeholders charter adopted in accordance with and by virtue of the provisions of Section 8, Article 11 of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said City at a special election held for that purpose on the 26th day of March, 1927, in the manner, form and substance as required by law. It was thereafter duly approved by concurrent resolution of the Legislature of the State of California, on the 19th day of April, 1927,

The legislative body having authority of said City being a council thereof, did in accordance with and to a petition duly signed by 15% of the registered electors of said City, by a resolution passed and adopted by said Council on the 20th day of February, 1935, pursuant to Section 8 of Article 11 of the Constitution of the State of California, duly propose to the qualified electors of said City of Albany a certain amendment to Section 17 of the charter of said City, known as Proposal No. 1. Certificate.

The said City Council did by resolution duly passed and adopted on the 20th day of February, 1935, proclaim and fix the 22d. day of April, 1935, as the date upon which the said amendment so proposed, be submitted to the qualified electors of said City at a special election.

The amendment so proposed and submitted to the electors of said City for their approval by said resolution, was on the 22d. day of February, 1935, and within ten (10) days after the passage and adoption of said resolution submitting said amendment, caused to be published once in each edition published on the 22d. day of February, 1935, of the Albany Argus-Spokesman, a newspaper of general circulation and the official newspaper of the City of Albany.

The Council of the City of Albany caused copies of said amendment to be printed in convenient pamphlet form, and from the 22d. day of February, 1935, until the 22d. day of April, 1935, being the date fixed for the election upon such charter amendment, did advertise a notice in said Albany-Argus Spokesman continuously, and in each and every issue thereof during said time, and did have available for public procurement the said copies of said amendment in pamphlet form, that such copies of said amendment in pamphlet form might be had upon application therefor at the office of the City Clerk, in the City Hall of the said City of Albany

The said City Council by resolution, as requested, did submit said amendment so proposed as aforesaid to the qualified electors of said City of Albany for their ratification at the election held in said City on the 22d. day of April, 1935, being not less than forty (40) nor more than sixty (60) days after the completion of the advertisement of said amendment in said Albany-Argus Spokesman, the official newspaper of said City of Albany.

At said election a majority of the qualified electors voting thereon, voted in favor of the ratification of, and did ratify the amendment.

The said City Council of of the City of Albany did duly canvass the returns of said election and did, by resolution, duly find and declare that said amendment to the City charter of the City of Albany, known and designated as Proposal No. 1, was and is approved by the electors of said City of Albany, and was ratified by a majority of the qualified voters voting on such amendment.

That said charter amendment so ratified by the qualified voters of said City of Albany at said election is in words and figures as follows:

City judge

"SECTION 17. CITY JUDGE—There shall be a City Judge. He shall be an attorney at law admitted to the bar of the Supreme Court of the State of California. He shall be judge of the City Court, which is hereby established. Said City Court shall have jurisdiction, concurrently with the justice's court, of all actions and proceedings, civil and criminal, arising within the corporate limits of said city, and which might be tried in such justice's court; and shall have exclusive jurisdiction of all actions for the recovery of any fine, penalty or forfeiture prescribed for any breach of any ordinance of said City, of all actions founded upon any obligation created by any ordinance, and of all prosecutions for any violation of any ordinance. In all civil actions for the recovery of any fine, penalty or forfeiture prescribed for the breach of any ordinance, of said City, where the fine, penalty or forfeiture imposed by the ordinance is not more than one hundred dollars, the trial must be by the court. In civil actions where the fine, penalty or forfeiture prescribed for the breach of the ordinance of said City is over one hundred dollars the defendant is entitled to a jury. Except as in this section otherwise provided, the rules and practice and mode of proceeding in said City Court shall be the same as are or may be prescribed by law for justice's court in like cases; and appeals may be taken to the Superior Court from all judgments of said City Court in like manner and with like effect as in cases of appeals from justice's court."

Jurisdiction

Powers.

"THE CITY JUDGE shall have all powers and perform the duties of a magistrate and may administer and certify oaths and affirmations and take and certify acknowledgements. ALL fines, fees and costs collected by him shall be paid into the City Treasury weekly. He shall make such periodical reports as the council may require."

Proceedings when judge disqualified

"IN ALL CASES in which the City Judge is a party, or in which he is interested, or when he is related to either party by consanguinity or affinity within the third degree, or is otherwise disqualified, or in case of sickness or inability to act, he may call upon any Justce of the Peace, residing in the County to act in his stead."

Clerk of city court

"THE CITY JUDGE may appoint a Clerk of the City Court at a salary of $125.00 per month. Said clerk of the City Court shall assist in the clerical work of the other departments of the City when not occupied with the duties of Clerk of the City court."

IN WITNESS WHEREOF, we have hereunto set our signatures, and caused the official seal of the City of Albany, to be affixed this 29th day of April, 1935. Certificate

[SEAL] B. W. MOWDAY,
President of the Council of the City of Albany

HERBERT W. BREWER,
City Clerk, City of Albany.

and

WHEREAS, Said proposed charter amendment has been and is now submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment, in accordance with section 8, Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, and the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, That the amendment to said charter herein set forth, as submitted to and ratified by the qualified electors of said city, be and the same is hereby approved as a whole, without alteration or amendment, for and as the amendment to and as part of the charter of the city of Albany. Ratification

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CHAPTER 82.

Senate Concurrent Resolution No. 12—Relative to reports of the proceedings of the annual convention of the Veterans of Foreign Wars of the United States, Department of California.

[Filed with Secretary of State May 8, 1935.]

Resolved by the Senate of the State of California, the Assembly concurring, That there shall be printed as a public document, five hundred copies of the report of the proceedings of the annual convention of the Veterans of Foreign Wars of the United States, Department of California, for the year 1935, and of each succeeding annual convention, together with illustrations, copies of general orders enacted at such conventions and of the official roll, two hundred fifty copies for the use of the Senate and two hundred fifty copies for the use of the Assembly, the annual cost thereof, not exceeding six hundred dollars, to be payable from the appropriation for legislative printing. Publication of reports of proceedings of Veterans of Foreign Wars

CHAPTER 83.

Senate Constitutional Amendment No. 21—A resolution to propose to the people of the State of California, an amendment to the Constitution of said State by adding to Article X thereof, a new section to be numbered 7, relating to an institution for women.

[Filed with Secretary of State May 9, 1935.]

Constitution, Art. X, Sec. 7.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its regular session commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses of the said Legislature voting therefor, hereby proposes to the people of the State of California, that the Constitution of said State be amended by adding to Article X thereof a new section to be numbered 7, and to read as follows:

Prison for female felons

Sec. 7. The Legislature may provide for the establishment, government, charge and superintendence of an institution or institutions for females convicted of felonies. For this purpose, the Legislature may delegate the government, charge and superintendence of such institution to any public governmental agency, officers, or board, whether now existing or hereafter created by it. Such agency, officers, or board shall have such powers, perform such duties and exercise such functions in respect to other reformatory or penal matters, respecting such females convicted of felonies as the Legislature may prescribe.

The Legislature may also provide for punishment, treatment, supervision, custody and care of such females in a manner and under circumstances different from men similarly convicted.

All existing statutes, purporting to create such institution or such agency, officer, or board, to so delegate such government, charge and superintendence, to so prescribe such powers, duties, or functions, or to so provide for such punishment, treatment or supervision are hereby ratified, validated and declared to be legally effective; but the Legislature may repeal, amend, or otherwise modify any such statutes.

CHAPTER 84.

Senate Concurrent Resolution No. 27—Relative to reports of the department encampment of the Grand Army of the Republic.

[Filed with Secretary of State May 9, 1935.]

Publication of reports of Grand Army of the Republic.

Resolved, by the Senate of the State of California, the Assembly concurring, That there shall be printed as a public document five hundred copies of the sessions of the department

encampment of the Grand Army of the Republic for the years 1935–1936, together with illustrations, copies of general orders of the department and of the official rolls, two hundred fifty copies for the use of the Assembly and two hundred fifty copies for the use of the Senate, expense payable from legislative printing appropriation.

CHAPTER 85.

Senate Concurrent Resolution No. 29—Relative to reports of the annual convention of the Disabled American Veterans of the World War of the Department of California.

[Filed with Secretary of State May 9, 1935.]

Publication of reports of Disabled American Veterans of the World War

Resolved by the Senate of the State of California, the Assembly thereof concurring, That there shall be printed as a public document three hundred copies of the report of the annual convention of the Disabled American Veterans of the World War of the Department of California for the year 1935–1936, together with illustration copies of the general orders enacted at such convention and of the official roll, one hundred fifty copies for the use of the Senate and one hundred fifty copies for the use of the Assembly; the cost of same not to exceed six hundred dollars payable from the legislative printing appropriation.

CHAPTER 86.

Assembly Concurrent Resolution No. 37—Relative to adjournment out of respect to the memory of the late Monsignor John Rogers.

[Filed with Secretary of State May 10, 1935.]

Death of Monsignor John Rogers

WHEREAS, There has been removed from this sphere of activity, one of California's most well known and respected citizens; and

WHEREAS, This citizen through his kind deeds and his first thoughts for the down and outer made him an outstanding figure in California for his humanitarian deeds; and

WHEREAS, His foresight in the depression that is now before us made it possible for him to erect buildings to shelter those who so unfortunately had no shelter over their head, during the stormy and winter months that come to us annually; and

WHEREAS, Those unfortunates, whom he was so kind to during his life, will miss his most charitable heart and kind words; and

WHEREAS, That if it was God's Will that after serving humanity in this most charitable and humanitarian way that

he be taken to his just reward in the hereafter; now, therefore, be it

Resolved, by the Assembly, the Senate concurring, That when the Legislature adjourns this day it do so out of respect to the memory of the late Monsignor John Rogers of St. Patrick's Church in San Francisco; and be it further

Resolved, by the Assembly, the Senate concurring, That copies of this resolution be sent to the family of the late Monsignor John Rogers, to His Grace Archbishop John Mitty and to the clergy of St. Patrick's Church.

CHAPTER 87.

Assembly Joint Resolution No. 50—Relative to memorializing the President and the Congress to enact H. R. 5359, which provides for the creation of a National Civil Academy.

[Filed with Secretary of State May 13, 1935.]

Training of professional public service personnel

WHEREAS, Scientific training for public responsibility is a recognized necessity in the efficient administration of public affairs; and

WHEREAS, Parliamentary government needs men and women with technical education and broad experience in political science and sociology to efficiently administer the complex problems which a self-governing agency is more and more called upon to execute in behalf of the citizens of the United States; and

WHEREAS, There has been introduced in the House of Representatives a bill known as H. R. 5359 which proposes to create a National Civil Academy to train qualified young men and women in all branches of public service through a School of Public Administration maintained by the Federal government in conformity with a plan promulgated by the Midtown Association of Los Angeles to secure a professionalized public service personnel; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the President and the Congress of the United States are respectfully urged to enact legislation proposed by H. R. 5359; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and member of the House of Representatives from California in the Congress of the United States and that such Senators and members from California are hereby respectfully urged to support such legislation.

CHAPTER 88.

Assembly Concurrent Resolution No. 12—Relative to the issuance of a proclamation by the Governor declaring the second week of October of each year as "Old Glory Week."

[Filed with Secretary of State May 14, 1935.]

Old Glory Week

WHEREAS, An honorable and patriotic duty rests upon every person enjoying the privileges and freedom of our United States to do honor and reverence to the flag—the symbol of our protection and liberty; and,

WHEREAS, It is the custom of citizens, schools, patriotic and civic organizations to observe by appropriate ceremonies such reverence and honor; and,

WHEREAS, From the retreat at Valley Forge to the battlefields of Gettysburg and Argonne that symbol of liberty and justice has waved—"Old Glory" by name; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor of the State of California is authorized and directed to issue a proclamation declaring the second week of October of each year as "Old Glory Week" and to call upon the officials of the government and the principals of all schools to display the flag of the United States on all government buildings during this week of public observance; and be it further

Resolved, That all other civic and patriotic organizations be respectfully requested to mark such observance as is fitting and proper to the occasion.

CHAPTER 89.

Assembly Joint Resolution No. 53—Relative to memorializing the President and Congress to enact S. 1952, which proposes to protect the unclassified postal employees people, extending to them a civil service status.

[Filed with Secretary of State May 14, 1935.]

Civil service for special delivery messengers, United States post office

WHEREAS, Many of the special delivery messengers, boys in former years but now mature men with parental responsibilities, have been summarily dismissed or indefinitely furloughed to make vacancies for civil service substitute clerks and carriers during these depressing years; and

WHEREAS, The special delivery messengers have served from five to twenty-five years in the postal service as faithful public servants; and

WHEREAS, The work of these unclassified Federal employees is as important, exacting, responsible and requires an intelligence on a par with that of any other postal employee, and

that the Post Office Department does consider the special delivery service as an important postal activity; and

WHEREAS, The special delivery department is the only branch of the United States postal system not as yet included under civil service status; and

WHEREAS, On February 15, 1935, there was introduced in the United States Senate by Honorable M. M. Logan of Kentucky, a bill known as S. 1952, which has as its purpose the "extending of the classified executive civil service of the United States"; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the President and Congress of the United States are respectfully urged to enact the legislation proposed by S. 1952 and that the Committee on Civil Service of the Senate and the Committee on Civil Service of the House of Representatives are also urged to expedite consideration favorable to said bill; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, to the President of the Senate and Speaker of the House of Representatives, and to the chairman and members of the Committee on Civil Service of both houses, and to each Senator and member of the House of Representatives from the State of California, and that such Senators and members of the House of Representatives from California are hereby respectfully urged to support such legislation.

CHAPTER 90.

Senate Joint Resolution No. 19—Relative to memorializing the Secretary of State of the United States to maintain the present tariff rate on barley and barley malt imports.

[Filed with Secretary of State May 17, 1935.]

Tariff on barley and malt

WHEREAS, At the present time certain reciprocal trade agreements are being consummated by the Secretary of State of the United States with other countries; and

WHEREAS, It is reported that consideration is being given to the feasibility of lowering tariff duties on foreign produced malt and barley and barley malt imports; and

WHEREAS, The farmers of the State of California are producers of these products and any lowering of the tariff thereon would result in the lowering of the price which the farmer receives for these products, and a continuation of the present tariff on said products is absolutely essential and necessary to the agricultural prosperity of the Pacific coast; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That these bodies do hereby urge the Secretary of State of the United States that the present tariff rates on barley and barley malt imports be maintained in order that the interests of the American farmer be not sacrificed in any reciprocity trade agreement; and, be it further

Resolved, That a copy of this resolution be transmitted by the Secretary of the Senate to the Honorable Cordell Hull, Secretary of State, at Washington, D. C.

CHAPTER 91.

Assembly Joint Resolution No. 58—Relative to memorializing Congress to pass a bill restoring pensions to Spanish-American War veterans.

[Filed with Secretary of State May 17, 1935]

Pensions of Spanish-American War veterans

WHEREAS, Under the terms of the National Economy Act of March 19, 1933, the pensions of more than seventeen thousand Spanish-American War veterans were discontinued; and

WHEREAS, These men, together with many of their dependents, are in advancing years and physically unable to overcome the economic difficulties of today; and

WHEREAS, There has been introduced in the National Congress a bill designated H. R. 6995 which will restore these men to the status which they held on March 19, 1933; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests and memorializes the Congress of the United States to pass the bill designated as H. R. 6995 and thus restore the pensions which were taken away from so many Spanish-American War veterans; and be it further

Resolved, That the Governor send a copy of this resolution to each of California's Senators and Representatives in Congress

CHAPTER 92.

Assembly Joint Resolution No. 59—Relative to memorializing the President and the Congress of the United States to enact bill H. R. 6628 which proposes to provide remunerative employment for the blind citizens of the United States and its possessions and urging the Committee on Labor of the House of Representatives to expedite consideration favorable to said bill.

[Filed with Secretary of State May 17, 1935.]

Rehabilitation of blind through remunerative employment.

WHEREAS, During recent times there has been a great deal of public interest and discussion on the part of social and welfare organizations and individuals throughout the United States of the necessity to enact immediate legislation for the purpose of providing remunerative employment for the blind citizens in the United States; and

WHEREAS, In recent years it has become clear to all workers for the amelioration of the condition of the blind that the blind problem is essentially an economic problem which can be solved only through remunerative employment; and

WHEREAS, On March 12, 1935, there was introduced in the House of Representatives by John H. Tolan of California a bill known as H. R. 6628 which has as its purpose "to provide blind citizens of the United States with remunerative employment, to enlarge economic opportunities of the blind, and to stimulate the blind to greater efforts in striving to render themselves self-supporting; and

WHEREAS, The Tolan bill H. R. 6628 is general in its application and seeks to provide employment for all blind citizens who are between twenty-one and fifty years of age; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress of the United States are respectfully urged to enact legislation proposed by bill H. R. 6628, and that the Committee on Labor of the House of Representatives is also urged to expedite consideration favorable to said bill; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to the chairman of the Committee on Labor of the House of Representatives, and to each member of the Committee on Labor of the House of Representatives and to each Senator and member of the House of Representatives from California in the Congress of the United States and that such Senators and members from California are hereby respectfully urged to support such legislation.

CHAPTER 93.

Assembly Concurrent Resolution No. 38—Approving certain amendments to the charter of the City and County of San Francisco voted for and ratified by the electors of said City and County of San Francisco at an election held therein on the second day of May, 1935.

[Filed with Secretary of State May 17, 1935.]

City and County of San Francisco Charter amendments

WHEREAS, The City and County of San Francisco, State of California, contains a population of over five hundred thousand inhabitants, and has been ever since the eighth day of January, in the year one thousand nine hundred thirty two, and is now organized and acting under a freeholders' charter adopted under and by virtue of section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city and county at an election held for that purpose on the twenty-sixth day of March, one thousand nine hundred thirty one, and approved by the Legislature of the State of California on the thirteenth day of April, one thousand nine hundred thirty one, (Statutes of 1931, page 2973); and

Certificate

WHEREAS, The Legislative authority of said city and county, namely the board of supervisors thereof, duly proposed to the qualified electors of the City and County of San Francisco seven certain amendments to the charter of said City and County of San Francisco by the submission of seven proposals, numbered from one to seven, inclusive, entitled as follows, to wit:

Charter Amendment No. 1

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said City and County by amending Section 121 thereof providing for and defining the general powers and duties of the public utilities commission, and adding a new section to said charter to be numbered section 121.1, providing for the acquisition, construction, completion or extension of public utilities by funds provided by the issuance of bonds or other obligations, the principal of which, and the interest on which, shall be payable wholly from the net revenues of the utility so acquired, constructed, completed or extended and/or from such part thereof as may be so extended; and amending as herein set forth Section 74 of said charter so that funds raised or provided from revenue bonds so issued shall be estimated as revenues from said utility in any budget proposed for the acquisition, construction, completion or extension of said utility.

Charter Amendment No. 2

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of

City and County o San Fran- cisco cha ter

California, to amend the Charter of said City and County by amending Sections 16 and 179 thereof relating to the effective date of ordinances and the referendum.

Charter Amendment No. 3

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said City and County by amending Section 78 thereof so as to provide that the annual levy of taxes shall include one-half cent upon each one hundred dollars of the assessed valuation of the city and county, the amount to be produced by said tax to be allowed to the Art Commission, for the purpose of maintaining a symphony orchestra.

Charter Amendment No. 4

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said City and County by amending Section 13 thereof, relating to action of the Board of Supervisors by, and publication of, ordinances and resolutions.

Charter Amendment No. 5

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said City and County by amending Section 166 thereof, relating to Present Police Department Members.

Charter Amendment No. 6

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said City and County by amending Section 98 thereof dealing with contractors' working conditions under contracts for public work or improvements, and providing for the allowance of a preference not to exceed ten per cent in favor of articles to be used on public works or improvements, which said articles are manufactured, fabricated or assembled within the City and County of San Francisco as against similar articles manufactured, fabricated or assembled elsewhere.

Charter Amendment No. 7

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said City and County by amending Section 21 thereof, relating to power of hearing, inquiry and subpoena.

WHEREAS, Said legislative authority, in accordance with the provisions of section 8 of Article XI of the Constitution of the State of California, and within fifteen (15) days of said proposal, caused said seven proposed amendments to said

Charter to be published, once in the official newspaper of the said City and County of San Francisco and each edition thereof issued or published on the date of said publication, to-wit, in "The San Francisco News", a newspaper of general circulation in the City and County of San Francisco and the official newspaper of said City and County; and

City and County of San Francisco charter

WHEREAS, Said legislative body caused copies of said Charter Amendments to be printed in convenient pamphlet form and in type of not less than ten point, and caused copies thereof to be mailed to each of the qualified electors of said City and County of San Francisco, and until the day fixed for the election upon said Charter Amendments, advertised in said "The San Francisco News" up to March 31, 1935, a newspaper of general circulation in the City and County of San Francisco, and thereafter in "The San Francisco Call-Bulletin", a newspaper of general circulation in the City and County of San Francisco, a notice that copies of said Charter Amendments could be had upon application therefor at the office of the Board of Supervisors; and

WHEREAS, The said legislative authority of said City and County, ordered placed upon the ballot at a special municipal election to be held in the City and County of San Francisco on the Second day of May, 1935, the said seven several proposals to amend the Charter of the City and County of San Francisco; and

WHEREAS, Said special municipal election was held in said City and County of San Francisco on the Second day of May, 1935, which day was more than forty days and less than sixty days from the completion of the publication of said proposed charter amendments for one day in said "The San Francisco News" and each edition thereof as herein before set forth; and

WHEREAS, On the Sixth day of May, 1935, and thereafter at meetings duly convened in accordance with law, the Board of Supervisors of said City and County duly and regularly canvassed the returns of said special municipal election and duly declared the results thereof, said Board being by law authorized to canvass the returns of said special municipal election; and

WHEREAS, Thereafter, to-wit on the 9th day of May, 1935, said Board of Supervisors duly approved the "official statement of votes cast at the special municipal election held in the City and County of San Francisco, State of California, on Thursday, the Second day of May, 1935, for charter amendments; and

WHEREAS, At said special municipal election so held on the Second day of May, 1935, Four (4) of said proposed amendments were ratified by a majority of the electors of said City and County voting thereon, to-wit: Charter Amendments Numbered Two, Three, Five and Six, and that the other amendments received less than a majority of the votes of the electors voting thereon and were not ratified; and

WHEREAS The said Four (4) Charter Amendments so ratified by the electors of the City and County of San Francisco, are now submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, and are in words and figures as follows, to-wit:

CHARTER AMENDMENT NO. 2

REFERENDUM

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend Sections 16 and 179 of the Charter of the City and County of San Francisco, relating to the effective date of ordinances and the referendum.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said City and County, at a special election to be held on the 2d day of May, 1935, a proposal to amend as herein set forth Section 16 of the Charter providing when ordinances of the Board of Supervisors shall become effective, and defining emergency measures, and also amending as herein set forth Section 179 of the said City Charter giving to the electors certain additional referendum powers as to certain ordinances enacted by the Board of Supervisors.

Emergency Measures and Effective Date of Ordinances

Effective date of ordinances

Section 16. No ordinance which is subject to the referendum provisions of this charter shall become effective until thirty days after its passage. Ordinances granting any public utility franchise or privilege shall not become effective until sixty days after their passage. Other ordinances shall not become effective until ten days after their passage unless enacted by a three-fourths vote of all of the members of the board as an emergency measure as defined in this section. No ordinance affecting franchises, grants, bond issues or the sale, lease or purchase of land shall ever be passed as an emergency measure, and the people by initiative or referendum ordinance may further restrict the matters that may be passed as emergency measures. Immediate necessary preservation of public peace, property, health or safety, provision for the uninterrupted operation of any city and county department or office, or action required to comply with time limitations as established by law, shall be emergencies within the meaning hereof; provided, however, that such emergency shall actually exist and shall be specifically stated and defined in such ordinance, and shall be specifically voted on as provided in Section 13 of this charter.

Initiative, Referendum and Recall

Initiative and referendum.

Section 179. The registered voters shall have power to propose by petition, and to adopt or to reject at the polls, any

ordinance, act or other measure which is within the power conferred upon the board of supervisors to enact, or any legislative act which is within the power conferred upon any other board, commission or officer to adopt, or any amendment to the charter. Such ordinance, act, charter amendment or other measure may be so proposed by filing with the registrar a petition setting forth said measure in full, signed by registered voters of the city and county as many in number as the percentages hereinafter required of the entire vote for all candidates for the office of mayor cast at the last preceding regular municipal election. Same.

Any declaration of policy may be submitted to the electors in the manner provided for the submission of ordinances; and when approved by a majority of the qualified electors voting on said declaration, it shall thereupon be the duty of the board of supervisors to enact an ordinance or ordinances to carry such policies or principles into effect, subject to the referendum provisions of this charter.

Any ordinance which the supervisors are empowered to pass may be submitted to the electors by a majority of the board at a general election or at a special election called for the purpose, said election to be held not less than thirty days from the date of the call. Any such ordinance may be proposed by one-third of the supervisors or by the mayor, and when so proposed shall be submitted to the electors at the next succeeding general election. No ordinance passed by the supervisors granting any public utility franchise or privilege, shall go into effect until the expiration of sixty days from the date it becomes final. At the end of such sixty days such ordinance shall be in force and effect, unless within such period there shall be filed with the registrar a petition signed by registered voters equal in number to five per cent of the entire vote cast for mayor at the last preceding regular municipal election, requesting that such ordinance be submitted to the electors. In case such petition is filed, such ordinance shall not go into effect until approved by a majority of the voters voting thereon at a general or special election.

If, before the time any other ordinance involving legislative matters becomes effective, there shall be filed with the board of supervisors a petition signed by qualified electors of the city and county equal in number to at least ten per centum of the entire vote cast for all candidates for mayor at the last preceding general municipal election at which a mayor was elected, protesting against the passage of such ordinance the same shall be suspended from going into operation, and it shall be the duty of the board of supervisors to reconsider such ordinance, and if the same be not entirely repealed, said board shall submit the ordinance to the vote of said electors either at the next general municipal election or at a special election to be called for that purpose, and such ordinance shall not go into effect or become operative unless and until a majority of the qualified electors voting thereon shall vote in favor thereof.

The provisions of Sections 180 and 181 of the charter shall apply to and govern the verification and certification of such petition.

Annual budget and appropriation ordinances, supplemental appropriation ordinances, the annual salary ordinance, or ordinances amending the same, the ordinances levying taxes, any ordinance appropriating money from the emergency reserve fund, ordinances authorizing the city attorney to compromise litigation, and ordinances necessary to enable the mayor to carry out any of the powers vested in him in the case of a public emergency as defined in Section 25 of the charter, ordinances enacted pursuant to section 219 of the charter, as well as ordinances relative to purely administrative matters, shall not be subject to referendum.

Recall

Any elective official, the chief administrative officer, the controller or any member of the board of education or the public utilities commission may be recalled by the electors. The procedure to effect such recall shall be as follows: A petition demanding the recall from office of the person sought to be recalled shall be filed with the registrar. Said petition shall contain a statement of the grounds on which the recall is sought. Any insufficiency of form or substance in such statement shall in no wise affect the validity of the election and proceedings held thereunder. No recall petition shall be filed against any officer until he has held his office for at least six months.

Ordered Submitted—Board of Supervisors, San Francisco, March 20, 1935.

Ayes: Supervisors Colman, Gallagher, Havenner, Hayden, McSheehy, Ratto, Roncovieri, Schmidt, Uhl.

Absent: Supervisors Brown, Shannon.

I hereby certify that the foregoing charter amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN,
Clerk.

CHARTER AMENDMENT NO. 3

SYMPHONY ORCHESTRA

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the charter of said city and county by amending as herein set forth Section 78 thereof so as to provide that the annual levy of taxes shall include one-half cent upon each one hundred dollars of the assessed valuation of the city and county, the amount to be produced by said tax to be allowed to the art commission, for the purpose of maintaining a symphony orchestra.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said City and County at the special election to be held on the

2d day of May, 1935, to amend the Charter of said city and county by amending as herein set forth section 78 thereof so as to provide that the annual levy of taxes shall include one-half cent upon each one hundred dollars of the assessed valuation of the city and county, the amount to be produced by said tax to be allowed to the art commission for the purpose of maintaining a symphony orchestra.

Tax Levy

Section 78. On or before the 15th day of September of each year, the board of supervisors by ordinance shall levy a tax, the estimated proceeds of which, together with the total amount of receipts and revenues estimated to be received from all sources, will be sufficient to meet all appropriations made by the annual appropriation ordinance. Tax levies.

Revenue to meet current annual interest and redemption or sinking fund for outstanding bonds shall always be provided out of the tax levy; provided, however, that to the extent to which funds are appropriated by the public utilities commission, and available for annual interest and redemption or sinking fund on bonds issued for acquisition, construction or extension of any utility, no tax shall be levied therefor.

The tax levy shall not exceed the rate of one dollar and sixty-five cents ($1.65) on each one hundred dollars ($100.00) valuation of the property assessed in and subject to taxation by the city and county, exclusive of the following items: (1) State taxes, and taxes for the interest and sinking fund on bonded indebtedness of the city and county; (2) the cost of constructing, maintaining and improving (a) schools, (b) libraries, which tax shall not be less than four cents on each one hundred dollars, (c) parks and squares, which tax shall be not less than ten cents on each one hundred dollars, (d) playgrounds, which tax shall be not less than seven cents on each one hundred dollars, (e) for the Art Commission for the purpose of maintaining a symphony orchestra one-half cent on each one hundred dollars of said assessed valuation, (f) streets, sewers and buildings; (3) the cost of (a) elections, (b) civil service, which tax shall not be less than one-half cent on each one hundred dollars, (c) obligations imposed by state legislative or constitutional enactment and (d) obligations imposed by vote of the people of the city and county.

Ordered Submitted—Board of Supervisors, San Francisco, Mar. 20, 1935.

Ayes: Supervisors Colman, Gallagher, Havenner, Hayden, McSheehy, Ratto, Roncovieri, Schmidt, Uhl.

Absent: Supervisors Brown, Shannon.

I hereby certify that the foregoing charter amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN,
Clerk.

CHARTER AMENDMENT NO. 5

POLICE PENSIONS.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of said city and county by amending Section 166 thereof, relating to Present Police Department Members.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said city and county at the special election to be held on the 2d day of May, 1935, a proposal to amend the Charter of said city and county; by amending Section 166 thereof, relating to Present Police Department Members.

Present Police Department Members

Members of Police Department.

Section 166. Persons who are members of the Police Department on the 8th day of January, 1932, shall become members of the Retirement System on that date, subject to the following provisions in addition to the provisions contained in sections 158 to 163, both inclusive, of this charter:

Retirement.

(a) Any member of the department who has arrived or shall arrive at the age of sixty-two years, and who has completed thirty years of continuous service as an active member of the department next preceding his retirement, may retire from service at his option, provided that retirement shall be compulsory at the age of seventy years. Such retired member shall receive a monthly pension, payable throughout his life, equal to one-half of the amount of the monthly salary attached to the rank held by him three years prior to the date of his retirement, hereinafter referred to in this section and section 167 as a "pension."

Payment of pension.

Before the first payment of the pension is made, such retired member may elect to receive the actuarial equivalent of his pension, partly in a pension to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the Board of Supervisors to govern similar elections by other members of the retirement system, including the character and amount of such other benefits.

Retirement for disability in line of duty.

(b) Any member of the department who shall become physically disabled by reason of any bodily injury received in the performance of his duty, may be retired upon a monthly pension, as defined in subdivision (a), of this section, payable throughout his life. In case his disability shall cease, his pension shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

Benefits for death in line of duty

(c) The family of any member of the department who may be killed or injured while in the performance of his duties, and who shall have died within three (3) years from the date of such injury as a result of such injury, shall receive the following benefits and the receipt by such member of a

pension under this section during his lifetime shall not bar said family from such benefits:

First, should the decedent leave a widow to whom he was married prior to the date of the injury resulting in death, such widow shall, as long as she may live and remain unmarried, be paid a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury; provided, however, that should said widow die, leaving a child or children under the age of sixteen years, said pension shall continue to such child or such children collectively until the youngest child arrives at the age of sixteen years. Widow.

Second, should the decedent leave no widow, but leave an orphan child or children under the age of sixteen years, such child or children collectively shall receive a monthly pension equal to one-half of the salary attached to the rank held by their father at the time of his said injury until the youngest attains the age of sixteen years. Children

Third, should the decedent leave no widow and no orphan child or children, but leave a parent or parents depending solely upon him for support, such parents, so depending, shall collectively receive a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury during such time as the retirement board may unanimously determine its necessity. Parents

(d) A sum equal to the contributions, with interest, made by persons who become members of the retirement system under this section to any other pension fund shall be paid by the city and county to the retirement system. Each member of the department shall contribute two dollars ($2.00) per month to the retirement system to be applied on the cost of the benefits at death and retirement provided under this section. Should a member be separated from city service through any cause other than death or retirement, then such contributions with interest shall be refunded to him under such conditions as may be fixed by the Board of Supervisors for the refund of contributions of other members of the retirement system. Contributions

(e) When any member of the department shall die from natural causes and before retirement, there shall be paid to his estate or beneficiary a death benefit, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the Board of Supervisors for the death benefit of other members of the retirement system. Benefits for death other than in line of duty.

(f) In addition to the other contributions required of the city and county under the retirement system, the city and county shall contribute to the retirement system during each fiscal year a sum which, together with the members' contributions provided for in subdivision (d) of this section, shall be equal to the liabilities accruing under the retirement system because of the service rendered during such year by persons Contributions.

becoming members on the 8th day of January, 1932, under this section. If, subsequent to such fiscal year, it shall be determined that such contribution by the city and county, together with the members' contributions, was not sufficient to meet such liability, then the city and county shall make such additional contribution as may be necessary to make up the deficit.

(g) No benefits shall be provided under the retirement system for, nor shall any contribution be required of, persons who become members of the retirement system under this section, in addition to the benefits specifically provided and contributions specifically required in such section.

Reductions on account of workmen's compensation.

That portion of any pension payable because of the death or retirement of any of such persons which is provided by contributions of the city and county shall be reduced, in the manner fixed by the Board of Supervisors, by the amount of any benefits payable to or on account of such person, under the workmen's compensation insurance and safety law of the state of California.

Option of members as of Jan 8, 1932

(h) Persons who were members of the police department on the 8th day of January, 1932, shall have the option, to be exercised in writing on or before the first day of January, 1936, of becoming members of the retirement system under the provisions of section 168, which applies to persons who become members of the department after the 8th day of January, 1932. If such persons shall affirmatively exercise such option within the time specified, then on and after the first day of the month next following such affirmative action, referred to hereinafter in this subdivision (h) as "effective date," they shall not receive any benefit or make any contribution under this section, but on and after said effective date shall be members of the retirement system and shall receive benefits and make contributions on the same basis as persons who become members of the department after the 8th day of January, 1932, provided that a pension for each person affirmatively exercising such option shall be payable on account of service rendered to the city and county prior to said effective date, by such members' contributions made prior to such effective date, with interest, and by contributions of the city and county, which pension shall be the same percentage, regardless of the age of retirement, of his final compensation, as defined by the board of supervisors, for each year of such service, as the contributions of the member and the city and county are calculated to provide upon retirement at age sixty-two for each year of service rendered as a member of the retirement system.

Ordered Submitted—Board of Supervisors, San Francisco, March 20, 1935.

Ayes: Supervisors Brown, Colman, Gallagher, Havenner, Hayden, McSheehy, Ratto, Roncovieri, Schmidt, Uhl.

Absent: Supervisor Shannon.

I hereby certify that the foregoing charter amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN,
Clerk.

CHARTER AMENDMENT No. 6

PREFERENCE FOR LOCAL LABOR AND INDUSTRY

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco, State of California, to amend the Charter of the city and county by amending as herein set forth Section 98 thereof dealing with contractors' working conditions under contracts for public work or improvements, and providing for the allowance of a preference not to exceed ten per cent in favor of articles to be used on public works or improvements, which said articles are manufactured, fabricated or assembled within the City and County of San Francisco as against similar articles manufactured, fabricated or assembled elsewhere.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said city and county at the special election to be held on the 2d day of May, 1935, to amend the Charter of said city and county by amending Section 98 thereof dealing with contractors' working conditions, under contracts for public works or improvements, and providing for the allowance of a preference not to exceed ten per cent (10%) in favor of articles to be used on public works and improvements, which said articles are manufactured, fabricated or assembled within the City and County of San Francisco as against similar articles manufactured, fabricated or assembled elsewhere.

Contractors' Working Conditions

Section 98. Every contract for any public work or improvement to be performed at the expense of the city and county, or paid out of moneys deposited in the treasury, whether such work is to be done directly under contract awarded, or indirectly by or under sub-contract, sub-partnership, day labor, station work, piece work, or any other arrangement whatsoever, must provide: (1) That in the performance of the contract and all work thereunder, eight hours shall be the maximum hours of labor on any calendar day; (2) that any person performing labor thereunder shall be paid not less than the highest general prevailing rate of wages in private employment for similar work; (3) that any person performing labor in the execution of the contract shall be a citizen of the United States; (4) that all laborers employed in the execution of any contract within the limits of the city and county shall have been residents of the city and county for a period of one year immediately preceding the date of their engagements to perform labor thereunder; provided, however, that the officer empowered to award any such con-

Contracts for public works

Hours

Wages

Citizenship

Residence.

tract may, upon application of the contractor, waive such residence qualifications and issue a permit specifying the extent and terms of such waiver whenever the fact be established that the required number of laborers and mechanics possessing qualifications required by the work to be done cannot be engaged to perform labor thereunder.

Definitions

The term "public work" or "improvement," as used in this section, shall include the fabrication, manufacturing or assembling of materials in any shop, plant, manufacturing establishment or other place of employment, when the said materials are of unique or special design, or are made according to plans and specifications for the particular work or improvement and any arrangement made for the manufacturing, fabrication or assembling of such materials shall be deemed to be a contract or a sub-contract subject to the provisions of this section.

Power of board of supervisors.

The board of supervisors shall have full power and authority to enact all necessary ordinances to carry out the terms of this section and may by ordinance provide that any contract for any public work or improvement, or for the purchase of materials which are to be manufactured, fabricated or assembled for any public work or improvement, a preference in price not to exceed ten per cent shall be allowed in favor of such materials as are to be manufactured, fabricated or assembled within the City and County of San Francisco as against similar materials which may be manufactured, fabricated or assembled outside thereof. When any such materials are to be fabricated, assembled or manufactured by any sub-contractor or materialman for the purpose of supplying the same to any contractor bidding on or performing any contract for any public work or improvement, said sub-contractor or materialman manufacturing, fabricating, assembling or furnishing said materials manufactured, assembled or fabricated within the City and County of San Francisco shall be entitled to the same preferential as would any original contractor or materialman furnishing the same if the Board of Supervisors shall by ordinance so provide. When any ordinance shall so provide any officer, board or commission letting any contract may in determining the lowest responsible bidder for the doing or performing of any public work or improvement add to said bid or sub-bid an amount sufficient not exceeding ten per cent in order to give preference to materials manufactured, fabricated or assembled within the City and County of San Francisco.

Ordered Submitted—Board of Supervisors, San Francisco, March 20, 1935.

Ayes: Supervisors Brown, Colman, Gallagher, Havenner, Hayden, McSheehy, Ratto, Roncovieri, Schmidt, Uhl.

Absent: Supervisor Shannon.

I hereby certify that the foregoing charter amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco. Certificate.

J. S. DUNNIGAN,
Clerk.

State of California
City and County of San Francisco } ss.

This is to certify that we, WARREN SHANNON, Acting President of the Board of Supervisors of the City and County of San Francisco, and J. S. DUNNIGAN, Clerk of the Board of Supervisors of said City and County, have compared the foregoing proposed and ratified amendments to the Charter of the said City and County of San Francisco with the original proposals, submitting the same to the electors of said City and County at a special municipal election held on Thursday, the Second day of May, One Thousand Nine Hundred Thirty-five, and find that the foregoing is a full, true, correct and exact copy thereof, and we further certify that the facts set forth in the preamble preceding said amendments to said Charter are and each of them is true.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the same to be authenticated by the seal of the City and County of San Francisco, this 9th day of May, One Thousand Nine Hundred and Thirty-five.

WARREN SHANNON,
Acting President of the Board of Supervisors of the City and County of San Francisco.

J. S. DUNNIGAN,
Clerk of the Board of Supervisors of the City and County of San Francisco.

Now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, that said amendments to the charter of the City and County of San Francisco, as proposed to, and adopted and ratified by the electors of said city and county, and as hereinbefore fully set forth, be and the same are, and each of them is hereby approved as a whole without amendment or alteration, for and as amendments to, and as part of the charter of the City and County of San Francisco. Ratification

CHAPTER 94.

Assembly Concurrent Resolution No. 39—Inviting Will Rogers and Irvin S. Cobb to attend the session of Assembly of California.

[Filed with Secretary of State May 17, 1935.]

Invitation to Will Rogers and Irvin S. Cobb to advise Assembly

WHEREAS, It has come to the attention of the Assembly of the State of California that two of the foremost authors and actors of our time will be in Sacramento, Friday, May 17, 1935, and for a week thereafter; and

WHEREAS, The Assembly has had the pleasure of receiving one of said authors at a previous time and has profited from his words; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That we extend a heartfelt invitation to Will Rogers and Irvin S. Cobb to attend the session of the Assembly at a date convenient for them and to give it the benefit of their advice.

CHAPTER 95.

Senate Joint Resolution No. 8—Relative to hours of employment of persons on interstate carriers.

[Filed with Secretary of State May 17, 1935.]

Limitation of hours of labor on interstate carriers.

WHEREAS, Under the provisions of the laws of the United States persons employed on interstate railroads are required to remain on duty sixteen consecutive hours; and

WHEREAS, Such extended period of continuous employment tends to the physical exhaustion and the consequent inefficiency of such employees, increasing the danger of mishap; therefore be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of this State hereby urges upon the Congress of the United States the adoption of a law limiting the hours of employment of such persons to twelve consecutive hours in any twenty-four consecutive hours, and declaring that such employees shall remain off duty at least twelve consecutive hours.

CHAPTER 96.

Senate Concurrent Resolution No. 34—Approving certain amendments to the charter of The City of San Diego, a municipal corporation in the county of San Diego, State of California, voted for and ratified by the qualified electors of said city at the regular municipal election held therein on the twenty-third day of April, 1935.

[Filed with Secretary of State May 17, 1935.]

City of San Diego: Charter amendments

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendments, hereinafter set forth, to the charter of The City of San Diego, a municipal corporation in the county of San Diego, State of California, as set out in the certificate of the mayor and city clerk of said The City of San Diego, as follows, to wit:

STATE OF CALIFORNIA,
County of San Diego, } ss.
City of San Diego.

Certificate.

We, the undersigned, Percy J. Benbough, Mayor of The City of San Diego, and Allen H. Wright, City Clerk of said City, do hereby certify and declare as follows:

The city of San Diego, in the county of San Diego, State of California, contains a population of over one hundred thousand inhabitants, and has been ever since the year 1931, and is now, organized and existing under and pursuant to the provisions of a freeholders' charter adopted in accordance with and by virtue of the provisions of section eight of article eleven of the constitution of the State of California, which charter was duly ratified by the qualified electors of said city at the general election held in said city on the seventh day of April, in the year 1931, in manner, form and substance as required by law, and was thereafter duly approved by joint resolution of the Legislature of the State of California, adopted on the fifteenth day of April, 1931.

That pursuant to and in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, on its own motion, the council of the city of San Diego, being the legislative body thereof, did by resolution passed and adopted by said council on the 5th day of March, 1935, duly propose to the qualified electors of the city of San Diego, certain amendments to the charter of said city, which said proposed amendments were designated as Proposition I, Proposition II, Proposition III, Proposition IV and Proposition V, respectively.

The said council, did, by resolution duly passed and adopted on the 5th day of March, 1935, proclaim and fix the 23rd day of April, 1935, being the date upon which the regular municipal election was to be held in said city, as the date upon which

San Diego city charter.

the said amendments so proposed would be submitted to the qualified electors of said city.

The said council did, by resolution No. 62746, passed by said council on the 5th day of March, 1935, submit said amendments so proposed as aforesaid to the qualified electors of said city for their approval at the regular municipal election held in said city on the 23rd day of April, 1935.

That said proposed charter amendments were published and advertised in accordance with the provisions of section 8 of Article XI of the constitution of the state of California, on the 9th day of March, 1935, in The San Diego Union, a daily newspaper of general circulation published in said city of San Diego and the official newspaper of said city, and in each edition thereof during the day of said publication.

That copies of said proposed charter amendments were printed in convenient pamphlet form and in type of not less than ten point, and copies thereof were mailed to each of the qualified electors of said city of San Diego, and an advertisement that copies thereof could be had upon application therefor at the office of the city clerk of the city of San Diego was published in said The San Diego Union, a daily newspaper of general circulation in said City, on the 14th day of March, 1935, and on each day thereafter until the day fixed for said election, all as required by section 8 of Article XI of the constitution of the State of California.

That copies of said proposed charter amendments could be had upon application therefor at the office of said city clerk until the day fixed for the said election.

Said proposed amendments were submitted, pursuant to the terms of resolution No. 62746 of the council to the qualified voters of said city at the regular municipal election held in said city on the 23rd day of April, 1935, being not less than forty nor more than sixty days after the completion of the advertisement of said amendments in The San Diego Union, the official paper of said The city of San Diego.

The said council did on the second day next succeeding the date of said election then and there proceed to canvass the returns of said election, and said canvass was continued from day to day until all absent voter ballots were received and canvassed, and did, by Resolution No. 62960, passed and adopted April 30, 1935, duly declare the result of said election as determined from the canvass of the returns thereof.

The said council did by said Resolution No. 62960 declare that the proposed amendments to the charter of the city of San Diego, being Propositions Nos. I, III and V, and each and every one of them, were ratified by a majority of the qualified electors of said city voting thereon, and that two proposed amendments, being Propositions Nos. II and IV, received less than a majority of the votes of the qualified electors voting thereon and were not ratified.

The said amendments to the charter so ratified by the qualified electors of the city of San Diego, at said regular municipal election, are in the words and figures as follows, to-wit:

PROPOSITION I.

Amend Section 157 of Article X of the Charter of The City of San Diego, so as to read as follows:

"Section 157. CONTRIBUTIONS TO FUND BY POLICE.

Deductions from pay of members of Police Department for pension fund

The Auditor and Comptroller of The City of San Diego shall retain from the pay of each regular member or employee of the Police Department a sum equal to four per cent (4%) of the salary paid to said member or employee, and all fines imposed upon members of the Police Department in keeping with the rules and regulations of said Department, to be forthwith paid into said Police Relief and Pension Fund, and no other or further retention or reduction shall be made from such pay of any member or employee of the Police Department to said fund."

PROPOSITION III.

Amend Section 179 of Article XI of the Charter of The City of San Diego, so as to read as follows:

"Section 179. CONTRIBUTIONS TO FUND BY FIREMEN.

Deductions from pay of members of Fire Department for pension fund

The Auditor and Comptroller of The City of San Diego shall retain from the pay of each regular member or employee, except temporary laborers or employees, of the Fire Department a sum equal to four per cent (4%) of the amount paid the said member or employee, and all fines imposed upon members of the Fire Department in keeping with the rules and regulations of said Department to be forthwith paid into said Firemen's Relief and Pension Fund, and no other or further retention or reduction shall be made from such pay for any other fund."

PROPOSITION V.

Amend Section 184 of Article XI of the Charter of The City of San Diego, so as to read as follows:

"Section 184. RETIREMENT FOR SERVICE.

Retirement for service.

(a) Whenever any person who shall have been duly appointed, selected or sworn, and shall have served for twenty years or more in the aggregate as a member in any rank or capacity of the regular constituted force, or any department of said force provided for by this Article, the Board of Trustees shall upon the written request of any person, or his guardian, or without such request if it deem it for the good of the service, retire such person from further service in the Fire Department; and from the date of making such order, the service of such person shall cease, and the person so retired

shall thereafter during his lifetime be paid from the regular funds of the Firemen's Relief and Pension Fund a yearly pension equal to one-half the amount attached to the rank held by him for one year or more previous to the time of his retirement; provided, however, that members of the San Diego Fire Department who enter the service of the Department subsequent to January 1, 1936, shall not be so retired before they reach the age of fifty years, and before twenty-five (25) years of service in the aggregate.

Computation of time of service

In computing the time of service required for retirement, the amount of time served in the United States Army, Navy, Marine Corps or any division thereof in time of war by any member of the Fire Department who shall have left said Department for the purpose of and entered such service of the United States Army, Navy, Marine Corps or any division thereof immediately thereafter, and who shall have returned to said Fire Department within three months, after having been honorably discharged from said military service, or any member having served as substitute in the San Diego Fire Department, shall have such time counted as part of the aggregate service required for a retirement pension.

Death benefits

(b) Upon the death of said pensioner, one-third of the amount of his annual salary shall be paid to his widow, until she remarries and in no case shall such pension exceed seventy-five dollars ($75.00) per month, and if no widow, each child under eighteen years of age, if they are not married, shall receive twenty dollars ($20.00) per month, but in no case shall pensions exceed the sum of seventy-five dollars ($75.00) per month for one family; and if no children, one-third of his annual salary, not to exceed fifty dollars ($50.00) per month, shall be paid to a dependent mother or father; and any dependent orphaned sister or brother under eighteen years of age, and unmarried, shall receive twenty dollars ($20.00) per month but in no case to exceed fifty dollars ($50.00) per month for the family; provided, however, if such pensioner was pensioned under subdivision (a) of this Section or Section 186 of this Article, the widow shall not be entitled to any pension unless she was married to said pensioner three years previous to the time of such retirement. In the event of the widow receiving a pension, and refusing to provide for dependent child or children, or other dependents provided for in this section, the Board of Trustees, upon satisfactory proof, shall have the power to divide the pension as it may deem proper. In the event that a member of the San Diego Fire Department who has been pensioned for disability shall marry after being placed on the pension list, upon the death of such member his widow shall not be entitled to any pension under the terms of this Article."

Certificate

And we further certify that we have compared the foregoing amendments with the original proposals submitting the same to the qualified electors of said city and find that the foregoing is a full, true and exact copy thereof.

In witness whereof, we have hereunto set our hands and caused the seal of said city of San Diego to be affixed hereto this 7th day of May, 1935.

PERCY J. BENBOUGH,
Mayor of The City of San Diego, California.

[SEAL]

ALLEN H. WRIGHT,
City Clerk of The City of San Diego, California.

AND WHEREAS, Said proposed charter amendments are now submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment, in accordance with section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly concurring, a majority of all the members elected to each house voting therefor and concurring therein, That said amendments to said charter herein set forth, as submitted to and adopted and ratified by the qualified electors of said city be, and the same are, hereby approved as a whole, without amendment or alteration, for and as amendments to and as part of the charter of said The City of San Diego. Ratification

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CHAPTER 97.

Assembly Joint Resolution No. 43—Relative to memorializing Congress to furnish aid in the construction of check dams in the Salinas River Valley.

[Filed with Secretary of State May 22, 1935.]

WHEREAS, The water level of the Salinas Valley is rapidly declining and the salt water is beginning to encroach inwardly from the ocean; and Soil erosion in Salinas Valley

WHEREAS, The cost of power is making it almost prohibitive for agricultural pursuits in the Salinas Valley, due to the low water level; and

WHEREAS, Erosion is taking place and the soils are rapidly being put in danger because of the lack of proper soil and water protection; and

WHEREAS, The people of Salinas Valley are aware of this and are desirous of having the Federal government remedy these defects to save the Salinas Valley for future generations to conduct agricultural pursuits and to continue to increase the inhabitation of the Salinas Valley; and

WHEREAS, The water for domestic use may soon be jeopardized if the population of the Salinas Valley increases; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States be urged to provide a Federal government survey and plan for the construction of check dams and a soil erosion prevention project; and be it further

Resolved, That the Congress be urged to take action in this regard immediately so that the water and soils of the Salinas Valley may be preserved for future generations that may inhabit the Salinas Valley; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby instructed forthwith to transmit copies of this resolution to the President of the United States, and to the President of the Senate, the Speaker of the House of Representatives, and to each of the Senators and Representatives from California in the Congress of the United States.

CHAPTER 98.

Senate Concurrent Resolution No. 35—Relative to the approval of amendments to the charter of the city of Tulare.

[Filed with Secretary of State May 24, 1935.]

City of Tulare: Charter amendments

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of certain amendments hereinafter set forth to the charter of the city of Tulare, as set out in the certificate of the city clerk as follows, to wit:

STATE OF CALIFORNIA
COUNTY OF TULARE } ss.
CITY OF TULARE

Certificate

I, C. A. PAULDEN, the duly appointed, qualified and acting city clerk of the city of Tulare, do hereby certify as follows:

That the city of Tulare is a Municipal Corporation, in the county of Tulare, State of California, contains a population of less than 50,000, towit: 6202 inhabitants (according to Federal census 1930) and has been ever since the year 1923 and is now organized and acting under a freeholders charter adopted under and by virtue of section 8, Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the fifth day of September, 1922, and approved by the Legislature of the State of California by concurrent resolution filed with the Secretary of State on the third day of February, 1923 (Statutes of 1923, Page 1508); that the legislative body of said city, namely; the city council of said city, did, pursuant to Section 8, Article XI of the Constitution of the State of California by an ordinance No. 433 adopted March 20, 1935, duly

propose to the qualified electors of said city of Tulare two (2) amendments to the charter of, said city, designated as proposed charter Amendments Nos. 1 and 2 and ordered that said amendments be submitted to said qualified electors of said city at a special municipal election to be held in said city on the fourth day of May, 1935, which date was fixed in said ordinance as the date for holding said special municipal election. Tulare city charter

That said proposed Charter Amendments Nos. 1 and 2 were and each of them was on the fifteenth and sixteenth day of March, 1935, duly published in all the editions issued during said days of the Tulare Daily Times, a daily newspaper of general circulation printed and published in said city of Tulare and the newspaper designated by said city council for that purpose, said city of Tulare having no official newspaper; that said city council of said city did by ordinance designated as Ordinance No. 433, order the holding of a special municipal election in said city of Tulare on the fourth day of May, 1935, which said date was not less than forty days nor more than sixty days after the completion of the publication of said two proposed amendments aforesaid, which said ordinance was duly and regularly introduced and passed to print by the affirmative votes of three of the members of the city council of said city and which said ordinance was thereafter printed on two successive days in the Tulare Daily Times a newspaper of general circulation, printed, published and circulated in said city of Tulare and which said ordinance was thereafter to wit: on the twentieth day of March, 1935, duly adopted by the affirmative vote of three of the members of said city council and approved by the president of said city council and by the city clerk.

That said special municipal election was held in said city of Tulare on the fourth day of May, 1935, which day was not less than forty days and not more than sixty days after said two proposed amendments to said charter had been published twice in said Tulare Daily Times.

That thereafter the city council of the city of Tulare did, in the manner provided by law, duly and regularly canvass the returns of said election and that said city council by resolution adopted on the seventh day of May, 1935, duly declared the result of said municipal election as determined from the canvass of the returns thereof; that at said municipal election held on said fourth day of May, 1935, both of said proposed amendments were ratified by a majority of the electors of said city voting thereon, to wit: Charter Amendments Nos. 1 and 2 and that said two (2) Charter amendments so ratified by the electors of the city of Tulare are in words and figures as follows, to wit:

CHARTER AMENDMENT NO. 1

Amend Sections 52-53-54-55 and 56 by substituting in lieu thereof the following:

Section 52. There is hereby created a department of the city government under the name of the Department of Pub- Department of Public Utilities.

lic Utilities. Said department shall be under the control and management of a board of three commissioners. Said board shall be known as the Board of Public Utilities Commissioners, and the members of such board shall be known as the Commissioners of said department. Said board shall consist of three members appointed by the Mayor and confirmed by the Council, who shall hold office for four years and until their successors are appointed and qualified; they may be removed by the Mayor subject to the approval of the Council by a majority vote.

Terms of members of board

The terms of office of the first members to be appointed shall be determined by the Mayor, so that the term of office of one member shall be for two years, of one member for three years, and the term of office for the third member shall be for four years, all terms commencing on the date of the appointment of the first member of said board.

Meetings.

Compensation.

The Board shall hold regular meetings at least twice a month at such time and place as it shall determine. The members of the Board shall receive as compensation the sum of $5.00 each for each regular meeting attended by them and necessary expense incurred by them shall be a proper charge against the city, and when certified to by the City Auditor, shall be paid.

Officers of board.

Section 52a. As soon as practicable after the first day of July in each year the Board shall organize by electing one of its members president and one vice-president, which officers shall hold office for one year and until their successors are elected, unless their membership on the Board sooner expires. The election of each succeeding president and vice-president shall be held at the meeting of the Board during the last week in July of each year. The Board may fill for the unexpired term any vacancy occurring in the office of president or vice-president. All meetings shall be in a public office of the Board, with reasonable provision for attendance by the public.

Duties of secretary.

Section 52b. The Board shall appoint the City Clerk as secretary of the Board and the City Auditor as chief accounting employee. The secretary shall keep a record of the proceedings and transactions of the Board, specifying therein the names of the Commissioners at all meetings and giving the ayes and noes upon all votes. He shall post and publish all orders, resolutions and notices which the Board shall order to be posted or published, and shall perform such other duties as are herein, or may be by order of the Board, imposed upon him.

Powers of board.

Section 52c. The Board of Public Utilities shall have power (subject to the provisions of this charter and to such ordinances of the City as are not in conflict with the grants of power made to this department of the city government elsewhere in this charter), to supervise, control, regulate and manage the department and to make and enforce all necessary and desirable rules and regulations therefor and for the exercise of the powers conferred upon the department by this

charter. It shall have such additional powers and perform such other duties as may be granted or imposed elsewhere in this charter, or by ordinance not in conflict with the provisions of this charter. No grant of power by this charter to this department of the city government shall be construed to restrict the power of the Council to enact ordinances under the police power of the city except as otherwise specifically provided in this charter.

Section 52d. The power conferred by this charter upon the Board shall be exercised by order or resolution adopted by a majority of its members and recorded in the minutes with the ayes and noes at length. Such action shall be attested by the signature of the president or vice-president, or two members of the Board, and by the signature of the secretary of the Board. Method of exercise of powers.

Section 52e. The Department of Public Utilities shall have the power to use a corporate seal, to sue and be sued, and to have perpetual succession; it shall have the power and duty: Powers of Department of Public Utilities

1. To acquire, construct, operate, maintain, extend, manage, and control works and property for the purpose of supplying the city and its inhabitants with water and electric energy, gas, heat, sewers, transportation, telephone and telegraph service, or other systems of providing and distributing refrigerating means, materials and service, or any of them, and to acquire and take, by purchase, lease, condemnation, or otherwise, and to hold, in the name of the city, any and all property situated within or without the city, and within or without the State, that may be necessary or convenient for such purpose. To borrow money for any or all of such purposes on terms and conditions prescribed by said Board, said indebtedness to be payable only out of the revenue fund pertaining to the municipal works for or on account of which such indebtedness was created

2. To regulate and control the use, sale, and distribution of water, electric energy, gas, transportation and any other utility owned or controlled by the city; the collection of rates therefor and the granting of permits for connection with said water or electric works or gas or transportation or sewer or other utilities; and to fix the rates to be charged for such connection; and subject to approval of the Council by ordinance or resolution, to fix by contract or otherwise and for a term deemed reasonable by the Board the rates charged for water or electric energy, or gas, or transportation or any other utility for use within or without the city and to prescribe the time and the manner of payment of the same; provided that, except as hereafter otherwise prescribed, such rates shall be of uniform operation as near as may be, and shall be fair and reasonable taking into consideration, among other things, the nature of the use, the quantity supplied, and the value of the service; provided further, that the rates inside the city may be less, but not greater, than the rates outside the city for the same or similar uses,

Powers of Department of Public Utilities

3. To supply and distribute, at rates fixed as hereinbefore provided, any surplus water or surplus electric energy or surplus gas or surplus of any other utility owned or controlled; and subject to the approval of the Council by ordinance, to fix by contract or otherwise the rates to be charged for public utilities for use without the city, and to prescribe the time and the manner of the same.

4. In the discretion of the Board, to divide the work of the department into as many bureaus as the number of public utilities it controls, and to discontinue such bureaus and to consolidate the work of any such. In case such division is made the General Manager, subject to confirmation by the Board, shall have the power to appoint a manager for each such bureau, who shall operate under and shall be subject to the supervision and direction of the General Manager for the entire department. Each such manager shall be directly responsible to the General Manager and shall have such powers and duties as shall from time to time be conferred in by the General Manager.

5. In the event that all or any portion of a utility is acquired by the Department of Public Utilities under a contract providing for the payment in whole or in part of the purchase price thereof out of revenues to be obtained from said utility, then, at its option, to appoint an agent, corporate or individual, to have charge of and to manage the said utility, so far as may be permitted by law, pending the time that the revenues of the utility shall pay the full purchase price thereof. In the event of the appointment of such agent by contract, the provisions of sections affecting the powers and duties of the manager and of the manager of such utility, shall be suspended as to such utility during the term of such contract.

6. To sue and be sued, and to require the services of the City Attorney in all cases to which the Board or Department is a party, provided, that the Board may employ other attorneys to assist the City Attorney therein, with the latter's written approval.

7. To lease, for a term not exceeding five years, any or all of the lands under its control for agricultural or other purposes, which shall not conflict with the beneficial uses of said lands by the city for the purposes for which they are held by the Board, and except as otherwise provided in this Charter, to sell, from time to time, such personal property, placed under its control, as shall not be longer necessary or suitable for the use of such department. The Board shall have the right, in conjunction with the joint use of pipe lines, poles, or pole facilities, with other utilities owning and maintaining pipe lines, poles or pole facilities, to buy, sell or lease fractional interests in pipe lines, poles or pole facilities owned or controlled by said other utilities or by said Board. No real property nor any rights or interests in real property held by said Board shall be sold, leased, or otherwise disposed of, or

in any manner withdrawn from its control, save as above provided, unless by written instrument duly authorized by ordinance of the city and a resolution of the Board, and duly executed by the city and the Board.

Powers of Department of Public Utilities

No water or water rights nor any of the following property now or hereafter owned or controlled by the city, to-wit: gas, electric energy, or the right to develop electric or other power by means of any water or water right now or hereafter owned or controlled by the city, shall ever be sold, leased or disposed of, in whole or in part, without the assent of two-thirds of the qualified voters of the city voting on the proposition at a general or special election, at which such proposition shall be lawfully submitted, and no water shall ever be sold, supplied or distributed to any person or corporation, other than municipal, for resale, rental or disposal to consumers or other persons. Neither shall any electric power or gas ever be sold, supplied or distributed to any person or corporation other than municipal for resale, rental or disposal to consumers or other persons without the assent of two-thirds of the qualified voters of said city given, as aforesaid; provided, that nothing in this section contained shall be construed to prevent the ordinary sale and distribution by the city of water, gas and electric energy to its inhabitants for their own use, or to prevent the supplying or distribution by the city of surplus electric energy or gas to consumers or municipal corporations outside of the city, as elsewhere in this charter provided

8. To control, and order, except as otherwise in this charter provided, the expenditure of all money received from the sale or use of water, or from any other source in connection with the operation of said water works, and all money received from the sale or use of electric energy or from any other source in connection with the operation of said electric works, and all money received from the sale or use of gas or of transportation or of any other public utility, or from any other source in connection with the operation of any of said public utilities; provided that all money pertaining to each of said utilities shall be deposited in the city treasury to the credit of a special fund created for each of said utilities; and the money so deposited in each special fund shall be kept separate and apart from other money of the city and shall be drawn only from said fund upon demands authenticated by signature of the City Auditor. Any interest or increment received on the money in any such special fund shall be paid into such special fund and become a part thereof.

Expenditure of money.

Section 53. None of the money in or belonging to any of said special revenue funds shall be appropriated or used for any purpose except the following purposes pertaining to the municipal works from or on account of which such money was received, to-wit:

1. For the necessary expenses of operating and maintaining such works.

2. For the payment of the principal and interest or either due or coming due under contract or upon outstanding notes, certificates or other evidence of indebtedness issued against revenue of such works, or bonds or other evidences of indebtedness, general or district, heretofore or hereafter issued for the purpose of such works or parts thereof.

3. For the necessary expenses of constructing, extending and improving such works, including the purchase of lands, water rights and other property; also the necessary expenses of conducting and extending the business of the department pertaining to such work; also for reimbursement to another bureau on account of services rendered, or material supplies, or equipment furnished; also for expenditures for the purpose for which bonds, or evidences of indebtedness shall have been authorized, subject to reimbursement as soon as practicable from monies derived from the sale or issuance of such bonds or evidences of indebtedness.

4. For establishing and maintaining a reserve fund to insure the payment at maturity of the principal and interest on all bonds and all other contract obligations now outstanding or hereafter issued or made for the purchase of municipal works and such other reserve funds pertaining to such works as the Board may provide for by resolution subject to approval of the Council by ordinance The money set aside and placed in such fund or funds so created shall remain in said fund or funds until expended for the purposes thereof, and shall not be transferred to any other fund of the city. Any interest or increment received on the money in any such special fund shall be paid into such special fund and becomes a part thereof.

5. Any balance may be appropriated for use in any ensuing fiscal year or years, or be transferred to the general fund of the city with the consent of the Board of Public Utilities, and not otherwise.

Acquisition of utilities

Section 53a. The Board may provide for the cost of acquisition of a public utility and/or extensions and/or betterments of said public utility from funds derived from the sale of bonds, general or district, and/or from revenues received from said works to which such acquisition, extensions and betterments pertain, and/or from the proceeds of loans contracted in accordance with the provisions of this charter.

Special budget and appropriations

Whenever in the exercise of such power to provide for the cost of acquisition of a public utility and/or extensions and/or betterments from such revenues, the Board may deem it advisable to make any such acquisition, extension or betterment which cannot be provided for out of the appropriations for a single fiscal year, it may at any time adopt a special budget and make special appropriations therefor specifying the amount of such appropriation for each fiscal year during which the cost of such acquisition, extension or betterment is expected to be paid, and when such special budget is so adopted said Board may incur financial obligations and make expenditures as authorized thereby; provided that no such special

appropriation for a future fiscal year shall be made unless, on report of the manager, it shall find that the reasonably expected revenues of such works in each fiscal year for which such appropriation is made will be amply sufficient to permit of the making of such appropriation in addition to the following:

1. Appropriations to cover the necessary expenses of operating and maintaining such works, and such payments of principal and interest on outstanding bonds, as, under the provisions of this charter, and findings or resolutions provided for therein, said Board is required to apportion and set apart;

2. Appropriations to cover all sums coming due in said year for principal and interest upon notes, certificates or other evidences of indebtedness issued under the provisions of this Charter.

3. Appropriations to cover all appropriations made by any prior special budget; and

4. Appropriations to cover all other reasonably anticipated expenses for said year.

Any such special budget shall be subject to modification or extension upon like report and finding. It shall be the duty of the Board in adopting the annual departmental budget for each fiscal year to include therein appropriations for each item for which an appropriation for that year has been made by any such special budget.

Apportionment of funds.

Section 53b. The Board shall each year apportion and set apart out of the revenue fund in the City Treasury pertaining to each such municipal works an amount or amounts sufficient to pay at maturity all sums coming due in said year for principal and interest, upon all outstanding general bonds, and/or other obligations issued for the purposes of the works, to which such revenue fund pertains, and also all sums coming due in said year for principal and interest upon all outstanding district bonds, issued for such purposes, or such part of the last mentioned sums as can be paid from moneys in said fund not appropriated to other purposes and the Board finds are not required to meet outstanding obligations or liabilities payable out of said fund, including the principal and interest of general bonds, and/or other obligations; and said amounts shall be transferred forthwith into a special fund in the City Treasury, to be designated by name indicating the nature or purpose of such special fund, and the money in such special fund shall be subject to apportionment by the Auditor as may be required to make such payments on the principal and interest of said bonds and/or other obligations, and for no other purpose. Any interest or increment received on the money in any such special fund shall be paid into such special fund and become a part thereof. The foregoing provisions of this section shall apply to all such bonds now outstanding or hereafter issued; except as in this section provided said Board may, in its discretion, apply the moneys in such revenue funds to such purposes permitted by this charter, and in such order and such amounts, as in the exercise of such discretion it shall deter-

mine. Balances remaining unexpended in said revenue funds, and all sums receivable into said fund from unpaid bills of consumers and other similar sources at the close of any fiscal year, shall be available for appropriations for, and expenditures in, succeeding fiscal years in like manner and for like purposes as revenues received during such succeeding years. The Board shall appoint and shall have the power to remove the General Manager who shall be the chief administrative officer. The City Manager may be appointed General Manager.

Powers of General Manager.

Section 53c. Subject to the provisions of this charter, the rules of the department and the instructions of his Board, said General Manager shall have the power and duty:

1. To administer the affairs of the department as its chief administrative officer;

2. To appoint, discharge, suspend, or transfer the employees of the department, other than the secretary of the Board and the chief accounting employee of the department, and to issue instructions to said employees, other than the secretary and the chief accounting employee, in the line of their duties.

3. To expend the funds of the department in accordance with the provisions of the budget appropriations or of appropriations made subsequent to the budget.

4. To recommend to the Board prior to the beginning of each fiscal year an annual departmental budget covering the anticipated revenues and expenditures of the department, conforming so far as practicable to the forms and dates provided in this charter in relation to the general city budget.

5. To certify all expenditures of the department to the chief accounting employee.

6. To exercise such further powers in the administration of the department as may be conferred upon him by the Board.

Section 53d. The General Manager, at least, once a month shall file with the Board a written report on the work of the department.

Powers of board.

Section 53e. The Board shall provide suitable quarters, equipment and supplies for the department. It shall create the necessary positions in said department, authorize the necessary deputies, assistants and employees and fix their salaries and duties, and fix the salary of the General Manager, and may require bonds of any or all such employees for the faithful performance of their duties.

Discharge of specific duties

Section 54. Whenever in this charter provision is made for the discharge of specific duties by a specific appointee, the appointing power of such appointee may designate an employee or employees in the same department with full power to act in place of such appointee in case of his temporary absence or other inability to act; and in other cases upon the written request of such appointee.

Budget.

Section 55. The Board shall prior to the beginning of each fiscal year adopt an annual departmental budget and make an annual departmental budget appropriation covering the anticipated revenues and expenditures of said department. Such

budget shall conform as far as practicable to the forms and times provided in this charter for the general city budget. Such budget shall contain a sum to be known as the "Unappropriated balance," which sum shall be available for appropriation by the Board later in the ensuing fiscal year to meet contingencies as they may arise. A copy of such budget, when adopted, and of every resolution subsequently adopted making appropriation from said unappropriated balance, shall promptly be filed with the city council and Auditor. No expenditure shall be made or financial obligations incurred by such department except as authorized by the annual departmental budget appropriation, or appropriations made subsequent to said annual budget, or as otherwise provided in this charter. Provided, however, and anything contained in this charter to the contrary notwithstanding, the Board shall have power at any time, to pledge said unappropriated balance, or to contract with reference thereto, for any of the purposes set forth in this charter.

Warrants

Section 55a. No money shall be drawn from any fund under the control of such department, except upon warrants authenticated by the signature of the Auditor, who shall be directly appointed by the Board and shall be directly responsible to it in the discharge of his duties. The Board by resolution may authorize a temporary substitution in the case of the absence or inability to act of the person whose signature is herein required.

Contracts in excess of $2,000.

Section 56. Any action by said department authorizing the acquisition or sale of real property, approving of contracts which obligate the city for a longer period of time than one year, or which involves values in excess of two thousand dollars ($2,000.00), or which involves a rule of general application to be followed by the public, shall be taken by the Board by order or resolution. Every order or resolution adopting a rule of general application to be followed by the public shall be published once in a daily newspaper and shall take effect upon such publication.

Borrowing money.

Section 56a. 1. The Board is hereby authorized to borrow money from the Federal Government or the State Government, or any duly authorized agency created by either of said Governments and acting therefor, to defray the expenses of construction work in the Department.

The principal and interest of such borrowed money shall be paid from the revenue fund pertaining to the municipal works for or on account of which such indebtedness was created, and the principal shall be repaid in not more than forty (40) years but no payments of principal need be required during the first three (3) years following the date of any such loan.

2. The Board is hereby authorized to make contracts providing for expenditure or incurring financial obligations to be paid in whole or in part in succeeding fiscal years, for or on account of the acquisition of any public utility, and of extensions and improvements of the works under the control of said

Department, all payments under said contracts to be made out of the revenue fund pertaining to the municipal works for or on account of which such indebtedness was created.

Charter Amendment No. 2

Amend Section 13 thereof to read as follows:

City Council. The Legislative body of the city shall be vested in a City Council to consist of five members, who shall each receive as compensation, the sum of $5.00 for each regular meeting attended by them.

Certificate. IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said city at my office in the city of Tulare, this seventh day of May, 1935.

C. A. PAULDEN,
City Clerk, City of Tulare.
State of California

[SEAL]

and

WHEREAS, Said proposed charter amendments have been and are now submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment, in accordance with section 8, of Article XI of the Constitution of the State of California; now, therefore, be it

Ratification. *Resolved by the Senate of the State of California, the Assembly thereof concurring,* a majority of all the members elected to each house voting therefor and concurring therein, That said amendments to said charter herein set forth as submitted to and ratified by the qualified electors of said city be and the same are hereby approved as a whole, without alteration or amendment, for and as amendments to and as part of the charter of the city of Tulare.

CHAPTER 99.

Senate Joint Resolution No. 10—Relative to memorializing the President and Congress to adopt legislation for the employment of jobless citizens in the mining of chromium and tin deposits of the United States.

[Filed with Secretary of State May 24, 1935.]

Working of chromium and tin deposits by jobless citizens

WHEREAS, There are many millions of men in these United States who still find themselves without employment in gainful occupations; and

WHEREAS, There are many valuable but low grade deposits of chromium and tin in California and in other parts of the United States, which said deposits though of low grade, could still be worked to the benefit of said jobless citizens and for the welfare of the United States as a whole; and

WHEREAS, The employment of citizens at such mining industry would not in any way compete with private industry but

would promote desirable public development; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California jointly, That the President and Congress be memorialized to investigate and enact legislation toward the employment of jobless citizens of the United States by government control and development of chromium and tin deposits of the United States; and be it further

Resolved, That copies of this Resolution be respectfully submitted to the President of the United States, President of the Senate, the Speaker of the House of Representatives, and to each of the Senators and Representatives of the State of California and Congress.

CHAPTER 100.

Assembly Concurrent Resolution No. 42—Approving certain amendments to the charter of the city of Monterey.

[Filed with Secretary of State May 24, 1935.]

City of Monterey: Charter amendments

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of certain amendments hereinafter set forth to the charter of the city of Monterey, as set out in the certificate of the mayor and city clerk of said city, as follows, to wit:

CERTIFICATE OF THE MAYOR AND CITY CLERK OF THE CITY OF MONTEREY.

STATE OF CALIFORNIA,
COUNTY OF MONTEREY, } ss.
CITY OF MONTEREY,

Certificate.

We, the undersigned, Walter L. Teaby, Mayor of the City of Monterey, and Clyde A. Dorsey, city clerk of said city, do hereby certify and declare as follows:

That the city of Monterey, a municipal corporation, in the County of Monterey, State of California, is now, and at all times herein mentioned was, a city containing a population of more than 3500 inhabitants and less than 50,000 inhabitants, and has ever since the 27th day of March, 1925, and now is, organized, existing and acting under a freeholders charter, adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city at an election duly held for that purpose at a special municipal election held on the 9th day of March, 1925, and approved by the legislature of the State of California by a concurrent resolution, approved and adopted by said legislature on the 27th day of March, 1925.

That pursuant to, and in accordance with, the provisions of Section 8 of Article XI of the Constitution of the State of

Monterey city charter

California on its own motion the council of the city of Monterey, to-wit: the legislative body thereof, duly and regularly submitted certain proposals for the amendment of the charter of said city to be voted upon by the qualified electors thereof at the general municipal election in said city on the 13th day of May, 1935, which said proposals were designated Proposition No. 1, Proposition No. 2, Proposition No. 3 and Proposition No. 4 respectively

That said proposed charter amendments were published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of said state on the 27th day of March, 1935, in the Monterey Peninsula Herald, a daily newspaper of general circulation published, printed and circulated in said city and the official newspaper thereof, and in all the editions thereof issued during said day of publication.

That the council of the city of Monterey, to-wit, the legislative body thereof, by its Resolution No. 3533 C. S. did order and provide for the holding of the general municipal election in the city of Monterey on the 13th day of May, 1935, said day being not less than forty nor more than sixty days after the completion of the advertising of the proposed charter amendments in said newspaper, and did provide in said resolution for the submission of the proposed amendments to the charter of said city to the qualified electors thereof for their ratification or rejection at said general municipal election;

WHEREAS, said election was duly held on said 13th day of May, 1935, and said propositions, and each of them, were duly submitted to the qualified electors thereat, and at said election a majority of the qualified electors voting thereon voted in favor of the ratification of, and did ratify each and all of said proposed amendments to said charter; and

WHEREAS, the returns of said election were, in accordance with law and the charter of said city, duly and regularly canvassed and certified to and it was duly found, determined and declared by the board canvassing said returns, to-wit, the council of said city thereunto duly authorized so to do, that a majority of the qualified electors voting thereon had voted for and ratified said proposed amendments to said charter, and each thereof; and

WHEREAS, said amendments to the charter of said city so ratified by a majority of the qualified electors of said city voting thereupon at said election are in words and figures as follows, to-wit:

PROPOSED AMENDMENT NO. 1

That Section 15 of the Charter of the City of Monterey be amended to read as follows:

Legislative action by council

"SECTION 15. LEGISLATION: The Council shall act in legislative matters by ordinance or resolution only. Other action of the Council, unless herein otherwise provided, may be taken by resolution, motion, or order.

The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the record of the proceedings of the Council. Upon the request of any member of the Council the ayes and noes shall be taken and recorded upon any vote. All members present at any meeting must vote.

No ordinance or resolution shall be passed without receiving the affirmative vote of at least three members of the Council.

Each ordinance shall be headed by a brief title which shall indicate the purport thereof.

Enacting clause

The ordaining clause of all ordinances adopted by the Council shall be, "The Council of the City of Monterey do ordain as follows:". The ordaining clause of all ordinances passed by the vote of the electors of the city, through the exercise of the initiative shall be, "The People of the City of Monterey do ordain as follows:".

Publication of ordinances.

No ordinance shall be passed by the Council on the day of its introduction, or within five days thereafter, or at any time other than at a regular meeting, or until its publication at least once in the official newspaper of the city at least three days before its adoption. In case of an ordinance being amended before its final adoption, and after its publication, it shall in like manner be republished in full as amended at least one day before its adoption as amended; provided, however, that where such amendment is made for the correction of clerical errors or omissions of form only, then such ordinance need not be given a first reading or a republication as corrected.

When ordinance required

Except as otherwise provided by general law, or by this charter, no action providing for any specific public improvement, or for the appropriation or expenditure of public money, in any amount over one thousand dollars, or for the acquisition, sale, lease, incumbrancing, or disposition of any real property of the city, or any interest therein, or for the purpose of levying any tax or assessment, or the granting of any franchise, or for establishing or changing fire limits, or for the imposing of any penalty, shall be taken except by ordinance.

Revision, amendment or reenactment of ordinances

No ordinance, or portion thereof, shall be repealed except by ordinance. No ordinance shall be revised, re-enacted or amended by reference to its title only; but the ordinance to be revised or re-enacted, or the section or sections thereof to be amended, or the new section or sections to be added thereto, shall be set forth and adopted according to the method provided in this section for the enactment of ordinances, and such revision, re-enactment, amendment, or addition, shall be made by ordinance only.

All ordinances shall be signed by the Mayor and attested by the City Clerk."

PROPOSED AMENDMENT NO. 2

That Section 41 of the charter of the City of Monterey be amended to read as follows:

Contracts in excess of $1,000

"SECTION 41. CONTRACT WORK: In the erection, improvement, and repair of all public buildings, structures, and works, in all street and sewer work and improvements, and works and embankments for the protection against overflow, and in furnishing supplies or materials for the same, or for other use or purpose, when the expenditure required for the same shall exceed the sum of one thousand dollars, the same shall be awarded by contract, and shall be let, by the Council, to the lowest responsible bidder, after notice by publication in the official newspaper; and security for the due execution and performance of any such contract may be required of the bidder and successful contractor, respectively. The detailed procedure for carrying out the provisions of this section shall be prescribed by ordinance.

Rejection of bids.

Provided, that the Council may reject any and all bids presented, and may, in its discretion, re-advertise for other bids.

Day labor.

Provided, further, that after rejecting bids, the Council may determine and declare by a four-fifths vote of all its members, that the work in question may be more economically or satisfactorily performed by day labor, or the materials or labor purchased at a lower price in the open market, and after the adoption of a resolution to this effect, it may proceed to have the same done in the manner stated without further observance of the foregoing provisions of this section; and

Emergencies

Provided, further, that in case of a great public calamity, such as an extraordinary fire, flood, storm, epidemic or other disaster, the Council may, by resolution passed by a vote of four-fifths of all its members, determine and declare that the public interest or necessity demands the immediate expenditure of public money to safeguard life, health, or property, and thereupon they may proceed, without advertising for bids or receiving the same, to expend, or enter into a contract involving the expenditure of, any sum required in such emergency, on hand in the city treasury and available for such purpose."

PROPOSED AMENDMENT NO. 3

That Section 52 of the Charter of the City of Monterey be amended to read as follows:

Special taxes

"SECTION 52. SPECIAL TAX LEVY: The Council shall have the power to levy and collect taxes, in addition to the taxes herein or by general law authorized to be levied and collected, sufficient to pay and maintain the sinking fund of the bonded indebtedness of the city; and for the following purposes at not to exceed the following rates:

Fire protection.

(a) For the support and maintenance of the fire department, for fire protection purposes, and for a firemen's relief fund to aid firemen who have become incapacitated in the course of duty, at the rate of not more than three mills on each dollar of the assessed valuation of the real and personal property within the city;

(b) For the acquisition, construction, and maintenance, as the case may be, of permanent public improvements, of real property, of public buildings and structures, and of public offices, including equipping and furnishing the same, including also, the maintenance and improvement of Cementario El Encinal, at the rate of not more than two mills on each dollar thereof; Public improvements.

(c) For the maintenance and support of free public libraries and reading rooms in said city, at the rate of not more than two mills on each dollar thereof; Libraries and reading rooms

(d) For music, entertainment, and promotion, at the rate of not more than one mill on each dollar thereof." Music, entertainment and promotion

PROPOSED AMENDMENT NO. 4

That a new section to be designated Section 76½ be added to the charter of the city of Monterey immediately following Section 76 of said charter, to read as follows:

"SECTION 76½. CLAIMS AGAINST CITY FOR PERSONAL INJURIES AND DAMAGES TO PERSONALTY: Whenever any person has been injured, or any personal property damaged, as a result of the dangerous or defective condition of any public street, public place or public building of the city of Monterey, a verified notice and report of the injury or damage must be presented to the city clerk of said city within ten days after the accident has occurred, specifying the name and address of the person injured or of the owner of the personal property damaged, a brief statement of the circumstances relating thereto, together with the date and time of the accident and the location and nature of the defective or dangerous condition of such public street, public place or public buildings, and the person injured, or the owner or legal custodian of the personal property so damaged shall, within ninety days after the occurrence of the accident, present and file with said city clerk a verified claim for damages, setting forth the nature and amount thereof in the event that the payment of damages is sought by any such person; the refusal or failure of any such person to file with the city clerk of said city the notice, and report or the claim for damages, as in this section specified, shall be a bar to the recovery of damages against said city at law or in equity." Claims for injuries and damages

And we further certify that we have compared the foregoing amendments with the original proposals submitting the same to the qualified electors of said city and find that the foregoing is a full, true and exact copy thereof. Certificate

IN WITNESS WHEREOF we have hereunto set our hands and caused the official seal of said city of Monterey to be affixed hereto this 20th day of May, 1935.

W. L. TEABY,
Mayor of said city of Monterey.

[SEAL] CLYDE A. DORSEY,
City Clerk of said city of Monterey.

WHEREAS, Said proposed charter amendments have been and are now submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment, in accordance with section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Ratification

Resolved, by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, that the amendments to the charter herein set forth, as submitted to and ratified by the qualified electors of said city, and the same are hereby approved as a whole, without alteration or amendment, for and as amendments to and as part of the charter of the city of Monterey.

CHAPTER 101.

Assembly Constitutional Amendment No. 58—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by amending section 8 of Article XI thereof, relating to the preparation and adoption of charters by cities, and cities and counties.

[Filed with Secretary of State May 29, 1935.]

Constitution, Art XI, Sec 8

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its fifty-first regular session commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses voting in favor therefor, hereby proposes to the people of the State of California that section 8 of Article XI of the Constitution of the State of California be amended to read as follows:

Charters for city or city and county

Sec. 8. (a) Any city or city and county containing a population of more than three thousand five hundred inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the Legislature of California, may frame a charter for its own government, consistent with and subject to this Constitution; and any city or city and county having adopted a charter may adopt a new one. Any such charter may be framed by a board of fifteen freeholders chosen by the electors of such city or city and county, at any general or special election, but no person shall be eligible as a candidate for such board unless he shall have been, for the five years next preceding, an elector of said city or city and county. An election for choosing freeholders may be called by a two-thirds vote of the legislative body of such city or city and county, and on presentation of a petition signed by not less than fifteen per cent of the registered electors of such city or city and county, the legislative body shall call such election at any time not less than thirty nor more than sixty days from date of the

filing of the petition. Any such petition shall be verified by the authority having charge of the registration records of such city or city and county and the expenses of such verification shall be provided by the legislative body thereof.

Candidates for board of freeholders

(b) Candidates for the office of freeholders shall be nominated either in such manner as may be provided for the nomination of officers of the municipal or city and county government or by petition, substantially in the same manner as may be provided by general laws for the nomination by petition of electors of candidates for public offices to be voted for at general elections.

Election

(c) At such election the electors shall vote first on the question "Shall a board of freeholders be elected to frame a proposed new charter?" and secondly for the candidates of the office of freeholder. If the first question receives a majority of votes of the qualified voters voting thereon at such election, the fifteen candidates for the office of freeholder receiving the highest number of votes shall forthwith organize as a board of freeholders, but if the first question receives less than a majority of the votes of the qualified voters voting thereon at such election no board of freeholders shall be deemed to have been elected.

Preparation of charter by freeholders

(d) The board of freeholders shall, within one year after the result of the election is declared, prepare and propose a charter for the government of such city or city and county. The charter so prepared shall be signed by a majority of the board of freeholders and filed in the office of the clerk of the legislative body of said city or city and county. The legislative body of said city or city and county shall, within fifteen days after such filing, cause such charter to be published once in the official newspaper of said city or city and county and each edition thereof, during the day of publication (or in case there be no such official newspaper, in a newspaper of general circulation within such city or city and county and all the editions thereof issued during the day of publication) and in any city or city and county with over 50,000 population shall cause copies of such charter to be printed in convenient pamphlet form and in type of not less than ten point and shall cause copies thereof to be mailed to each of the qualified electors of such city or city and county, and shall, until the day fixed for the election upon such charter, advertise in one or more newspapers of general circulation in said city or city and county a notice that copies thereof may be had upon application therefor.

Charter election

(e) Such charter shall be submitted to the electors of such city or city and county at a date to be fixed by the board of freeholders, before such filing and designated on such charter, either at a special election held not less than sixty days from the completion of the publication of such charter as above provided, or at the general election next following the expiration of said sixty days.

Preparation of charter by legislative body

(f) As an alternative, the legislative body of any such city or city and county, on its own motion may frame or cause to be framed, a proposed charter and submit the proposal for the adoption thereof to the electors at either a special election called for that purpose or at any general or special election. Any charter so submitted shall be advertised in the same manner as herein provided for the advertisement of a charter proposed by a board of freeholders, and the election thereon held at a date to be fixed by the legislative body of such city or city and county, not less than forty nor more than sixty days after the completion of the advertising in the official paper.

Ratification by electors.

(g) If a majority of the qualified voters voting thereon at such general or special election shall vote in favor of such proposed charter, it shall be deemed to be ratified, and shall be submitted to the Legislature, if then in session, or at the next regular or special session of the Legislature. The Legislature shall by concurrent resolution approve or reject such charter as a whole, without power of alteration or amendment; and if approved by a majority of the members elected to each house it shall become the organic law of such city or city and county and supersede any existing charter and all laws inconsistent therewith. One copy of the charter so ratified and approved shall be filed with the Secretary of State, one with the recorder in the county in which such city is located, and one in the archives of the city, and in the case of a city and county one copy shall be filed with the recorder thereof, and one in the archives of such city and county; and thereafter the courts shall take judicial notice of the provisions of such charter.

Amendments.

(h) The charter of any city or city and county may be amended by proposals therefor submitted by the legislative body thereof on its own motion or on petition signed by fifteen per cent of the registered electors, or both. Such proposals shall be submitted to the electors at either a special election called for that purpose or at any general or special election. Petitions for the submission of any amendment shall be filed with the legislative body of the city or city and county not less than sixty days prior to the general election next preceding a regular session of the Legislature. The signatures on such petitions shall be verified by the authority having charge of the registration records of such city or city and county, and the expenses of such verification shall be provided by the legislative body thereof. If such petitions have a sufficient number of signatures the legislative body of the city or city and county shall so submit the amendment or amendments so proposed to the electors. Amendments proposed by the legislative body and amendments proposed by petition of the electors may be submitted at the same election. The amendments so submitted shall be advertised in the same manner as herein provided for the advertise-

ment of a proposed charter, and the election thereon, held at a date to be fixed by the legislative body of such city or city and county, not less than forty, and not more than sixty, days after the completion of the advertising in the official paper.

Submission of amendments to Legislature

(i) If a majority of the qualified voters voting on any such amendment vote in favor thereof, it shall be deemed ratified, and shall be submitted to the Legislature if then in session, or at the regular or special session next following such election; and approved or rejected without power of alteration in the same manner as herein provided for the approval or rejection of a charter.

Alternative and conflicting amendments

(j) In submitting any such charter or amendment separate propositions, whether alternative or conflicting, or one included within the other, may be submitted at the same time to be voted on by the electors separately, and, as between those so related, if more than one receive a majority of the votes, the proposition receiving the largest number of votes shall control as to all matters in conflict. It shall be competent in any charter framed under the authority of this section to provide that the municipality governed thereunder may make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. It shall be competent in any charter to provide for the division of the city or city and county governed thereby, into boroughs or districts, and to provide that each such borough or district may exercise such general or special municipal powers, and to be administered in such manner, as may be provided for each such borough or district in the charter of the city or city and county.

Calculation of vote.

(k) The percentages of the registered electors herein required for the election of freeholders or the submission of amendments to charters shall be calculated upon the total vote cast in the city or city and county at the last preceding general State election; and the qualified electors shall be those whose names appear upon the registration records of the same or preceding year. The election laws of such city, or city and county shall, so far as applicable, govern all elections held under the authority of this section.

CHAPTER 102.

Senate Concurrent Resolution No. 37—Approving a certain amendment to the charter of the city of Santa Barbara, a municipal corporation in the county of Santa Barbara, State of California, duly voted for and ratified by the

qualified electors of said city at an election held therein on the seventh day of May, 1935.

[Filed with Secretary of State May 31, 1935.]

City of Santa Barbara Charter amendment

WHEREAS, The city of Santa Barbara, in the county of Santa Barbara, State of California, now contains and at all times referred to in this resolution has contained a population of more than three thousand five hundred inhabitants and less than fifty thousand inhabitants; and

WHEREAS, Said city of Santa Barbara now contains and at all times referred to in this resolution has contained a population of more than three thousand five hundred inhabitants and less than fifty thousand inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the Legislature of the State of California; and

WHEREAS, Said city of Santa Barbara has been ever since the year 1927 and is now organized and existing and acting under a freeholders' charter adopted under and by virtue of section 8, Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the sixteenth day of November, 1926, and approved and ratified by the Legislature of the State of California by concurrent resolution of said Legislature filed with the Secretary of State of the State of California, January 19, 1927 (Statutes 1927, page 2031); and

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of five (5) certain proposed charter amendments to the charter of said city of Santa Barbara, a municipal corporation, in the county of Santa Barbara, State of California, as set out in the certificate of the mayor of said city and of the president of the council of said city and of the city clerk of said city, who is not only said city clerk but is also ex officio clerk of the council of said city, all of said city of Santa Barbara, as follows, to wit:

CERTIFICATE OF THE MAYOR OF THE CITY OF SANTA BARBARA, IN CALIFORNIA, AND OF THE PRESIDENT OF THE COUNCIL OF SAID CITY AND OF THE CITY CLERK OF SAID CITY, WHO IS NOT ONLY SAID CITY CLERK BUT IS ALSO EX-OFFICIO CLERK OF THE COUNCIL OF SAID CITY, OF ADOPTION BY THE QUALIFIED ELECTORS OF THE CITY OF SANTA BARBARA, IN CALIFORNIA, AT A GENERAL MUNICIPAL ELECTION HELD THEREIN ON THE SEVENTH DAY OF MAY, ONE THOUSAND NINE HUNDRED THIRTY-FIVE, OF A CERTAIN AMENDMENT TO THE CHARTER OF THE CITY OF SANTA BARBARA, IN CALIFORNIA

STATE OF CALIFORNIA.
COUNTY OF SANTA BARBARA, } SS.
CITY OF SANTA BARBARA.

Certificate

WE, HARVEY T. NIELSON, Mayor of the City of Santa Barbara, in the County of Santa Barbara, State of California,

and WALTER B. MCINTOSH, President of the Council of said City, and GEORGE D. GEIB, City Clerk of said City, said GEORGE D. GEIB being also Ex-Officio Clerk of the Council of said City of Santa Barbara, do hereby certify as follows: Santa Barbara city charter.

That said City of Santa Barbara, in the County of Santa Barbara, State of California, now contains and at all times in this Certificate referred to has contained a population of more than 3500 inhabitants and less than 50,000 inhabitants; and

That said City of Santa Barbara now contains and at all times referred to in this Certificate has contained a population of more than 3500 inhabitants and less than 50,000 inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the Legislature of the State of California; and

That said City of Santa Barbara is now, and was at all of the times herein mentioned, and has been ever since the year 1927 organized and existing and acting under a freeholders' Charter adopted under and by virtue of the provisions of Section 8, Article XI of the Constitution of the State of California, which Charter was duly ratified by a majority of the qualified electors of said City at a special election held for that purpose on the 16th day of November, 1926, and approved and ratified by the Legislature of the State of California by Concurrent Resolution of said Legislature filed with the Secretary of State of the State of California, January 19, 1927 (Statutes 1927, Page 2061); and

That the legislative body of said City, namely the City Council of said City, did, by its Resolution duly adopted by it on the 21st day of March, 1935, which said Resolution was duly approved by the Mayor of said City on said 21st day of March, 1935, on its own motion, and pursuant to the provisions of Section 8, Article XI of the Constitution of the State of California, duly propose to the qualified electors of said City of Santa Barbara five (5) amendments to the Charter of said City designated as Proposed Charter Amendment No. I-A, Proposed Charter Amendment No. II-A, Proposed Charter Amendment No. III-A, Proposed Charter Amendment No. IV-A and Proposed Charter Amendment No. V-A to the Charter of said City, and duly ordered that said five (5) proposed Charter amendments be submitted to the qualified electors of said City at the general municipal election to be held in said City as in the Charter of said City provided for, on the first Tuesday in May, to-wit, on the 7th day of May, 1935; and

That said five (5) proposed Charter amendments consisting of Proposed Charter Amendment No. I-A, Proposed Charter Amendment No. II-A, Proposed Charter Amendment No. III-A, Proposed Charter Amendment No. IV-A and Proposed Charter Amendment No. V-A, were, and each of them was,

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thereafter on the 26th day of March, 1935, duly published in "The Morning Press" and in each edition thereof during said day of publication and in all the editions thereof issued during said day of publication, said "The Morning Press" being at all said times a daily newspaper of general circulation printed, published and circulated in said City, said newspaper being by said Resolution designated for the publication of said five (5) proposed Charter amendments and said newspaper further being by said Resolution designated as the official newspaper of said City for the making of said publication; and

That said five (5) proposed Charter amendments consisting of Proposed Charter Amendment No. I-A, Proposed Charter Amendment No II-A, Proposed Charter Amendment No. III-A, Proposed Charter Amendment No. IV-A and Proposed Charter Amendment No. V-A were printed in convenient pamphlet form and in type of not less than ten (10) point, and at and during the time and in the manner provided by law and from the 26th day of March, 1935, to the 7th day of May, 1935, both dates inclusive, a notice was published in said "The Morning Press" and in each edition thereof during each day of publication and in all the editions thereof issued during each day of publication, said newspaper being by the aforementioned Resolution designated for the publication of said notice and said newspaper further being by said Resolution designated as the official newspaper of said City for the making of said publication, that such copies of said five (5) proposed Charter amendments in said convenient pamphlet form and printed in type of not less than ten (10) point could be had upon application therefor at the office of the City Clerk of said City at and during the time and in the manner provided by law and from the 26th day of March, 1935 to the 7th day of May, 1935, both dates inclusive; and

That such copies could be had upon application therefor at the office of the City Clerk of said City at and during the time and in the manner provided by law and from the 26th day of March, 1935 to the 7th day of May, 1935, both dates inclusive; and

That said City Council did, by ordinance designated as Ordinance No. 1669 which was duly and finally adopted by said City Council on the 18th day of April, 1935, and was duly approved on the 18th day of April, 1935, by the Mayor of said City, order the holding of a general municipal election in said City of Santa Barbara to be held on the 7th day of May, 1935, for the purpose among other things of causing a vote upon the ratification of the said proposed five (5) Charter amendments consisting of Proposed Charter Amendment No. I-A, Proposed Charter Amendment No. II-A, Proposed Charter Amendment No. III-A, Proposed Charter Amendment No. IV-A and Proposed Charter Amendment No.

V-A, and each of them, and which said date of said election was not less than forty (40) days and not more than sixty (60) days after the completion of the publication of the said proposed five (5) Charter amendments aforesaid as above stated; and

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That in accordance with the instructions of the said City Council and as provided by said Ordinance No. 1669 the said City Clerk of the City of Santa Barbara did cause said Ordinance to be duly published in "The Morning Press", a daily newspaper of general circulation printed, published and circulated in said City, for a period of at least fifteen (15) days next before the time aforementioned appointed for the holding of said election, pursuant to the provisions of the Charter of said City of Santa Barbara and in accordance with all provisions of law controlling and obtaining with respect thereto; and

That said general municipal election was duly held in the said City of Santa Barbara on the 7th day of May, 1935, which said day was not less than forty (40) days and not more than sixty (60) days after the said five (5) proposed Charter amendments to said Charter had been published once in the said "The Morning Press" as aforesaid; that said election was held during a regular session of the legislature and before the final adjournment thereof; and

That at said general municipal election held as aforesaid, a majority of the qualified electors of said City of Santa Barbara voting thereon voted in favor of the aforementioned Proposed Charter Amendment No. V-A to the Charter of the City of Santa Barbara and duly ratified the same, said Proposed Charter Amendment No. V-A amending Section 36 of the Charter of said City to read as hereinafter set out; and

That each of the other proposed Charter amendments aforementioned consisting of Proposed Charter Amendment No. I-A, Proposed Charter Amendment No. II-A, Proposed Charter Amendment No. III-A and Proposed Charter Amendment No. IV-A received less than a majority of the votes of the qualified electors voting thereon at said election and so were not, nor were any of them, nor was any one of them, ratified by a majority of the qualified electors voting thereon; and

That the City Council of said City of Santa Barbara did, at the time and in the manner and form provided by law, to-wit, on the 16th day of May, 1935, regularly canvass the returns of said general municipal election, and did then and there duly find, determine and declare that a majority of the qualified voters of said City of Santa Barbara voting thereon had voted in favor of and ratified the aforementioned Proposed Charter Amendment No. V-A, and that each and all of the other of said proposed Charter amendments received less than a majority of the votes of the qualified electors voting thereon and were not ratified; and

That the aforementioned Proposed Charter Amendment No. V-A to the present Charter of the City of Santa Barbara ratified by the electors of said City as aforesaid amends Section 36 of said Charter so that said Section 36 as so amended consists of the words, letters and figures and reads as hereinafter exactly and truly and fully next set out within quotation marks as follows, to-wit:

PROPOSED CHARTER AMENDMENT NO. V-A.

Contracts in excess of $500.

"SECTION 36. No contract for supplies, printing, advertising, stationery, maintenance of prisoners, fuel, street sprinkling, street repairs, street sweeping, or for lighting streets, public buildings or offices, shall be made for a longer period than one year, nor shall any contract be made to pay for gas, electric lights, or any other material or utility, at a higher rate or rates than is charged to any other consumer. The erection, improvement and repair of all public buildings and works, street and sewer work, and the furnishing of supplies or material for the same, and all purchases of other supplies used by the City, when the expenditure therefor exceeds Five Hundred Dollars ($500.00) shall be by contract let to the lowest responsible bidder, after the publication at least once of notice in a daily newspaper of general circulation printed, published and circulated in said City, within fourteen (14) days next before the day appointed and specified in said notice for the opening of bids. Such notice shall distinctly and specifically state the work contemplated or the supplies required, provided, that the Council may reject any and all bids presented, and re-advertise, in its discretion."

Certificate.

That the foregoing is a full, true and correct copy of the aforementioned Proposed Charter Amendment No. V-A ratified by the electors of said City as aforesaid, on file in the office of the City Clerk of said City of Santa Barbara, said City Clerk being Ex-Officio Clerk of the City Council of said City; and

That the City Council of said City of Santa Barbara did heretofore by its Order, duly approved by the Mayor of said City, duly and regularly authorize and direct the undersigned Mayor of said City and President of the Council of said City and City Clerk, who is also Ex-Officio Clerk of the Council of said City, to certify hereto and for and on behalf of said City of Santa Barbara, and as provided by law, to cause to be submitted to the Legislature of the State of California the hereinabove set out amendment to the Charter of said City as ratified by the qualified electors of said City of Santa Barbara at the general municipal election held therein for that purpose, among other things, on the 7th day of May, 1935.

IN WITNESS WHEREOF we have hereunto set our hands and caused the seal of the City of Santa Barbara, in the

County of Santa Barbara, State of California, to be affixed hereto this 16th day of May, 1935.

HARVEY T. NIELSON,
Mayor of the City of Santa Barbara, in California.

WALTER B. McINTOSH,
President of the Council of the City of Santa Barbara, in California.

[SEAL]

GEORGE D. GEIB,
City Clerk of the City of Santa Barbara and Ex-Officio Clerk of the Council of the City of Santa Barbara, in California

and

WHEREAS, Said proposed charter amendment so ratified as hereinbefore set forth has been and is now duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration, in accordance with the provisions of section 8, of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, That the aforementioned proposed charter amendment No. V-A, an amendment to the charter of the city of Santa Barbara, as proposed to and adopted and ratified by the electors of said city, and as hereinabove fully set forth, be and the same is hereby approved as a whole without amendment or alteration for and as an amendment to and as part of the charter of said city of Santa Barbara, in California. Ratification

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CHAPTER 103.

Assembly Joint Resolution No. 55—Relative to memorializing Congress to erect a memorial to Mrs. A. Sherman Hoyt.

[Filed with Secretary of State May 31, 1935.]

WHEREAS, Mrs. A. Sherman Hoyt, the founder of the National Desert Conservation League has been active in the project to conserve certain portions of California's desert land for posterity; and Joshua Tree National Monument as memorial to Mrs A Sherman Hoyt.

WHEREAS, Mrs. Hoyt's activities resulted in favorable attention by the United States of America in establishing a National monument (to be known as the "Joshua Tree National Monument") of certain desert lands of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Assembly and the Senate hereby memorialize the President and the Congress of the United States to erect, in said "Joshua Tree National Monument" some form of memorial or tribute to Mrs. Hoyt in recognition of her unceasing efforts to establish a suitable desert park or memorial so that the desert's beauty, silence and mystery may be preserved for future generations

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CHAPTER 104.

Senate Concurrent Resolution No. 36—Relating to the termination of the probationary period of all persons employed on the staff of the State Board of Equalization and mentioned in subdivision (e) of section 5 of Article XXIV of the Constitution of this State.

[Filed with Secretary of State June 1, 1935]

Probationary period of employees of State Board of Equalization

WHEREAS, There are more than eight hundred persons employed on the staff of the State Board of Equalization, holding positions subject to the provisions of Article XXIV of the Constitution for more than six months immediately preceding the effective date of said article, viz, December 20, 1934, who have now been continuously in the State service for a minimum period of at least eleven months; and

WHEREAS, All such persons hold such positions subject to a probationary term commencing on December 20, 1934, of not less than two months nor more than eight months, in the class or grade assigned, as the State Personnel Board may fix; and

WHEREAS, All such persons have now been in the State service for a period almost twice the length of the normal and usual probationary term of six months; and

WHEREAS, It is deemed in the best interests of the State of California that such probationary term should be forthwith terminated; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Personnel Board be requested to fix the probationary term of each of such employees commencing December 20, 1934, at a period of five months, to wit, a period ending May 20, 1935, to the end that all such persons be given permanent status from and after the date last mentioned; and be it further

Resolved, That the Secretary of the Senate is directed to send copies of this resolution to the members of the State Personnel Board and the executive officer thereof.

CHAPTER 105.

Senate Concurrent Resolution No. 40—Relative to reports of the department encampment and the annual convention of the United Spanish-American War Veterans.

[Filed with Secretary of State June 4, 1935.]

Publication of reports of United Spanish War Veterans

Resolved by the Senate, the Assembly concurring, That there shall be printed as a public document five hundred copies of the session of the department encampment of California of the United Spanish War Veterans for the year 1935 and of each succeeding department encampment, together with illustrations, copies of general orders of the department and of the official roll, two hundred fifty copies for the use of the Senate and two hundred fifty copies for the use of the Assembly. Annual cost of same not to exceed three hundred fifty dollars payable from the legislative printing appropriation.

CHAPTER 106.

Assembly Joint Resolution No. 64—Relative to memorializing the President and Congress of the United States to make amends to those disabled war veterans who have been deprived of their just and lawful compensation.

[Filed with Secretary of State June 4, 1935.]

Restitution of compensation of disabled war veterans

WHEREAS, The Supreme Court of the United States has rendered a decision declaring unconstitutional certain national legislation providing for the establishment of codes of fair competition; and

WHEREAS, Similar legislation has deprived many disabled war veterans of the United States of their just and lawful compensation which in the light of this decision may also be proven to be equally unconstitutional; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the President and the Congress of the United States is hereby memorialized to make immediate and complete restitution of all deductions heretofore made from the legal and established compensation of our disabled war veterans in accordance with certain legislation and executive orders pursuant thereto, which legislation in the light of a recent decision of the United States Supreme Court is clearly indicated to be unconstitutional; and be it further

Resolved, That the Governor of the State of California is hereby requested to forward a copy of this resolution to the President and Vice President of the United States, Speaker of the House of Representatives, and to each Senator and member of the House of Representatives from California in the Congress of the United States.

CHAPTER 107

Assembly Constitutional Amendment No. 33—A resolution to propose to the people of the State of California that the Constitution of said State be amended by adding to Article XI thereof a new section to be numbered 18a providing for the issuance of bonds by the county of Los Angeles in an amount not to exceed five million dollars for the purpose of providing a fund to be used and disbursed for the Pacific Exposition to be held in California.

[Filed with Secretary of State June 4, 1935.]

Constitution, Art. XI, Sec. 18a.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its regular session commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses of such Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of said State be amended by adding to Article XI thereof a new section to be numbered section 18a and to read as follows:

Bonds of Los Angeles County for Pacific Exposition.

Sec. 18a. Anything in this Constitution to the contrary notwithstanding, the county of Los Angeles may, upon the assent of two-thirds of the qualified electors thereof voting at an election to be held for that purpose, incur a bonded indebtedness of not to exceed five million dollars and the legislative authority of said county of Los Angeles shall issue bonds therefor and grant and turn over to the Pacific Exposition, a corporation duly organized under the laws of the State of California, January 22d, 1935, the proceeds of said bonds under such terms and conditions as said legislative authority may determine, the same to be used and disbursed by said exposition company for the purpose of an exposition to be held in the county of Los Angeles to commemorate the completion of Boulder Dam and the power and water developments and projects thereof; said bonds, so issued, to be of such form and to be redeemable, registered and converted in such manner and amounts, and at such times not later than forty years from the date of their issue, as the legislative authority of said county of Los Angeles shall determine; the interest on said bonds not to exceed six per centum per annum and said bonds to be exempt from all taxes for State, county and municipal purposes, and to be sold for not less than par at such times and places, and in such manner, as shall be determined by such legislative authority; the proceeds of said bonds when sold to be payable immediately upon such terms or conditions as such legislative body may determine, to said exposition company upon demands of said exposition company without the necessity of the approval of such demands by other authority than said legislative authority of Los Angeles County, the same to be used and disbursed by said exposition company for the purposes of such exposition under the direction and control of such exposition company; and the

legislative authority of said county of Los Angeles is hereby empowered and directed to levy a special tax on all taxable property in said county, each year after the issue of said bonds, to raise an amount to pay the interest on said bonds as the same become due, and to create a sinking fund to pay the principal thereof when the same shall become due.

CHAPTER 108.

Senate Joint Resolution No. 21—Relative to exemption from taxation of bonds issued by governmental agencies and memorializing the President and Congress of the United States to take immediate steps for the termination of the exemption of such securities from taxation.

[Filed with Secretary of State June 6, 1935.]

Prevention of further tax exemption as to bonds of governmental units.

WHEREAS, The exemption from taxation of bonds issued by the Federal, State and local governments has progressed to such a point that there are now outstanding tax exempt securities of this character amounting to the aggregate par value of approximately forty-five billion dollars; and

WHEREAS, Such securities are owned and held by a very small percentage of the population of the country and there results a great and most unjust disproportion in the bearing of the cost of government as between the owners and holders of various types and classes of property; and

WHEREAS, It is a fundamental principle of government that one group or class should not be favored as are the owners of these tax exempt securities, and all persons enjoying the order and protection which government affords should share fairly equally and equitably in bearing the cost of government; now, therefore, be it

Resolved by the Senate and Assembly of the State of California jointly, That the Legislature of this State hereby memorialize the President and Congress of the United States to consider and enact such legislation and to propose such amendment or amendments to the Constitution of the United States as may be found suitable and appropriate effectively to prevent the further exemption from taxation of any and all bonds and other evidences of indebtedness issued by the Federal, State and local governments, to the fullest extent that the President and the Congress may have power so to do, and that the members of the Senate and of the House of Representatives from California are hereby urged and requested to use all honorable means in furtherance of the consideration and enactment of such legislation; and be it further

Resolved, That copies of this resolution be forthwith transmitted to the President of the United States, the President of the Senate, the Speaker of the House of Representatives and the members of the House and Senate from the State of California.

CHAPTER 109.

Assembly Constitutional Amendment No. 3—A resolution to propose to the people of the State of California an amendment to section 7½a of Article XI of the Constitution of the State of California, relating to local government.

[Filed with Secretary of State June 6, 1935.]

Constitution, Art. XI, Sec 7½a.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its fifty-first regular session commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses voting in favor therefor, hereby proposes to the people of the State of California that section 7½a of Article XI of the Constitution of the State of California be amended to read as follows:

Consolidated county and city charter.

Sec. 7½a. Any county having within its territorial boundaries one or more incorporated cities or towns, may frame a charter for a consolidated city and county government, by causing a board of fifteen freeholders, who have been for at least five years qualified electors of the county, to be elected by the qualified electors of said county, at a special election.

Ordinance of supervisors

Said board of freeholders may be so elected in pursuance of an ordinance adopted by the vote of three-fifths of all of the members of the board of supervisors of such county, declaring that public interest requires the election of such board of freeholders for the purpose of preparing and proposing a charter for a consolidated city and county, with or without a system of boroughs, with combined powers of a city and a county, as in this Constitution provided for city and county government; or in pursuance of a petition of qualified electors of said county as hereinafter provided; which said petition must state the name and address of a person or persons to whom notice of the insufficiency of the petition shall be sent in the event that the petition shall not have the required number of signatures of the qualified electors signed thereto.

Petition

Such petition, signed by fifteen per centum of the qualified electors of said county, computed upon the total number of votes cast therein for all candidates for Governor at the last preceding general election at which a Governor was elected, praying for the election of a board of fifteen freeholders to prepare and propose a charter for a consolidated city and county government, with or without a system of boroughs, with combined powers of a city and a county, as in this Constitution provided, may be filed in the office of the county clerk.

Duty of clerk

It shall be the duty of the said county clerk, within twenty days after the filing of said petition, to examine the same, and to ascertain from the record of the registration of the electors of the county, whether said petition is signed by the requisite number of qualified electors. If required by said clerk, the board of supervisors shall authorize him to employ persons to assist him in the work of examining such petition,

and the board shall provide for their compensation. Upon the completion of such examination, said clerk shall forthwith attach to said petition his certificate, properly dated, showing the results of his examination, and if, by said certificate, it shall appear that said petition is signed by the requisite number of qualified electors, said clerk shall immediately present said petition to the board of supervisors, if it be in session, otherwise at its next regular meeting after the date of such certificate. If it appear by said certificate that said petition has not the required number of signatures of the qualified electors signed thereto, the said clerk shall so notify the person or persons whose name or names are mentioned therein, to whom the notification of the insufficiency of the petition shall be sent. Whereupon the petitioners shall have thirty days from and after the date of receiving the notice of insufficiency from the clerk, to present and file additional signatures. Upon the receipt of the additional signatures, the clerk shall proceed forthwith to examine the petition of additional signatures, so that such examination shall be completed within ten days from the date of his receiving same. If it appear that the number of additional signatures added to those who have not been legally rejected upon the original petition, shall total the requisite number of qualified electors necessary as provided in this section, the clerk shall forthwith attach to said petition his certificate, properly dated, showing that said petition has been signed by the requisite number of qualified electors, and said clerk shall immediately present said petition to the board of supervisors, if it be in session, otherwise at the next regular meeting after the date of such certificate. Upon the adoption of such ordinance, or the presentation of such petition, said board of supervisors shall order the holding of a special election for the purpose of electing such board of freeholders, which said special election shall be held not less than forty days nor more than ninety days after the adoption of the ordinance aforesaid or the presentation of said petition to said board of supervisors. Candidates for election as members of said board of freeholders shall be nominated by petition, substantially in the same manner as may be provided by general law for the nomination, by petition of electors, of candidates for county offices, to be voted at general elections. The election shall be conducted and the ballots canvassed and result declared substantially as are other elections for county officers, except that there shall be only one election, and the fifteen persons receiving the highest vote shall be declared the duly elected board of freeholders. All ties shall be broken by lot.

Proceeding if petition insufficient.

Certificate of clerk

Order for holding election

Candidates

Conduct of election

It shall be the duty of said board of freeholders within one hundred eighty days after the result of such election shall have been declared by the board of supervisors, to prepare and propose a charter for a consolidated city and county government, and it shall prescribe the existing boundary lines of the county as the territorial limits of said proposed city and county, and propose the formation of all of the incorporated

Preparation of charter

cities and towns and all of the unincorporated territory within the county into a consolidated city and county government, to be governed by said charter, and to have combined powers of a city and a county, as provided in this constitution for consolidated city and county government.

The charter proposed shall be signed by the members of the board of freeholders, or a majority of them, and be filed, one copy in the office of the county recorder, one in the office of the county clerk, and certified copies thereof duly attested by the president and secretary of the board of freeholders shall be filed in the clerk's office of each incorporated city and town in the county. Thereupon the board of supervisors shall cause said proposed charter to be published in at least two daily newspapers of general circulation published, printed and circulated in the county, if there be two, or in the one such newspaper if there be but one, or if there be no such newspaper then in a daily newspaper of general circulation in the county, for at least six consecutive times, and shall also cause said proposed charter to be published for at least three consecutive times in a daily newspaper of general circulation, printed, published and circulated in each of the incorporated cities and towns within the county, and if there be no daily newspaper printed, published and circulated in any of such incorporated cities and towns then, once in a weekly newspaper published, printed and circulated therein; provided, however, if there be no daily or weekly newspaper published, printed and circulated in any of such incorporated cities or towns, then said publication shall be made by posting in three public places in each of said incorporated cities or towns having no such newspaper, for at least three days. All of such publication shall be completed within fifty days of the filing of the proposed charter with the county clerk. The board of supervisors shall cause to be printed in pamphlet form, at least as many copies of such proposed charter, plus an additional fifteen per cent, as there are registered electors in the county. The county clerk shall forthwith deliver to the clerk of the legislative body of each and every incorporated city or town within the county, a number of the printed copies of the proposed charter, equal at least to the number of registered electors residing in any such incorporated city or town. The county clerk shall thereupon give notice, by advertising in one and not more than two daily newspapers of general circulation published, printed and circulated in the county, or if there be no such newspaper, then in a daily newspaper of general circulation in the county, and if there be a newspaper published, printed and circulated in any of such incorporated cities and towns, in one such newspaper of each said city or town, that copies of the proposed charter can be had at his office or at the office of the several city or town clerks, designating them, upon application. Upon the completion of the publication of the proposed charter as above required, and not later than fifteen days thereafter, the board of supervisors

Publication of charter.

Election

must pass an ordinance or resolution calling a special election to be held not less than thirty nor more than sixty days thereafter or if there be a general election held within ninety days thereafter then at such general election.

Ratification by electors

If a majority of the qualified electors voting thereon in the unincorporated territory of the county, and in each incorporated city and town in the county, at such special or general election, shall vote in favor of such proposed charter, it shall be deemed to be ratified, and shall be forthwith submitted to the Legislature, if it be in session, otherwise at its next regular or special session, for its approval or rejection as a whole, without power of alteration or amendment. Such approval may be by concurrent resolution, and if approved by a majority vote of the members elected to each house, such charter shall become the charter of such consolidated city and county and shall become the organic law thereof relative to matters therein provided, and shall supersede any existing municipal charter of the cities within the county and all amendments thereof, and shall supersede all laws inconsistent with such charter relative to matters provided in such charter. No consolidation shall take place under the provisions of this section unless a majority of the qualified electors voting thereon in every incorporated city and town in the county and in the unincorporated territory thereof, vote in favor of such consolidation, and the votes cast in each city and town and in the unincorporated territory, shall accordingly be separately tabulated to show the results.

Ratification by Legislature.

Provisions of charter.

It shall be competent, in any charter, or amendment thereof, framed under the authority given by this section, to provide in addition to those provisions allowable by the Constitution and laws of the State as follows:

Merger of governments

1. For the merging and consolidating the cities and county into one municipal government with one set of officers, which shall include those officers required to be provided for in a county charter; for the establishment of a borough system of government for the whole or any part of the territory of said city and county, by which one or more districts may be created therein, which districts may be known as boroughs and shall exercise such municipal powers as may be granted by such charter, and for the organization, constitution, regulation, government and jurisdiction of such boroughs, which organization, constitution, regulation, government and jurisdiction may provide for rural districts, with different powers and organization, constitution, regulation, government and jurisdiction from other boroughs; provided, that in the event of such establishment or creation of a borough or boroughs, as hereinabove permitted, the boundaries thereof shall never afterwards be changed or altered, nor shall the governmental rights, powers or jurisdiction of any such borough or boroughs be thereafter limited, extended, modified or taken away, unless and until the borough or boroughs affected by such proposed change or alter-

ation of boundaries, or by the proposed limitation, extension, modification or taking away of governmental rights, powers or jurisdiction, as the case may be, shall each have consented thereto, by the vote of a majority of the electors in each and every such borough voting at an election or elections called and held for such purpose in each of the boroughs so affected.

Merger of school districts

2. For the consolidation and merging of school and high school and union high school districts into one or more school, high school and union high school districts within the city and county, to be governed by one board of education and one school superintendent, and may provide separate organization, constitution, regulation, government and jurisdiction and powers for rural school districts, if any are established.

Board of education.

3. For the manner in which, the times at which, and the terms for which the members of the board of education or boards shall be elected or appointed, for the qualifications, compensation and removal, and for the number which shall constitute any one of such boards.

Police.

4. For the manner in which, the times at which, and the terms for which the members of the board or boards of police commissioners, if any, shall be elected or appointed; and for the constitution, regulation, compensation, and government of such boards and of the city and county police force.

Elections.

5. For the manner in which and the times at which any city and county election, or borough election shall be held and the result thereof determined; and for the manner in which, the times at which, and the terms for which the members of all boards of election shall be elected or appointed, and for the constitution, regulation, compensation and government of such boards, and of their clerks and attaches, and for all expenses incident to the holding of any election.

General powers.

6. It shall be competent in any charter framed in accordance with the provisions of this section, for any consolidated city and county, and plenary authority is hereby granted, subject only to the restrictions of this article, and, in regard to the powers and duties of officers performing county functions, subject to general law as to those functions to provide therein or by amendment thereto, for the powers and duties of all county, city and county, municipal and borough officers; for the manner in which, the method by which, and the terms for which the several county, city and county, municipal and borough officers, except judges and justices, shall be elected or appointed, and for their recall and removal, and for their compensation or the fixing thereof, including judges and justices of inferior courts, and for the number of deputies, clerks and other employees that each shall have, or the fixing thereof, and for or the fixing of the powers and duties, compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees.

Enforcement of laws.

7. It shall be competent in any charter, or amendment thereto, framed in accordance with the provisions of this sec-

tion, to provide that the city and county may make and enforce all laws and regulations, and exercise all rights and powers in respect to municipal affairs and municipal officers, and shall have all powers and rights appropriate to a county, city, and city and county subject only to the restrictions and limitations provided in such charter.

Tenure of officers.

Any charter framed under the provisions of this section, may provide for the termination of the tenure of office of all county officers elected after the adoption of such charter by the electors of such county and prior to the approval of such charter by the Legislature.

Taxation.

8. No property in any city or town or territory hereinafter consolidated into a city and county shall be taxed for the payment of any indebtedness outstanding at the time the charter takes effect and for the payment of which indebtedness the property in such city or town or territory was not, prior to the taking effect of such charter, subject to such taxation.

Bonded indebtedness

In all cases of consolidation of two or more incorporated cities and towns, or of one or more incorporated cities or towns with unincorporated territory, into a city and county, assumption of existing bonded indebtedness by such city or town or by such unincorporated territory or by any of the cities and towns so consolidating may be made by a majority of the qualified electors voting thereon in the territory or city or town which shall assume an existing bonded indebtedness, and the provisions of section 18 of this article shall not be a prohibition thereof.

Provisions as to counties, cities and counties and cities applicable.

The provisions of this Constitution applicable to cities, and cities and counties, and also applicable to counties, so far as not inconsistent or prohibited to cities or cities and counties, except in the method of procedure of calling elections for the election of freeholders and the submission of the question of the formation of a consolidated city and county, shall be applicable to such consolidated city and county.

Amendment.

Any charter framed under the provisions of this section may be amended as provided in section 8 of Article XI of this Constitution.

Effect on other constitutional provisions

Nothing in this section shall be construed to repeal or alter in any way the provisions of section 8½ of Article XI of this Constitution, providing a different method and procedure for the formation of cities and counties, wherein the initiative is taken by a city or city and county. Nor shall the provisions of this section apply to any consolidated city and county, organized as such at the time this section takes effect. The Legislature shall enact such general or special laws as may be necessary to carry out the provisions of this section, and such general or special laws as may be necessary to effect city and county consolidation hereunder.

CHAPTER 110.

Senate Concurrent Resolution No. 35—Relative to prevention of accidental deaths and injuries in the home, in industry, in public places and on the streets and highways.

[Filed with Secretary of State June 7, 1935.]

Western Safety Conference

WHEREAS, The California State Department of Public Health reports that during the calendar year 1934, there were 5566 accidental deaths in California, 414 of which were occupational, 1025 occurred in public places "not motor vehicle accident," 1292 occurred in the home, and 2798 were due to the use of motor vehicles, and 37 were from type of accidents unknown; and

WHEREAS, It has been definitely proved through cooperation of employers and employees in industry, that industrial accidents can be greatly reduced; and

WHEREAS, The citizens of some cities have greatly reduced their deaths and injuries from motor vehicles through intensive cooperation between individuals, groups and city authorities; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That every citizen be urged to cooperate with Governor Merriam and the groups that are sponsoring the Western Safety Conference to be held in the Civic Auditorium, San Francisco, on June 11, 12, and 13, 1935; and

WHEREAS, It is realized that many citizens who should like to do so are unable to attend this meeting, but would gladly cooperate in a local community safety council; now, therefore, be it further

Resolved, That the entire population of the State of California be urged to cooperate in both the Western Safety Conference and in the organization and operation of community safety councils throughout the State.

CHAPTER 111.

Senate Concurrent Resolution No. 38—Relative to leaves of absence of the Governor, Lieutenant Governor, and the members of the Senate and Assembly.

[Filed with Secretary of State June 7, 1935.]

Leaves of absence for State officers and members of the Legislature.

Resolved by the Senate, the Assembly concurring, That leave of absence from the State for a longer period than sixty days during their terms of office, is hereby granted to His Excellency Frank F. Merriam, Governor of the State of California; to George J. Hatfield, Lieutenant Governor of the

State of California; and to the following members of the Senate and Assembly of the fifty-first session of the Legislature of the State of California: Same.

Senators: George M. Biggar, Bradford S. Crittenden, Charles H. Deuel, Leonard Joseph Difani, Walter H. Duval, Nelson T. Edwards, Ed Fletcher, J. C. Garrison, Frank L. Gordon, Ray W. Hays, Ben Hulse, Chris N. Jespersen, Karl P. Keough, Charles King, William F. Knowland, John B. McColl, Thomas McCormack, Walter McGovern, Henry McGuinness, D. Jack Metzger, Frank W. Mixter, Culbert L. Olson, Harry L. Parkman, Harry A. Perry, A. L. Pierovich, Harold J. Powers, Charles F. Reindollar, W. P. Rich, Andrew R. Schottky, Thomas P. Scollan, Jerrold L. Seawell, William Richard Sharkey, Herbert W. Slater, Bert B. Snyder, Edgar W. Stow, Ralph E. Swing, Edward H. Tickle, J. I. Wagy, Dan E. Williams, and Sanborn Young.

Assemblymen: H. Dewey Anderson, Godfrey A. Andreas, James J. Boyle, Arthur H. Breed, Jr., James F. Brennan, Michael J. Burns, James M. Cassidy, Ford A. Chatters, John G. Clark, Gordon W. Corwin, C. C. Cottrell, Edward Craig, Melvyn I. Cronin, Ernest C. Crowley, Thomas J. Cunningham, Kennett B. Dawson, T. H. DeLap, Earl D. Desmond, Leon M. Donihue, Hugh P. Donnelly, Herbert J. Evans, Ralph W. Evans, C. Don Field, Charles W. Fisher, Gene Flint, J. E. Frazier, Clinton J. Fulcher, James D. Garibaldi, Lee E. Geyer, Wilbur F. Gilbert, Joseph P. Gilmore, A. Franklin Glover, Augustus F. Hawkins, S. L. Heisinger, William B. Hornblower, Charles A. Hunt, Gardiner Johnson, Wm. Moseley Jones, Clifford R. Kallam, E. V. Latham, Frank D. Laughlin, Elmer E. Lore, Charles W. Lyon, J. J. McBride, John D. McCarthy, Patrick J. McMurray, Thomas A. Maloney, Frank G. Martin, Jesse M. Mayo, Henry P. Meehan, Eleanor Miller, Claude Minard, Geoffrey F. Morgan, Roy J. Nielsen, John H. O'Donnell, Ellis E. Patterson, John B. Pelletier, Frederick Peterson, Jefferson E. Peyser, John Phillips, Fred Reaves, Kent H. Redwine, Paul A. Richie, Harry B. Riley, Alfred W. Robertson, Ben Rosenthal, Hubert B. Scudder, Charles W. Stream, James E. Thorp, Rodney L. Turner, James B. Utt, Ernest O. Voight, Charles J. Wagner, Clarence R. Walker, Ralph W. Wallace, Frank J. Waters, Ralph L. Welsh, Ray Williamson, Frank W. Wright, and Charles M. Weber.

CHAPTER 112.

Assembly Concurrent Resolution No. 53—Approving a certain amendment to the charter of the city of Long Beach, State of California, ratified by the qualified electors of said city

at a special municipal election held therein on the seventh day of June, 1935.

[Filed with Secretary of State June 10, 1935.]

City of Long Beach: Charter amendment.

WHEREAS, The city of Long Beach, in the county of Los Angeles, State of California, contains a population of over fifty thousand inhabitants, and has been, ever since the year 1921, and now is, organized and acting under and by virtue of a freeholders' charter, adopted under and by virtue of section 8, Article XI, of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the fourteenth day of April, 1921, and approved by the Legislature of the State of California, on the twenty-sixth day of April, 1921 (Statutes of 1921, page 2054), and amendments thereto duly ratified by the qualified voters of said city and by resolutions of said Legislature as set out in the certificate of the mayor and city clerk of said city of Long Beach, hereinafter set forth; and

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of a certain amendment to the charter of said city of Long Beach, as set out in the certificate of the mayor and city clerk of said city of Long Beach, as follows, to wit:

CERTIFICATE OF ADOPTION BY THE QUALIFIED ELECTORS OF THE CITY OF LONG BEACH AT A SPECIAL MUNICIPAL ELECTION HELD THEREIN ON THE SEVENTH DAY OF JUNE, ONE THOUSAND NINE HUNDRED THIRTY-FIVE, OF A CERTAIN AMENDMENT TO THE CHARTER OF THE CITY OF LONG BEACH, STATE OF CALIFORNIA.

State of California,
County of Los Angeles, } ss.
City of Long Beach

Certificate.

We, Carl Fletcher, Mayor of the City of Long Beach, and E. L. Macdonald, City Clerk of the City of Long Beach, do hereby certify as follows:

That said City of Long Beach, in the County of Los Angeles, State of California, is now, and was at all of the times herein mentioned, a city containing a population of more than fifty thousand inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States; and,

That said City of Long Beach is now, and was at all of the times herein mentioned, organized and existing under a freeholders' charter adopted under the provisions of Section Eight, Article Eleven, of the Constitution of the State of California, which charter was duly ratified by a majority of the electors of said city at a special election held therein on the fourteenth day of April, 1921, and approved by the legislature of the state of California, on the twenty-sixth day of April, 1921, and amendments thereto duly ratified by the qualified

Long Beach city charter

voters of said city, and approved by resolution of said legislature and filed with the Secretary of State of the State of California the 27th day of April, 1923, (Statutes 1923, Page 1624), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the eighteenth day of April, 1925, (Statutes 1925, page 1330), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the fifteenth day of January, 1929, (Statutes 1929, page 1977), and amendments thereto duly ratified by the qualified voters of said City and approved by resolution of said legislature and filed with said Secretary of State the twenty-ninth day of March, 1929, (Statutes 1929, page 2062), and amendments thereto duly ratified by the qualified voters of said City and approved by resolution of said legislature and filed with said Secretary of State the second day of March, 1931, (Statutes 1931, page 2780), and amendments thereto duly ratified by the qualified voters of said City and approved by resolution of said legislature and filed with said Secretary of State the nineteenth day of April, 1933 (Statutes 1933, page 3006), and amendments thereto duly ratified by the qualified voters of said City and approved by resolution of said legislature and filed with said Secretary of State the 29th day of April, 1935; and

That the legislative body of said City, namely, the City Council of said City, did, by motion duly adopted on the twenty-sixth day of April, 1935, on its own motion, and pursuant to the provisions of Section 8, of Article XI, of the Constitution of the State of California, duly propose to the qualified electors of said City of Long Beach an amendment to the charter of said City designated as Proposition No. 1, and ordered that said proposed amendment be submitted to said qualified electors of said City at a special municipal election to be held in said City on the seventh day of June, 1935; and

That said amendment was on April 27, 1935, duly published in the Long Beach Sun and in each edition thereof during said day of publication; and

That said Long Beach Sun was, upon the date of said publication, and at all times since has been, and now is, a daily newspaper of general circulation within said City of Long Beach, and was upon the date of the publication of said proposed amendment and at all times since has been, and now is, published in said City and said newspaper was, upon the date of the publication of said proposed amendment, and at all times since has been and now is, the official newspaper of said City, and was the newspaper designated by said City Council for the publication of said proposed amendment; and

That said proposed amendment was duly and regularly printed in convenient pamphlet form and, at and during the time and in the manner provided by law, a notice was published in said Long Beach Sun that such copies of said pro-

posed amendment could be had upon application therefor in the office of the City Clerk of said City, and said proposed amendment so printed in convenient pamphlet form was duly and regularly distributed in the manner provided by law; and

That said City Council did, by ordinance designated as Ordinance No. C-1356, order the holding of a special municipal election in said City of Long Beach on the seventh day of June, 1935, which date was not less than forty nor more than sixty days after the completion of the publication of said proposed amendment as aforesaid and which ordinance was published at least three times in the Long Beach Sun, the official newspaper of the City of Long Beach, ten days prior to the date of said election, to-wit: On the twenty-first, twenty-second and twenty-third days of May, 1935, in the Long Beach Sun, the official newspaper of the City of Long Beach and a newspaper of general circulation and published in said City, and said ordinance was posted in three conspicuous places in the City of Long Beach; and

That said special municipal election was held in said City of Long Beach on the seventh day of June, 1935, which day was not less than forty days nor more than sixty days after the completion of the publication of said proposed amendment once in the Long Beach Sun as aforesaid; that said election was held during a regular session of the Legislature and before the final adjournment thereof; and

That at said special municipal election held as aforesaid, a majority of the qualified voters of said City of Long Beach voting thereon, voted in favor of said proposed amendment to the charter of the City of Long Beach, and duly ratified the same; and

That the City Council of said City of Long Beach did, at the time and in the manner and form provided by law, to-wit, on the 8th day of June, 1935, regularly canvass the returns of said special municipal election, and did then and there duly find, determine and declare that a majority of the qualified voters of said city of Long Beach voting thereon had voted in favor of and ratified said proposed amendment to the charter of the City of Long Beach; to-wit, amendment numbered 1; and

That said proposed amendment to the charter of the City of Long Beach ratified by the electors of said City as aforesaid is in words and figures as follows, to-wit:

PROPOSITION NO. 1.

That Section 308 of the Charter of the City of Long Beach be amended to read as follows:

Recall of elective officers.

"Sec. 308. The holder of any elective office, or the city manager, in the City of Long Beach, may be recalled by the qualified electors of the City of Long Beach at any time after he has held office for six months. Not less than ten nor more than twenty-five qualified electors of the City of Long Beach may originate a petition of recall in the following manner:

The said qualified electors shall file with the city clerk a petition containing a general statement of the ground or grounds for which the recall of the official is sought. This petition shall be signed by each of the petitioners originating the recall, each signer adding to his signature his place of residence, giving street and number, and the date of signing. The city clerk shall file the petition, and shall cause the said petition with the signatures attached thereto to be published for three successive days in the official newspaper of the city, with notice therein that said petition is in the city clerk's office open for signatures. The city clerk shall, during office hours for thirty days from the last day of publication aforesaid, keep the petition open for signatures by the qualified electors of the city, each signer to add to his signature his place of residence, giving street and number, and date of signature. No petition other than the originating petition shall be signed or presented for signature at any place other than the city clerk's office, and must be verified by the city clerk or one of his deputies. At the expiration of said thirty days, the city clerk shall declare the petition closed for the purpose of examination, and within five days thereafter shall ascertain whether said petition is signed by qualified electors of the City of Long Beach equal to not less than twenty-five per cent of the entire votes cast at the last general municipal election; and the city clerk shall attach to the petition his certificate showing the result of such examination, stating the number of qualified voters found upon said petition, and the number of persons not qualified to vote, and in checking said petition the city clerk shall designate the names of persons found thereon not qualified to vote, with the letters "D. V." in red ink opposite such name or names. If the petition is shown, by the city clerk's certificate, to be insufficient, the city clerk shall at once notify the signers who originated the petition of recall of the deficiency, and five additional days, exclusive of the day of mailing, shall be allowed for the final completion of the recall petition. Notice herein required shall consist of depositing in the postoffice at Long Beach a letter, postage prepaid and registered, containing such notice, addressed to each signer originating the petition of recall at his address named in the originating petition. The city clerk shall within three days after the expiration of the additional five days allowed within which to complete the recall petition, make a like examination and check the names as hereinbefore provided, and if the city clerk's certificate shall show the recall petition to be still insufficient, no further action shall be taken. The failure to secure sufficient names shall not prejudice the filing of an entirely new petition to the same effect by the same or other originating petitioners. If the petition shall be found to be sufficient, the city clerk shall submit the petition of recall, together with his certificate, to the city council without delay, whereupon the city council shall forthwith cause a special municipal election to be held not less than

Petition.

Duty of clerk

Additional signatures.

Certificate.

Election

thirty nor more than forty days after the date of the order calling such election, to determine whether the voters shall recall such officer. If the same ground or grounds are alleged, one petition shall be sufficient to propose the recall of one or more officials. Upon the same ballot there shall be printed, in not more than two hundred words, the ground or grounds set forth in the recall petition for demanding the recall of the officer or officers; and upon the same ballot in not more than two hundred words, the officer or officers may justify himself or themselves. There shall be printed on the recall ballot, as to every officer whose recall is to be voted on, the following question: "Shall (name of person against whom the recall petition is filed) be recalled from the office (title of office)?", following which question shall be the words "Yes" and "No" on separate lines, with a blank space at the right of each, in which the voter shall, by stamping a cross (X) indicate his vote for or against such recall. If a majority of those voting on said question of the recall of any officer shall vote "No", said officer shall continue in office. If a majority of those voting on said question of the recall of any officer shall vote "Yes", said officer shall thereupon be deemed removed from such office, and the city council shall declare said office vacant, and shall immediately fill such vacancy by appointment, such appointee to hold office until the next general municipal election. An officer thus removed shall not be eligible to succeed himself."

Ballot.

Filling of vacancies

Certificate

That the foregoing is a full, true and correct copy of said proposed amendment to the charter of the City of Long Beach ratified by the electors of said city as aforesaid, on file in the office of the City Clerk of said City of Long Beach.

IN WITNESS WHEREOF, Carl Fletcher, Mayor, as aforesaid, and E. L. Macdonald, City Clerk, as aforesaid, have hereunto set their hands and caused the corporate seal of the City of Long Beach to be thereunto duly affixed, on this 8th day of June, 1935.

CARL FLETCHER,
Mayor of the City of Long Beach.

[SEAL] E. L. MACDONALD,
City Clerk of the City of Long Beach.

WHEREAS, Said proposed amendment to the charter of the city of Long Beach ratified by the electors of said city, as aforesaid, has been, and is now, submitted to the Legislature of the State of California, for approval or rejection without power of alteration or amendment, in accordance with section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Ratification

Resolved by the Assembly of the State of California, the Senate thereof concurring, A majority of all the members elected to each house voting therefor and concurring therein, that said amendment to the charter of the city of Long Beach, as proposed to, adopted and ratified by the qualified electors

of said city of Long Beach, as hereinabove fully set forth, be and the same is, hereby approved as a whole without amendment or alteration, for and as an amendment to and as a part of the charter of the city of Long Beach.

CHAPTER 113.

Assembly Concurrent Resolution No. 46—Relative to adjournment out of respect to the memory of James Rolph, Jr.

[Filed with Secretary of State June 10, 1935.]

Anniversary of death of James Rolph, Jr.

WHEREAS, On June 2, 1934, one year ago, there was taken from this earthly sphere of activity, one who was honored and loved by the people of California; and

WHEREAS, His kindly spirit, respect for humanity, and his love for his fellow men, won for him the esteem and confidence of the citizens of the City and County of San Francisco, his birthplace, and the people of this great State; and

WHEREAS, While it was God's wish that he be taken from this world, to receive his just reward for his many kind deeds toward his fellow men while living; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate concurring, That when we adjourn today, we do so out of respect to the memory of the late Governor of the State of California, James Rolph, Jr.; and be it further

Resolved, That a suitable engrossed copy of this resolution be sent to the family of the late Governor James Rolph, Jr.

CHAPTER 114.

Assembly Joint Resolution No. 62—Relative to memorializing the Federal Relief Administrator to make available funds for the extension of Highway Route No. 163 through the Venice and Santa Monica Bay areas.

[Filed with Secretary of State June 10, 1935.]

Federal relief funds for Highway Route No 163.

WHEREAS, In and about the vicinity of Venice and Santa Monica Bay areas in southern California there is no through highway which approaches adequate standards with relation to width and roadbed; and

WHEREAS, The traffic through this area is congested at all times and particularly so during the vacation season; and

WHEREAS, The existing "speedway" which traverses this area is solidly lined on both sides by dwellings and business establishments; and

WHEREAS, These circumstances create an extraordinarily serious condition and subject all persons and property in this vicinity to a most critical fire hazard; and

WHEREAS, This fire hazard is greatly increased during the summer months when many additional thousands of persons come to this beach area for vacations; and

WHEREAS, Aside from the question of fire hazard the traffic along the "speedway" has for many years justified a wider and straighter highway with an improved roadbed; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the State of California, through its Legislature, hereby respectfully urges that the Federal Relief Administrator make available, from the funds recently appropriated by the Congress, a sufficient amount to permit the immediate construction of the secondary State Highway Route No. 163, from Colorado Street in Santa Monica through Ocean Park, Venice, Playa del Rey, El Segundo, Manhattan Beach, Hermosa Beach and Redondo Beach; and be it further

Resolved, That the Governor of California is requested to transmit copies of this resolution to the Federal Relief Administrator, and to the Senators and Representatives of the State of California in Congress.

CHAPTER 115.

Assembly Constitutional Amendment No. 32—A resolution to propose to the people of the State of California that the Constitution of said State be amended by adding to Article XI thereof a new section to be numbered 8b authorizing the city of Los Angeles to amend its charter in certain particulars.

[Filed with Secretary of State June 10, 1935.]

Constitution, Art. XI, Sec. 8b

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California, at its regular session commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses of such Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of said State be amended by adding to Article XI thereof a new section to be numbered 8b and to read as follows:

Amending Los Angeles city charter

Sec. 8b. The charter of the city of Los Angeles may be amended in addition to the method and the times provided in section 8 of Article XI of the Constitution in the following particulars:

Grant to Pacific Exposition

(a) Granting to Pacific Exposition, a corporation organized under the laws of the State of California January 22, 1935, the exclusive possession and use, together with the management and control for the purpose of holding an exposition commemorating the completion of the Boulder Dam and the power and water developments and projects thereof, of any lands held by the Board of Education of the city of Los

Angeles, and of any lands held by the city of Los Angeles, including public parks and playgrounds, under such terms and conditions as said Board of Education or the legislative authority of said city, respectively, may determine, such possession and use and management and control to terminate not later than one year after the closing of such exposition.

Use of streets

(b) Authorizing the legislative authority of the city of Los Angeles to temporarily close streets in the city of Los Angeles for such exposition purposes and granting to said Pacific Exposition the exclusive possession and use, together with the management and control of said streets for said exposition purposes, such possession and use, also management and control of said streets, to terminate not later than one year after the closing of such exposition.

Submission of proposed amendments

Proposals to amend the charter of the city of Los Angeles in the foregoing particulars may be submitted by the legislative authority of said city to the electors of said city at any general or special election (and a special election may be called therefor) held in said city, after the publication of such proposals in a newspaper of general circulation in said city for such time as shall be determined by said legislative authority. Upon the ratification of any such proposed amendment by a majority of the electors of said city voting at such election on such proposed amendment, said proposed amendment receiving such majority vote, shall become operative immediately as an amendment to said charter, without the necessity of approval thereof by the Legislature.

CHAPTER 116.

Assembly Constitutional Amendment No. 77—A resolution to propose to the people of the State of California an amendment to section 14 of Article I of the Constitution of said State, relating to the rights of private property.

[Filed with Secretary of State June 10, 1935.]

Constitution, Art. I, Sec. 14

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California, at its fifty-first regular session, commencing on the seventh day of January, 1935, two-thirds of all the members elected to each of the two houses voting in favor thereof, hereby proposes to the people of the State of California that section 14 of Article I of the Constitution be amended to read as follows:

Eminent domain

Sec. 14. Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for the owner, and no right of way or lands to be used for reservoir purposes shall be appropriated to the use of any corporation, except a municipal corporation or a county or the State or metropolitan water district,

municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or public corporation or district or State agency until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law, provided, that in any proceeding in eminent domain brought by the State, or a county, or a municipal corporation, or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or public corporation or district or State agency, or corporation operating, managing and controlling any exposition or fair in aid of which the granting of public moneys or other things of value have been authorized by the Constitution or laws of this State, the aforesaid State or municipality or county or public corporation or district or State agency or corporation aforesaid may take immediate possession and use of any right of way or property or lands required for a public use whether the fee thereof or an easement therefor be sought upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction and thereupon giving such security in the way of money deposited as the court in which such proceedings are pending may direct, and in such amounts as the court may determine to be reasonably adequate to secure to the owner of the property sought to be taken immediate payment of just compensation for such taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property, as soon as the same can be ascertained according to law. The court may, upon motion of any party to said eminent domain proceedings, after such notice to the other parties as the court may prescribe, alter the amount of such security so required in such proceedings. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier.

Immediate possession.

CHAPTER 117.

Assembly Constitutional Amendment No. 63—A resolution to propose to the people of the State of California, an amendment to the Constitution of said State by amending section 22 of Article XII of the Constitution of said State, relating

to the creation and powers of the Public Service Commission.

[Filed with Secretary of State June 12, 1935.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its regular session commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses of the said Legislature voting therefor, hereby proposes to the people of the State of California, that section 22 of Article XII of the Constitution of said State be amended to read as follows:

Constitution, Art. XII, Sec. 22

Sec. 22. There is hereby created a Public Service Commission which shall consist of five members and which shall be known as the Public Service Commission of the State of California. The commission shall be appointed by the Governor from the State at large; provided, that the Legislature, in its discretion, may divide the State into districts for the purpose of such appointments, said districts to be as nearly equal in population as practicable; and provided further, that the commissioners in office at the time this amendment takes effect shall serve out the term for which they were appointed. Whenever a vacancy in the office of commisisoner shall occur, the Governor shall forthwith appoint a qualified person to fill the same for the unexpired term. Commissioners appointed for regular terms shall, at the beginning of the term for which they are appointed, and those appointed to fill vacancies, shall, immediately upon their appointment, enter upon the duties of their offices. The Legislature shall fix the salaries of the commissioners, but pending such action the salaries of the commissioners, their officers and employees shall remain as now fixed by law. The Legislature shall have the power, by a two-thirds vote of all members elected to each house, to remove any one or more of said commissioners from office for dereliction of duty or corruption or incompetency. All of said commissioners shall be qualified electors of this State, and no person in the employ of or holding any official relation to any person, firm or corporation, which said person, firm or corporation is subject to regulation by said Public Service Commission and no persons owning stock or bonds of any such corporation or who is in any manner pecuniarily interested therein, shall be appointed to or hold the office of Public Service Commissioner. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. The act of a majority of the commissioners when in session as a board shall be deemed to be the act of the commission; but any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner designated for the purpose by the commission, and every order made by a commissioner so designated, pursuant to such inquiry, investigation or hearing, when approved or

Public Service Commission

Removal of members

confirmed by the commission and ordered filed in its office, shall be deemed to be the order of the commission.

Powers.

Said commission shall have the power to establish rates of charges for the transportation of passengers and freight by railroads and other transportation companies, and no railroad or other transportation company shall charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or freight, or for any service in connection therewith, between the points named in any tariff of rates, established by said commission, than the rates, fares and charges which are specified in such tariff. The commission shall have the further power to examine books, records and papers of all railroad and other transportation companies; to hear and determine complaints against railroad and other transportation companies; to issue subpenas and all necessary process and send for persons and papers; and the commission and each of the commissioners shall have the power to administer oaths, take testimony and punish for contempt in the same manner and to the same extent as courts of record. The commission may prescribe a uniform system of accounts to be kept by all railroad and other transportation companies.

Powers of Legislature

No provision of this Constitution shall be construed as a limitation upon the authority of the Legislature to confer upon the Public Service Commission additional powers of the same kind or different from those conferred herein which are not inconsistent with the powers conferred upon the Public Service Commission in this Constitution, and the authority of the Legislature to confer such additional powers is expressly declared to be plenary and unlimited by any provision of this Constitution.

Successor to powers of Railroad Commission

The provisions of this section shall not be construed to repeal in whole or in part any existing law not inconsistent herewith, and whenever in this Constitution or the laws of this State the term "Railroad Commission" is used, it shall be understood to refer to the Public Service Commission.

CHAPTER 118.

Senate Joint Resolution No. 11—Relative to the disposition of revenues received from the lease of marginal lands in the Tule Lake division of the Klamath project.

[Filed with Secretary of State June 12, 1935.]

Refunds by United States to lessees of Tule Lake lands.

WHEREAS, The Honorable Franklin D. Roosevelt, President of the United States, did, on the seventh day of January, 1935, recommend in his budget message to the Congress of the United States the enactment of certain measures designed to provide refunds to lessees of marginal lands in the Tule Lake division of the Klamath project; and

WHEREAS, The Klamath project is under the jurisdiction of the Secretary of the Interior of the United States, acting through the Bureau of Reclamation, and was designed to reclaim marsh lands in the Tule Lake division of the Klamath project, and thereby add to the productive agricultural use in the State of California; and

WHEREAS, The refunding of such moneys to such lessees will result in a diversion of funds now available for the completion of the Tule Lake division of the Klamath project and will eventually result in the abandonment of said project, thereby causing a depressed market of land values in said region; and

WHEREAS, Such lands would no longer be a safe collateral for outstanding loans because of the reduced land values; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urge the assistance and the support of Congress in order to preserve the present use of funds accruing from leases of marginal lands in the Tule Lake division of the Klamath project; and be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States, the Vice President of the United States, and the Speaker of the House of Representatives.

CHAPTER 119.

Senate Concurrent Resolution No 11—Relative to the report of the Spanish War Commemoration Commission.

[Filed with Secretary of State June 12, 1935.]

Publication of report of Spanish War Commemoration Commission

WHEREAS, The record of the work accomplished by the Spanish War Commemoration Commission, created by Senate Joint Resolution No. 8, Chapter 29, Resolutions of 1933, contains documents and results of patriotic and educational value to the people of the State of California; and

WHEREAS, A substantial portion of said records were obtained with the aid of Federal funds through a commemorative art survey project which produced information of an inspirational and cultural nature, all of which may be made a part of the archives of the Legislature; now, therefore, be it

Resolved, by the Senate of the State of California, the Assembly thereof concurring, That there shall be printed as a public document not to exceed two hundred fifty copies of the complete report of the Spanish War Commemoration Commission for the respective years of 1933, 1934 and part of 1935, together with illustrations, copies of awards, drawing of Honor Scroll, reproduction of Citation and all Proclamations issued by the Governors of the various States, and other offi-

cial or inclusive matter, one hundred twenty-five copies for the use of the Senate and one hundred twenty-five copies for the use of the Assembly. The costs shall not exceed the sum of five hundred dollars payable from the legislative printing appropriation.

CHAPTER 120.

Senate Concurrent Resolution No. 42—Providing for the appointment of a joint legislative committee to consult with the Department of Finance regarding the remodeling and refurnishing of legislative committee rooms and offices for the members in the State Capitol.

[Filed with Secretary of State June 14, 1935.]

Joint committee on remodeling and refurnishing committee rooms and offices

WHEREAS, Certain repairs, additions and improvements to the State Capitol are contemplated to be made during the coming biennium; and

WHEREAS, It is desirable that the needs and requirements of the Legislature be properly presented to the Department of Finance in this connection; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That a committee of six members be created to consist of three members of the Senate, to be appointed by the President of the Senate, and three members of the Assembly, to be appointed by the Speaker of the Assembly, to consult with the Department of Finance and the State Building Commission in making arrangements and suggestions for the proper remodeling and refurnishing of legislative committee rooms and offices for the members of the Legislature, in connection with any appropriation of moneys made available for such purposes; and be it further

Resolved, That the committee shall proceed to organize by the election of one of its members as chairman and by the election of a secretary; and be it further

Resolved, That the committee shall do all things necessary to carry out the purposes of this resolution and to report thereon to the fifty-second session of the Legislature.

CHAPTER 121.

Senate Concurrent Resolution No. 43—Providing a rule for the Legislative Counsel Bureau, relating to opinions upon pending legislative measures.

[Filed with Secretary of State June 14, 1935.]

Opinions of Legislative Counsel

Resolved by the Senate of the State of California, the Assembly concurring, That whenever the Legislative Counsel issues, to a person other than the author, an opinion as to the

constitutionality, operation or effect of a pending bill, constitutional amendment, resolution or other legislative measure, he is hereby authorized and instructed to deliver a copy of the opinion to the author of such measure.

CHAPTER 122.

Assembly Joint Resolution No. 61—Relative to memorializing Congress to repeal "An act to amend the Tariff Act of 1930," approved June 12, 1934.

[Filed with Secretary of State June 14, 1935.]

Reciprocal trade agreements

WHEREAS, The economic growth and well-being of California has been built on tariff protection openly arrived at by Congress; and

WHEREAS, This policy has made possible the production and distribution of California's quality products in the home market at prices which permit American standards of living; and

WHEREAS, Reciprocal trade agreements, secretly arrived at, threaten to destroy this American standard of living and keep business in a condition of uncertainty and retard recovery; and

WHEREAS, These secret negotiations are un-American and will be disastrous to business recovery; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That Congress be hereby memorialized to repeal "An act to amend the Tariff Act of 1930," approved June 12, 1934, by which these reciprocal trading pacts are being secretly negotiated; and be it further

Resolved, That copies hereof be sent to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, the Senators from California, and all members of the California delegation in Congress

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CHAPTER 123.

Assembly Joint Resolution No. 63—Relative to memorializing the President of the United States to make ample provision for the encouragement of the artistic, cultural, humane, patriotic and sentimental phases of our American National life in the Federal Works Plan.

[Filed with Secretary of State June 14, 1935.]

Federal Works Plan

WHEREAS, The Congress of the United States has approved the appropriation of huge sums to be expended under the direction of the President of the United States in a comprehensive Federal Works Plan; and

Employment of "white-collar" workers under Federal Works Plan

WHEREAS, The President of the United States has announced the tentative proportions of said sums as to their disbursement, which includes an amount allocated to so-called "white collar" workers; and

WHEREAS, The State of California is taking steps and has made provisions for numerous enterprises which may be of general benefit because of their inspirational and educational value, such as fairs, expositions, conventions, industrial and housing exhibitions, and celebrations to mark high attainment in the world of construction and engineering; and

WHEREAS, The State of California and several other of the sovereign States of our Union, are nearing the completion of certain such construction projects that bespeak the initiative and industry of our present generation, the accomplishment and achievement of which can be properly perpetuated as imperishable monuments, and fittingly recorded by employing the services of the "white collar" workers; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the President of the United States is hereby memorialized to make ample provision for the encourgement of the artistic, cultural, humane, patriotic and sentimental phases of our American National life in the great Federal Works Plan by the employment of "white collar" workers; and be it further

Resolved, That the Governor of the State of California is hereby requested, empowered and authorized to (1) transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and member of the House of Representatives from California in the Congress of the United States, and to the National Director of the Federal Work Relief Administration; and (2) designate and select the State department, official, agent or director to initiate projects for the employment of "white collar" workers to carry out the purpose of this resolution; and be it further

Resolved, That all departments of the State of California cooperate with the department designated by the Governor and aid in developing an appreciation of culture, beauty, science, history, arts and achievement.

CHAPTER 124.

Assembly Concurrent Resolution No. 44—Relating to the termination of the probationary period of all persons employed by the various departments of the State and

mentioned in subdivision (e) of section 5 of Article XXIV of the Constitution of this State.

[Filed with Secretary of State June 14, 1935.]

Termination of probationary period of State employees

WHEREAS, There are many persons employed by the various departments of the State, holding positions subject to the provisions of Article XXIV of the Constitution for more than six months immediately preceding the effective date of said article, viz., December 20, 1934, who have now been continuously in the State service for a minimum period of at least eleven months, and

WHEREAS, All such persons hold such positions subject to a probationary term commencing on December 20, 1934, of not less than two months nor more than eight months, in the class or grade assigned, as the State Personnel Board may fix; and

WHEREAS, All such persons have now been in the State service for a period almost twice the length of the normal and usual probationary term of six months; and

WHEREAS, It is deemed in the best interests of the State of California that such probationary term should be forthwith terminated; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Personnel Board be requested to fix the probationary term of each of such employees commencing December 20, 1934, at a period of five months, to wit, a period ending May 20, 1935, to the end that all such persons be given permanent status from and after the date last mentioned; and be it further

Resolved, That the Secretary of the Senate is directed to send copies of this resolution to the members of the State Personnel Board and the executive officer thereof.

CHAPTER 125.

Senate Concurrent Resolution No. 14—Calling for the appointment by the Governor of a commission of ten, to investigate the advisability of commemorating the four-hundredth anniversary of the discovery of California, by causing the creation of an appropriate memorial to the memory of John Rodriguez Cabrillo and his compatriots.

[Filed with Secretary of State June 20, 1935.]

Commission on commemorating Cabrillo's discovery of California

WHEREAS, John Rodriguez Cabrillo, a native of Portugal, discovered California on Thursday, September 28, 1542, while in the service of the King of Spain; and

WHEREAS, The Senate and the Assembly of California have heretofore, by an appropriate concurrent resolution, requested the Governor to call upon the people of this State to observe the twenty-eighth day of September of each year, as Cabrillo Day, by appropriate patriotic observances; and

WHEREAS, September 28, 1942, will be the four-hundredth anniversary of the discovery of California by John Rodriquez Cabrillo; and

WHEREAS, It is suitable and proper that the four-hundredth anniversary of the discovery of California be observed by special exercises and by the creation of some fitting memorial to the memory of John Rodriquez Cabrillo and to his compatriots; now, therefore, be it

Resolved by the Senate, the Assembly concurring, as follows: That the Governor is requested to appoint a commission of ten members, residents of California, whose duty it shall be to study the advisability of holding a special observance, in this State, on September 28, 1942, commemorating the four-hundredth anniversary of the discovery of California, and to make a further study of the advisability of creating a memorial in honor of the said John Rodriquez Cabrillo, discoverer of California, and his compatriots.

CHAPTER 126.

Senate Concurrent Resolution No. 45—Relative to adjournment sine die.

[Filed with Secretary of State June 20, 1935.]

Adjournment sine die

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the fifty-first session of the Legislature of the State of California shall adjourn sine die at 11.55 p.m. June 16, 1935.

CHAPTER 127.

Senate Concurrent Resolution No. 46—Relative to requesting the State Relief Commission and State Relief Administrator to provide employment on public works for persons over the age of sixty years and those only partially disabled.

[Filed with Secretary of State June 20, 1935.]

Relief of persons over sixty years of age and those partially disabled

WHEREAS, The Legislature did in and by Senate Bill Number 940 appropriate the sum of forty-eight millions of dollars to aid and relieve hardship and destitution resulting from unemployment upon the assumption that every able-bodied adult person, irrespective of age, would be given employment and that no age discrimination would be made; and

WHEREAS, The Legislature has reduced the age limit of those entitled to participate under the State Old Age Pension Act (so-called) from seventy years to sixty-five years, thereby

making aid under such act available to more than twenty thousand additional persons within this State; and

WHEREAS, Such addition will add additional burdens to the counties and to the taxpayers thereof in that the counties will be required to cooperate in the care of such aged persons; and

WHEREAS, In addition thereto, counties are required to provide and care for all indigent persons unable to work and the combined costs of all such obligations so imposed upon the counties will be such that the taxpayers of said counties will be taxed to their maximum ability to pay; and

WHEREAS, It is reported to this Legislature that the Relief Commission and Relief Director are considering the adoption of a rule whereby persons over the age of sixty years and others only partially disabled will be refused employment and, as a result thereof, all such persons will likewise be forced on to the counties for care and support; and

WHEREAS, Such burden can not be borne by the taxpayers of the respective counties without the imposition of unjust and unfair additional tax burdens; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly concurring, That the Relief Commission and Relief Administrator be and each is hereby requested not to adopt or enforce any rule or regulation which would deprive or prevent any person over the age of sixty years or who may be only partially disabled from being employed and obtaining relief under the appropriation heretofore made from hardships and destitution due to unemployment; and be it further

Resolved, That said Relief Commission and Relief Administrator be and each is hereby requested to make provision and provide work for all such persons herein referred to so that they will not become an additional burden and charge upon the respective counties of the State but will be cared and provided for under the act appropriating said forty-eight millions of dollars; and be it further

Resolved, That the Secretary of the Senate is directed to immediately forward copies of this resolution to such Relief Commission and Relief Administrator.

CHAPTER 128

Senate Constitutional Amendment No. 18—A resolution to propose to the people of the State of California, an amendment to the Constitution of said State by adding to Article XIII thereof, a new section to be numbered 17, relating to the power of the Legislature to provide for the borrowing of money to meet appropriations made by law, in anticipation of the collection of taxes and revenues.

[Filed with Secretary of State June 20, 1935 Rejected by electors August 13, 1935.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its regular session

Constitution, Art XIII, Sec 17

commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses of the said Legislature voting therefor, hereby proposes to the people of the State of California, that the Constitution of said State be amended by adding to Article XIII thereof a new section to be numbered 17, and to read as follows:

Borrowing of money by State in anticipation of revenues

Sec. 17. Notwithstanding any other provision of this Constitution, the State may borrow money to meet appropriations from the general fund in the State treasury in anticipation of the collection of taxes and revenues which by law are payable into the general fund in the State treasury, up to fifty per cent of the amount of all taxes and revenues paid into the general fund during the preceding fiscal year. All moneys borrowed in anticipation of taxes and revenues together with interest thereon shall be paid from the general fund within one year from the date such money is borrowed by the State, but if not so paid, shall, nevertheless, continue to be payable from the general fund.

Validation of Ch 363, Stats 1935

The provisions of an act entitled "An act relating to the borrowing of money by the State in anticipation of taxes and revenues, and making an appropriation," passed at the fifty-first session of the Legislature, are hereby confirmed, ratified and declared to be fully and completely effective; but said act may at any time be amended or repealed by the Legislature.

CHAPTER 129.

Senate Constitutional Amendment No. 26—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by adding to Article XVI thereof a new section to be numbered 11, relating to a bond issue for certain major construction and improvements.

[Filed with Secretary of State June 20, 1935. Rejected by electors August 13, 1935.]

Constitution, Art XVI, Sec 11

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its fifty-first regular session commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses of said Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of said State be amended by adding to Article XVI thereof a new section to be numbered 11 and to read as follows:

Bond issue for major construction and improvements

SEC. 11. The issuance and sale of bonds of the State of California and the use and disposition of the proceeds of the sale of said bonds as provided in the State Building Bond Act of 1935 as passed by the Senate and Assembly at its fifty-first session of the Legislature and approved by the Governor, authorizing the issuance and sale of said bonds in the

sum of thirteen million nine hundred fifty thousand dollars for the purpose of providing a fund to be used and disbursed for the purpose of certain major construction and improvements therein specified, is hereby authorized and directed and the said State Building Bond Act of 1935 is hereby approved, adopted, legalized, ratified, validated and made fully and completely effective. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this section shall not prevent such legislative action. Nothing in this Constitution contained shall be a limitation upon the provisions of this section.

Stats. 1935, Ch. 370

CHAPTER 130.

Assembly Concurrent Resolution No. 50—Relative to the California Highway Patrol.

[Filed with Secretary of State June 20, 1937.]

Use of motorcycles by Highway Patrol

WHEREAS, The California Highway Patrol is a state-wide police body inaugurated for the protection of the health, peace, and safety of the people of California in the enforcement of the motor vehicle laws; and

WHEREAS, There are approximately six hundred members of this State body who engage in a hazardous occupation in the enforcement of motor vehicle laws of this State; and

WHEREAS, More than four hundred eighty-four minor accidents and four hundred thirty-five serious accidents and sixteen fatal accidents occurred in this department during the past five years; and

WHEREAS, This occupation is made doubly hazardous due to certain type of equipment used by this department; and

WHEREAS, There are forty-four officers incapacitated from motorcycle duty at this time in this department; and

WHEREAS, This appalling accident rate seriously disrupts the morale of the officers of this department and creates a serious situation in this important work of our State government in the high cost of compensation insurance, and the severe handicap in the efficiency of this department; and

WHEREAS, Statistics prove conclusively that almost all minor or fatal accidents are caused by the use of motorcycles upon the highways of this State by the highway patrol; now, therefore, be it

Resolved, That the Assembly of the fifty-first session of the Legislature, and the Senate, thereof, concurring, hereby request and urge the Director of the Department of Motor Vehicles and the Chief of the California Highway Patrol to seriously consider the advisability of discontinuing the use of motorcycles in this department and only permit their use in only very necessary and extraordinary cases.

CHAPTER 131.

Assembly Concurrent Resolution No. 52—Relative to the establishment of a free employment bureau in the city of Alameda.

[Filed with Secretary of State June 20, 1935.]

Free employment bureau in city of Alameda.

WHEREAS, Within the boundaries of the city of Alameda there is a great industrial community and a large number of persons seeking employment therein; and

WHEREAS, The Legislature deems it advisable that the Chief of the Division of Labor Statistics establish a free employment agency in that district; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it be recommended to the Chief of the Division of Labor Statistics and Law Enforcement that, under the authority vested in him by "An act to establish free employment bureaus under the control of the Commissioner of the Bureau of Labor Statistics and making an appropriation therefor," approved May 17, 1915, he establish a free employment agency in the city of Alameda; and be it further

Resolved, That a copy of this resolution be forwarded by the Chief Clerk of the Assembly to the Chief of the Division of Labor Statistics and Law Enforcement.

CHAPTER 132.

Assembly Concurrent Resolution No. 54—Relative to leave of absence of Richard E. Collins, member of the State Board of Equalization.

[Filed with Secretary of State June 20, 1935.]

Leave of absence for Richard E. Collins

Resolved by the Assembly, the Senate concurring, That leave of absence from the State for a longer period than sixty days, to wit, a period not exceeding six months, during his term of office, is hereby granted to Richard E. Collins, member of the State Board of Equalization for the Third Equalization District.

CHAPTER 133.

Assembly Concurrent Resolution No. 56—Approving a certain amendment to the charter of the city of Long Beach, State of California, ratified by the qualified electors of said city

at a special municipal election held therein on the seventh day of June, one thousand nine hundred thirty-five.

[Filed with Secretary of State June 20, 1935.]

WHEREAS, The city of Long Beach, in the county of Los Angeles, State of California, contains a population of over fifty thousand inhabitants, and has been, ever since the year 1921, and now is, organized and acting under and by virtue of a freeholders' charter, adopted under and by virtue of section 8, Article XI, of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the fourteenth day of April, 1921, and approved by the Legislature of the State of California, on the twenty-sixth day of April, 1921 (Statutes of 1921, page 2054), and amendments thereto duly ratified by the qualified voters of said city and by resolutions of said Legislature as set out in the certificate of the mayor and city clerk of said city of Long Beach, hereinafter set forth; and, City of Long Beach Charter amendment

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of a certain amendment to the charter of said city of Long Beach, as set out in the certificate of the mayor and city clerk of said city of Long Beach, as follows, to wit:

CERTIFICATE OF ADOPTION BY THE QUALIFIED ELECTORS OF THE CITY OF LONG BEACH AT A SPECIAL MUNICIPAL ELECTION HELD THEREIN ON THE SEVENTH DAY OF JUNE, ONE THOUSAND NINE HUNDRED THIRTY-FIVE, OF A CERTAIN AMENDMENT TO THE CHARTER OF THE CITY OF LONG BEACH, STATE OF CALIFORNIA.

State of California,
County of Los Angeles, } ss.
City of Long Beach

We, Carl Fletcher, Mayor of the City of Long Beach, and E. L Macdonald, City Clerk of the City of Long Beach, do hereby certify as follows: Certificate

That said City of Long Beach, in the County of Los Angeles, State of California, is now, and was at all of the times herein mentioned, a city containing a population of more than fifty thousand inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States; and,

That said City of Long Beach is now, and was at all of the times herein mentioned, organized and existing under a freeholders' charter adopted under the provisions of Section Eight, Article Eleven, of the Constitution of the State of California, which charter was duly ratified by a majority of the electors of said city at a special election held therein on the fourteenth day of April, 1921, and approved by the legislature of the state of California, on the twenty-sixth day of April, 1921, and amendments thereto duly ratified by the qualified voters of

Long Beach city charter

said city, and approved by resolution of said legislature and filed with the Secretary of State of the State of California the 27th day of April, 1923, (Statutes 1923, Page 1624), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the eighteenth day of April, 1925, (Statutes 1925, page 1330), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the fifteenth day of January, 1929, (Statutes 1929, Page 1977), and amendments thereto duly ratified by the qualified voters of said City and approved by resolution of said legislature and filed with said Secretary of State the twenty-ninth day of March, 1929 (Statutes 1929, page 2062), and amendments thereto duly ratified by the qualified voters of said City and approved by resolution of said legislature and filed with said Secretary of State the second day of March, 1931, (Statutes 1931, page 2780), and amendments thereto duly ratified by the qualified voters of said City and approved by resolution of said legislature and filed with said Secretary of State the ninteenth day of April, 1933 (Statutes 1933, page 3006), and amendments thereto duly ratified by the qualified voters of said City and approved by resolution of said legislature and filed with said Secretary of State the 29th day of April, 1935; and

That the legislative body of said city, namely, the City Council of said city, did, by motion duly adopted on the twenty-sixth day of April, 1935, on its own motion, and pursuant to the provisions of Section 8, of Article XI, of the Constitution of the State of California, duly propose to the qualified electors of said City of Long Beach an amendment to the charter of said city designated as Proposition No. 1, and ordered that said proposed amendment be submitted to said qualified electors of said City at a special municipal election to be held in said City on the seventh day of June, 1935; and

That said amendment was on April 27th, 1935, duly published in the Long Beach Sun and in each edition thereof during said day of publication; and

That said Long Beach Sun was, upon the date of said publication, and at all times since has been, and now is, a daily newspaper of general circulation within said City of Long Beach, and was upon the date of the publication of said proposed amendment and at all times since has been, and now is, published in said City and said newspaper was, upon the date of the publication of said proposed amendment, and at all times since has been and now is, the official newspaper of said City, and was the newspaper designated by said City Council for the publication of said proposed amendment; and

That said proposed amendment was duly and regularly printed in convenient pamphlet form and, at and during the time and in the manner provided by law, a notice was published in said Long Beach Sun that such copies of said pro-

posed amendment could be had upon application therefor in the office of the City Clerk of said City, and said proposed amendment so printed in convenient pamphlet form was duly and regularly distributed in the manner provided by law; and

Long Beach city charter

That said City Council did, by ordinance designated as Ordinance No C-1356, order the holding of a special municipal election in said City of Long Beach on the seventh day of June, 1935, which date was not less than forty nor more than sixty days after the completion of the publication of said proposed amendment as aforesaid and which ordinance was published at least three times in the Long Beach Sun, the official newspaper of the City of Long Beach, ten days prior to the date of said election, to-wit: On the twenty-first, twenty-second and twenty-third days of May, 1935, in the Long Beach Sun, the official newspaper of the City of Long Beach and a newspaper of general circulation and published in said city, and said ordinance was posted in three conspicuous places in the City of Long Beach; and

That said special municipal election was held in said City of Long Beach on the seventh day of June, 1935, which day was not less than forty days nor more than sixty days after the completion of the publication of said proposed amendment once in the Long Beach Sun as aforesaid; that said election was held during a regular session of the legislature and before the final adjournment thereof; and

That at said special municipal election held as aforesaid, a majority of the qualified voters of said City of Long Beach voting thereon, voted in favor of said proposed amendment to the charter of the City of Long Beach, and duly ratified the same; and

That the City Council of said City of Long Beach did, at the time and in the manner and form provided by law, to-wit, on the 14th day of June, 1935, regularly canvass the returns of said special municipal election, and did then and there duly find, determine and declare that a majority of the qualified voters of said city of Long Beach voting thereon had voted in favor of and ratified said proposed amendment to the charter of the City of Long Beach; to-wit, amendment numbered 1; and

That said proposed amendment to the charter of the City of Long Beach ratified by the electors of said City as aforesaid is in words and figures as follows, to-wit:

PROPOSITION NO. 1.

That Section 308 of the Charter of the City of Long Beach be amended to read as follows:

Recall of elective officers.

"Sec. 308. The holder of any elective office, or the city manager, in the City of Long Beach, may be recalled by the qualified electors of the City of Long Beach at any time after he has held office for six months. Not less than ten nor more than twenty-five qualified electors of the City of Long

Petition

Beach may originate a petition of recall in the following manner: The said qualified electors shall file with the city clerk a petition containing a general statement of the ground or grounds for which the recall of the official is sought. This petition shall be signed by each of the petitioners originating the recall, each signer adding to his signature his place of residence, giving street and number, and the date of signing. The city clerk shall file the petition, and shall cause the said petition with the signatures attached thereto to be published for three successive days in the official newspaper of the city, with notice therein that said petition is in the city clerk's office open for signatures. The city clerk shall, during office hours for thirty days from the last day of publication aforesaid, keep the petition open for signatures by the qualified electors of the city, each signer to add to his signature his place of residence, giving street and number, and date of signature. No petition other than the originating petition shall be signed or presented for signature at any place other than the city clerk's office, and must be verified by the city clerk or one of his deputies. At the expiration of said thirty days, the city clerk shall declare the petition closed for the purpose of examination, and within five days thereafter shall ascertain whether said petition is signed by qualified electors of the City of Long Beach equal to not less than twenty-five per cent of the entire votes case at the last general municipal election; and the city clerk shall attach to the petition his certificate showing the result of such examination, stating the number of qualified voters found upon said petition, and the number of persons not qualified to vote, and in checking said petition the city clerk shall designate the names of persons found thereon not qualified to vote, with the letters "D V." in red ink opposite such name or names If the petition is shown, by the city clerk's certificate, to be insufficient, the city clerk shall at once notify the signers who originated the petition of recall of the deficiency, and five additional days, exclusive of the day of mailing, shall be allowed for the final completion of the recall petition. Notice herein required shall consist of depositing in the postoffice at Long Beach a letter, postage prepaid and registered, containing such notice, addressed to each signer originating the petition of recall at his address named in the originating petition. The city clerk shall within three days after the expiration of the additional five days allowed within which to complete the recall petition, make a like examination and check the names as hereinbefore provided, and if the city clerk's certificate shall show the recall petition to be still insufficient, no further action shall be taken. The failure to secure sufficient names shall not prejudice the filing of an entirely new petition to the same effect by the same or other originating petitioners. If the petition shall be found to be sufficient, the city clerk shall submit the petition of recall, together with his certificate, to the city council without delay, whereupon the city council shall forthwith

Duties of clerk

Certificate

cause a special municipal election to be held not less than thirty nor more than forty days after the date of the order calling such election, to determine whether the voters shall recall such officer. If the same ground or grounds are alleged, one petition shall be sufficient to propose the recall of one or more officials. Upon the same ballot there shall be printed, in not more than two hundred words, the ground or grounds set forth in the recall petition for demanding the recall of the officer or officers; and upon the same ballot in not more than two hundred words, the officer or officers may justify himself or themselves. There shall be printed on the recall ballot, as to every officer whose recall is to be voted on, the following question: "Shall (name of person against whom the recall petition is filed) be recalled from the office (title of office)?", following which question shall be the words "Yes" and "No" on separate lines, with a blank space at the right of each, in which the voter shall, by stamping a cross (X) indicate his vote for or against such recall. If a majority of those voting on said question of the recall of any officer shall vote "No", said officer shall continue in office. If a majority of those voting on said question of the recall of any officer shall vote "Yes", said officer shall thereupon be deemed removed from such office, and the city council shall declare said office vacant, and shall immediately fill such vacancy by appointment, such appointee to hold office until the next general municipal election. An officer thus removed shall not be eligible to succeed himself." Ballot

That the foregoing is a full, true and correct copy of said proposed amendment to the charter of the City of Long Beach ratified by the electors of said city as aforesaid, on file in the office of the City Clerk of said City of Long Beach. Certificate

IN WITNESS WHEREOF, Carl Fletcher, Mayor, as aforesaid, and E. L. Macdonald, City Clerk, as aforesaid, have hereunto set their hands and caused the corporate seal of the City of Long Beach to be thereunto duly affixed, on this 14th day of June, 1935.

CARL FLETCHER,
Mayor of the City of Long Beach

[SEAL]

E. L. MACDONALD,
City Clerk of the City of Long Beach

WHEREAS, Said proposed amendment to the charter of the city of Long Beach ratified by the electors of said city, as aforesaid, has been, and is now, submitted to the Legislature of the State of California, for approval or rejection without power of alteration or amendment, in accordance with section 8 of Article XI of the Constitution of the State of California; now, therefore,

Be it resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, Ratification

that said amendment to the charter of the city of Long Beach, as proposed to, adopted and ratified by the qualified electors of said city of Long Beach, as hereinabove fully set forth, be and the same is hereby, approved as a whole without amendment or alteration, for and as an amendment to and as a part of the charter of the city of Long Beach.

CHAPTER 134.

Assembly Constitutional Amendment No 39—A resolution to propose to the people of the State of California, an amendment to Article IV of the Constitution of the State, by amending section 31 thereof, relating to paying the principal and interest on bonds issued by city, county, city and county, district or other political subdivision whose funds are in the custody of the treasurer of any city, county, or city and county.

[Filed with Secretary of State June 20, 1935.]

Constitution, Art IV, Sec 31

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its fifty-first regular session, commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses of the Legislature voting in favor thereof, hereby proposes to the people of the State of California, that the Constitution of the State be amended by amending section 31 of Article IV of the State Constitution to read as follows:

Lending credit of State, county, etc.

Sec. 31. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to section 22 of this article; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the

owner of, or which holds the title to the part of such system situated in a foreign country; provided, further, that irrigation districts, water districts and water conservation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporations; and

Veterans' aid

Provided, further, That nothing contained in this Constitution shall prohibit the use of State money or credit, in aiding veterans who served in the military or naval service of the United States during time of war, in the acquisition of, or payment for, farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans.

The California Veterans' Welfare Bond Act of 1921 (Statutes of 1921, Chapter 578), as enacted at the forty-fourth session of the Legislature of the State of California, authorizing the issuance and sale of State bonds in the sum of ten million dollars, for the purpose of creating a fund to carry out the provisions of the California Veterans' Welfare Act, providing land settlement for veterans (Statutes of 1921, Chapter 580), and the provisions of the "Veterans' Farm and Home Purchase Act," providing farm and home aid for veterans (Statutes of 1921, Chapter 519) is hereby approved, adopted, legalized, validated and made fully and completely effective irrespective of the vote that may be cast upon the proposition of approving or disapproving such Veterans' Welfare Bond Act of 1921 at the general election of November 7, 1922. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action.

Temporary transfers

And provided, still further, that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and it shall be his duty to make such temporary transfers from the funds in his custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by, and for paying the interest on and the principal of bonds issued by, any city, county, city and county, district, or other political subdivision whose funds are in his custody and are paid out solely through his office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed eighty-five per cent of the taxes accruing to such political sub-

division, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the taxes accruing to such political subdivision before any other obligation of such political subdivision is met from such taxes.

Glendale Replacement of water mains

And provided, further, that the city of Glendale, of Los Angeles County, may, when authorized so to do, by a majority of the voters thereof voting at an election held for that purpose, pay from the surplus of the public service department of said city the amount of any assessment or assessments levied by said city between the eleventh day of May, 1921, and the ratification of this amendment, for the replacement of water mains, to the person or persons owning the property so assessed at the time said payment is so authorized; and that no statute of limitations shall apply in any manner.

CHAPTER 135.

Assembly Constitutional Amendment No. 42—A resolution to propose to the people of the State of California, an amendment to Article XIII of the Constitution of the State, by amending section 9a thereof, relating to the computation of taxes on unsecured property.

[Filed with Secretary of State June 20, 1935.]

Constitution, Art XIII Sec 9a

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its fifty-first regular session, commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses of the Legislature voting in favor thereof, hereby proposes to the people of the State of California, that the Constitution of the State be amended by amending section 9a of Article XIII of the State Constitution to read as follows:

Taxes on unsecured property

Sec. 9a. The taxes levied for any current tax year upon personal property and assessments upon possession of, claim to, or right to the possession of land and upon taxable improvements located on land exempt from taxation, which are not a lien upon land sufficient in value to secure their payment, shall be based upon the rates for taxes levied for the preceding tax year upon property of the same kind where the taxes were a lien upon land sufficient in value to secure the payment thereof. Nothing in this section shall be construed to prohibit the equalization each year of the assessment on such property in the manner now or hereafter provided by law.

Equalization

CHAPTER 136.

Assembly Constitutional Amendment No. 62—A resolution to propose to the people of the State of California an amendment to the Constitution of the State by adding a new sec-

tion to be numbered section 16 of Article IX, relating to the management and control of museums and art galleries.

[Filed with Secretary of State June 20, 1935.]

Resolved by the Assembly, the Senate concurring. That the Legislature of the State of California, at its fifty-first regular session, commencing on the seventh day of January, 1935, two-thirds of all the members elected to each of the houses thereof voting in favor hereof, hereby proposes to the people of the State of California that the Constitution of said State be amended as follows: Constitution, Art IX, Sec 16

That a new section to be numbered 16, be added to Article IX, to read as follows:

Sec. 16. The Legislature of the State of California, the board of supervisors of a county or city and county, the council or other governing body of a municipal corporation and the governing body of any other political subdivision of the State of California, having authority to acquire and maintain publicly-owned museums or art galleries, are and each is hereby granted the power and authority to enter into contracts and leases with nonprofit corporations, organized under the laws of California, for the management and control of any part or all of the exhibits of such museums and art galleries. Museums and art galleries

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CHAPTER 137.

Assembly Constitutional Amendment No. 86—A resolution to propose to the people of the State of California, an amendment to the Constitution of said State by amending section 23a of Article IV thereof, relating to legislative printing.

[Filed with Secretary of State June 20, 1935.]

Resolved by the Assembly, the Senate concurring. That the Legislature of the State of California at its fifty-first regular session commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses of said Legislature voting therefor, hereby proposes to the people of the State of California, that the Constitution of said State be amended by amending section 23a of Article IV thereof to read as follows: Constitution, Art IV, Sec 23a

Sec. 23a. The Legislature may provide for additional help; but in no case, except as provided in this section, shall the total expense for officers, employees and attaches exceed the sum of three hundred dollars per day for either house, at any regular or biennial session, nor the sum of two hundred dollars per day for both houses at any special or extraordinary session, nor shall the pay of any officer, employee or attache be increased after he is elected or appointed. The Legislature Legislative help

shall provide for the selection of all officers, employees and attaches of both houses and so far as advisable shall require such selection to be under the provisions of the law governing civil service. The restriction on total expense herein provided shall not apply to expenditures not in excess of five thousand dollars for each house for the costs and expense of compiling the histories of bills resolutions and constitutional amendments introduced in each house, indexing the same and, pursuant to legislative rules, supplying the public with full information as to such measures and, upon application, with copies thereof, and for the further purpose of correcting and indexing the journals, and necessary expense incidental thereto, following the adjournment of sessions of the Legislature.

Preparation of histories, journals, etc.

CHAPTER 138.

Assembly Constitutional Amendment No. 90—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by adding to Article XVI thereof a new section to be numbered 12, relating to the Rector Canyon Dam project.

[Filed with Secretary of State June 20, 1935. Rejected by electors August 13, 1935.]

Constitution, Art XVI, Sec 12

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its regular session commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses of the said Legislature voting therefor, hereby proposes to the people of the State of California, that the Constitution of said State be amended by adding to Article XVI thereof a new section to be numbered 12, and to read as follows:

Rector Dam.

Sec. 12. Notwithstanding any other provisions of this Constitution, the Director of Finance is hereby authorized on behalf of the State of California to enter into a contract with the Rector Dam Authority for the delivery or furnishing of water by said authority to any State institution or institutions, or other agencies supported in whole or in part by public funds, upon such terms and conditions as the director shall prescribe, and to pledge the credit of the State for that purpose in an amount not exceeding the sum heretofore or hereafter agreed to be paid by the Rector Dam Authority to the United States of America or any agency or department thereof, over a period of not to exceed fifty years, for any loan made to and accepted by the authority in accordance with law. The making of said contract shall be contingent upon the granting to the Rector Dam Authority by the United States of America or an agency or department thereof of a grant or loan or grant and loan for the erection of the dam and the construction of a system for the distribution of the water of Rector

Creek in the county of Napa, State of California, and the Rector Dam Authority is hereby authorized to enter into the above mentioned contract with the Department of Finance, to negotiate and accept in the name of the State such grant or loan, and to construct and maintain said dam and system of distribution.

The provisions of this section are self-executing, and require no legislative action in furtherance thereof, but the Legislature may provide by law for the carrying out of the provisions of this section.

CHAPTER 139.

Assembly Joint Resolution No 22—Relative to Pacific Exposition.

[Filed with Secretary of State June 20, 1935.]

Pacific Exposition. Invitation to people of the world

WHEREAS, Pacific Exposition, an international exposition, is to be held in the county of Los Angeles, State of California, during 1937–1938, and thereafter, for the purpose of commemorating the completion of Boulder Dam and the power and water developments and projects thereof; be it therefore

Resolved by the Senate and Assembly of the State of California, That we, the representatives of the people of the State of California, do hereby respectfully request the President of the United States and the Congress of the United States to cause an invitation to be extended to the peoples of the world to participate in said exposition; be it further

Resolved, That copies of this resolution be transmitted by the Secretary of State to the President of the United States, to the Congress of the United States and to each of the Senators and Representatives of the State of California in Congress.

CHAPTER 140.

Assembly Joint Resolution No. 23—Relative to the Pacific Exposition.

[Filed with Secretary of State June 20, 1935.]

Boulder Dam Exposition Invitation to western States

WHEREAS, In 1937–1938 and thereafter, an exposition to commemorate the completion of Boulder Dam and the power and water developments and projects thereof, will be held in the county of Los Angeles, State of California; and

WHEREAS, It is the desire of the people of the State of California to issue a special invitation to the States particularly interested and affected by the completion of said dam and the power and water developments thereof; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, That the Legislature of the State of California invites Arizona, Colorado, New Mexico, Nevada, Utah and Wyoming to unite with the people of this State in the commemoration of the completion of Boulder Dam and the power and water developments and projects thereof; and be it further

Resolved, That copies of this resolution be forwarded by the Secretary of State to the Governors of the said States.

CHAPTER 141.

Assembly Joint Resolution No 56—Relating to memorializing the President and the Congress to enact legislation proposed by H. R. 6984, providing benefits to persons who served in the Quartermaster's Corps or under the Quartermaster General during certain wars.

[Filed with Secretary of State June 20, 1935.]

Veterans' benefits for Quartermaster Corps and quartermaster's employees.

WHEREAS, Many persons who served in the Quartermaster's Corps or under the jurisdiction of the Quartermaster General during the war with Spain, the Philippine Insurrection and the China Relief Expedition were disabled while in such service; and

WHEREAS, Many of these persons, because of their disabilities, need aid from the National government; and

WHEREAS, There was introduced into Congress by Honorable Richard J. Welch a bill known as H. R. 6984 which proposes to allow certain benefits to disabled persons mentioned therein; and

WHEREAS, Many social and civic organizations together with the service organization known as McKinley Fleet No. 1 have indorsed this bill; and

WHEREAS, The legislation proposed is humanitarian and for a worthy cause; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the President and the Congress are hereby respectfully urged to enact the legislation proposed by H. R. 6984 as speedily as possible; and, be it further

Resolved, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and member of the House of Representatives from California in the Congress of the United States and that such Senators and members from California are hereby respectfully urged to support such legislation.

CHAPTER 142.

Assembly Joint Resolution No. 65—Relative to memorializing the Public Works Administration to furnish aid in the construction of certain improvements in San Francisco Bay and the vicinity thereof.

[Filed with Secretary of State June 20, 1935.]

Construction of improvements in San Francisco Bay by Public Works Administration

WHEREAS, The building of certain sea walls, fills, locks and canals in the waters of San Francisco Bay to develop what is known as San Francisco Bay Project or Upper San Francisco Bay Project, will result in permanent improvements to the entire San Francisco Bay region, to the State of California and to the United States; and

WHEREAS, Said improvements include the creation of a great naval base for the United States fleet on the Pacific coast, the conservation of millions of acre feet of fresh water now flowing unused and lost into the ocean, will add many miles of deep water wharfage to the San Francisco Bay region and result in immeasurable aid to navigation in San Francisco Bay and the navigable rivers of California; and

WHEREAS, Said improvements will result in aids of immense value to land transportation in the San Francisco Bay region, will result in the reclamation of thousands of acres of lands in California, and will be of advantage to existing industries in said region, and an invitation to additional industries to be established therein; and

WHEREAS, Said improvements will supply waters to the urban, suburban industrial and agricultural needs of the San Francisco Bay region; and

WHEREAS, The construction of these improvements will employ thousands of workers and decrease unemployment in the State of California; and

WHEREAS, Said improvements will be of great value to the Army and Navy and Air Corps of the United States in peace time and of inestimable value in time of emergency; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President of the United States and the Congress thereof, and the Public Works Administration are hereby respectfully urged to consider favorably the undertaking of the aforesaid project; and be it further

Resolved, That the Governor of the State of California forward a copy of this resolution and maps of the proposed project to the President of the United States and to the Public Works Administration, and offer the services of the Engineering Department of the State of California to the Federal Government in the forwarding of this project or projects.

CHAPTER 143.

Assembly Joint Resolution No. 66—Relative to memorializing the President of the United States, the Federal Emergency Relief Administrator, and the State Relief Administrator, to lessen the burdens upon counties for unemployment relief.

[Filed with Secretary of State June 20, 1935.]

Unemployment relief.

WHEREAS, The counties of the State of California have heretofore participated to their utmost ability in the relief of destitution due to unemployment; and

WHEREAS, New Federal regulations have been proposed which would threaten to throw back to the counties a further portion of unemployment relief which is totally beyond the ability of the counties to pay; and

WHEREAS, The proposed new burdens are not county responsibilities; and

WHEREAS, Such regulations would result in a state of chaos and would exhaust the resources of the taxpayers in the many counties of this State; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby memorializes and petitions the President of the United States and the Federal Emergency Relief Administrator, together with the State Relief Administrator and the State Relief Commission to rescind any rules and regulations for unemployment relief which would in any way tend to increase the burdens upon the counties; and be it further

Resolved, That a copy of this joint resolution be transmitted to the President of the United States, to the Federal Emergency Relief Administrator, to the State Relief Administrator and the State Relief Commission.

CHAPTER 144.

Senate Joint Resolution No. 22—Relative to the application to Congress to propose an amendment to the Constitution of the United States relating to tax exempt securities.

[Filed with Secretary of State June 24, 1935.]

Tax exempt securities

WHEREAS, Article V of the Constitution of the United States provides that the Congress shall, on the application of the Legislature of two-thirds of the several States, call a convention for proposing amendments to the Constitution of the United States; and

WHEREAS, The Legislature of the State of California deems it necessary to the well-being of the Nation that no securities heretofore or hereafter issued by the Federal Government or

any State or political subdivision be exempt from taxation; now, therefore, be it

Resolved by the Senate and the Assembly of the Legislature of the State of California, jointly, at its fifty-first regular session, commencing on the seventh day of January, 1935, a majority of all the members elected to each house of the Legislature voting in favor hereof, That the Congress of the United States be requested to call a convention upon the adoption by two-thirds of the several States of a resolution similar to this resolution, for the purpose of proposing an amendment to the Constitution providing that no securities heretofore or hereafter issued, either by the Federal Government or any State or political subdivision, shall be exempt from taxation; and, be it further

Amendment to Constitution of United States

Resolved, That certified copies of this resolution be forwarded by the Governor of the State of California to the President of the United States, the Secretary of State of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, and the Governor of each of the several States.

CHAPTER 145.

Senate Joint Resolution No. 23—Relative to the application to Congress to propose an amendment to the Constitution of the United States relating to the power of the Congress to regulate hours, wages, terms and conditions of employment of labor.

[Filed with Secretary of State June 24, 1935.]

WHEREAS, Article V of the Constitution of the United States provides that the Congress shall, on the application of the Legislature of two-thirds of the several States, call a convention for proposing amendments to the Constitution of the United States; now, therefore, be it

Regulation of hours of labor, wages, etc., by Congress

Resolved by the Senate and the Assembly of the Legislature of the State of California, jointly, at its fifty-first regular session, commencing on the seventh day of January, 1935, a majority of all the members elected to each house of the Legislature voting in favor hereof, That the Congress of the United States be requested to call a convention upon the adoption by two-thirds of the several States of a resolution similar to this resolution, for the purpose of proposing an amendment to the Constitution providing that the Congress of the United States shall have the power to regulate hours of labor and prescribe minimum wages in any and all industries engaged in intrastate, as well as interstate, commerce; and, be it further

Amendment to Constitution of United States

Resolved, That certified copies of this resolution be forwarded by the Governor of the State of California to the Presi-

dent of the United States, the Secretary of State of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, and the Governor of each of the several States.

CHAPTER 146.

Senate Joint Resolution No 24—Relative to memorializing Congress to permit State Emergency Relief Administration funds and Federal Emergency Relief Administration funds to be used in the restoration of California missions.

[Filed with Secretary of State June 24, 1935.]

Restoration of California missions by Relief Administration.

WHEREAS, The California missions are of great significance in the early history not only of California but of the United States; and

WHEREAS, Many of the missions of California are in a deplorable state of repair and sorely in need of restoration, and

WHEREAS, State Emergency Relief Administration funds and the Federal Emergency Relief Administration funds could be used in this worthwhile work to give employment to many needy citizens; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully urges and memorializes the Congress of the United States to permit State Emergency Relief Administration funds and Federal Emergency Relief Administration funds to be used in the restoration of the California missions; and be it further

Resolved, That certified copies of this resolution be forwarded by the Secretary of the Senate of the State of California to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives of the United States, the Federal Relief Administrator, the State Relief Administrator, and to all the Senators and Representatives from California in the United States Congress

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CHAPTER 147.

Senate Concurrent Resolution No. 47—Relating to a commission to secure for the State its fair portion of the revenue from the public domain.

[Filed with Secretary of State June 24, 1935.]

California Commission on Public Lands

WHEREAS, Approximately thirty-seven per cent or thirty-seven million acres of land in this State are in the public domain; and

WHEREAS, Large portions of said lands are set aside as forest reserves under the jurisdiction of the United States Department of Agriculture; and

WHEREAS, A large portion of said lands are under the jurisdiction of the United States Department of the Interior as National parks, mineral leases, grazing reserves and other purposes; and

WHEREAS, Public lands are not taxable by the State of California or its political subdivisions; and

WHEREAS, The receipts of the Federal government from timber royalties, grazing fees, water power royalties, mineral royalties, royalties from naval petroleum reserves and other sources from said public domain in this State are approximately five million dollars a year; and

WHEREAS, It is desirable that utilization of said lands and revenues derived from said lands should be made available to the greatest advantage of the citizens of this State; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Controller, the Director of Finance, the Director of Natural Resources, and the Director of Public Works, are hereby directed to organize and act as a commission on public lands under the name "The California Commission on Public Lands"; and be it further

Resolved, That said commission is hereby directed to consult and cooperate with the officials of other States and the United States in developing and utilizing said public lands and securing for the State its fair portion of the revenue therefrom.

CHAPTER 148.

Senate Constitutional Amendment No 1—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by adding to Article II thereof a new section to be numbered section 7, relating to the registration of voters.

[Filed with Secretary of State June 24, 1935.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California, at its fifty-first regular session commencing on the seventh day of January, 1935, two-thirds of all the members elected to each of the two houses voting in favor thereof, hereby proposes to the people of the State of California that the Constitution of said State be amended by adding to Article II thereof a new section to be numbered section 7, to read as follows: Constitution, Article II, Sec 7.

Sec. 7. The Legislature may provide for the registration of electors. The provisions of an act entitled "An act to Registration of electors

amend sections 1083a, 1094, 1095a, 1097, 1103, 1105, 1106, 1115, 1120 and to repeal sections 1228 and 1229 of the Political Code, relating to registration of electors and conduct of elections," submitted by initiative and approved by electors November 4, 1930, as amended, are hereby confirmed and ratified, and may be amended, revised, supplemented, or repealed in any manner by the Legislature.

CHAPTER 149.

Senate Constitutional Amendment No. 13—A resolution to propose to the people of the State of California, an amendment to the Constitution of said State by amending sections 1, 4, 4b, 4c, 10, 18, 23, and 24 of Article VI and by adding sections 4d, 4e, and 4f to said Article VI and amending section 19 of Article IV of the Constitution, relating to the judicial power of the State.

[Filed with Secretary of State June 24, 1935.]

Constitution, Art. VI, Secs. 1, 4, 4b, 4c, 4d, 4e, 4f, 10, 18, 23, and 24, Art. IV, Sec. 19

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California, at its fifty-first session, commencing on the seventh day of January, 1935, two-thirds of all members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes to the people of the State of California that sections 1, 4, 4b, 4c, 10, 18, 23 and 24 of Article VI of the Constitution be amended, and sections 4d, 4e and 4f be added to said Article VI, to read as follows:

First. Section 1 of Article VI is hereby amended to read as follows:

Judicial power of State

Section 1. The judicial power of the State shall be vested in the Senate, sitting as a court of impeachment, in a Supreme Court, Court of Criminal Appeals, District Courts of Appeal, superior courts, such municipal courts as may be established in any city or city and county, and such inferior courts as the Legislature may establish in any incorporated city or town, township, county or city and county.

Second. Section 4 of Article VI is hereby amended to read as follows:

Supreme Court

Sec. 4. The Supreme Court shall have appellate jurisdiction on appeal from the superior courts in all cases in equity, except such as arise in municipal or justices' courts; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine; also, in all such probate matters as may be provided by law; also, on questions of law alone, in all criminal cases where judgment of death has been rendered, wherein an appeal has been taken to said Supreme Court prior to the forty-fifth day after the adoption by the people of this section by amendment; the said court shall also have appellate jurisdiction in all cases, matters and proceedings

pending before a District Court of Appeal, which shall be ordered by the Supreme Court to be transferred to itself for hearing and decision, as hereinafter provided. The said court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of any person held in actual custody, other than being held in custody pursuant to any writ, warrant, or process in a criminal case or action or for a violation of a criminal statute of this State, and may make such writs returnable before himself or the Supreme Court or before any District Court of Appeal, or before any justice thereof, or before any superior court in the State, or before any judge thereof.

Third. Section 4b of Article VI is hereby amended to read as follows:

District Courts of Appeal.

Sec. 4b. The District Courts of Appeal shall have appellate jurisdiction on appeal from the superior courts (except in cases in which appellate jurisdiction is given to the Supreme Court) in all cases at law in which the superior courts are given original jurisdiction; also, in all cases of forcible or unlawful entry or detainer (except such as arise in municipal, or in justices' or other inferior courts); in proceedings in insolvency; in actions to prevent or abate a nuisance; in proceedings of mandamus, certiorari, prohibition, usurpation of office, removal from office, contesting elections, eminent domain, and in such other special proceedings as may be provided by law; also, on questions of law alone, in all criminal cases prosecuted by indictment or information, except where judgment of death has been rendered, wherein an appeal has been taken to a District Court of Appeal prior to the forty-fifth day after the adoption by the people of this section by amendment.

The said courts shall also have appellate jurisdiction in all cases, matters and proceedings pending before the Supreme Court which shall be ordered by the Supreme Court to be transferred to a District Court of Appeal for hearing and decision. The said courts shall also have power to issue writs of mandamus, certiorari, prohibition and habeas corpus, and all other writs necessary or proper to the complete exercise of their appellate jurisdiction. Each of the justices thereof shall have power to issue writs of habeas corpus to any part of his appellate district upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the District Court of Appeal of his district, or before any superior court within his district, or before any judge thereof.

Fourth. Section 4c of Article VI is hereby amended to read as follows:

Transfer of causes

Sec. 4c. The Supreme Court shall have power to order any cause pending before the Supreme Court to be heard and

determined by a District Court of Appeal, and to order any cause pending before a District Court of Appeal to be heard and determined by the Supreme Court. The order last mentioned may be made before judgment has been pronounced by a District Court of Appeal, or within fifteen days in criminal cases, or thirty days in all other cases, after such judgment shall have become final therein. The judgment of the District Courts of Appeal shall become final therein upon the expiration of fifteen days in criminal cases, or thirty days in all other cases, after the same shall have been pronounced. Provided, that in any criminal case where a judgment has been pronounced by a District Court of Appeal after this section has been adopted by the people by amendment such criminal cause shall not be transferred for hearing to the Supreme Court but the Court of Criminal Appeals shall have power, in such instances, to order such cause to be transferred to the Court of Criminal Appeals for hearing and determination within thirty days after such judgment shall have become final in such District Court of Appeal.

The Supreme Court shall have power to order causes pending before a District Court of Appeal for one district to be transferred to the District Court of Appeal for another district, or from one division thereof to another, for hearing and decision. In any case decided by the Court of Criminal Appeals wherein the Court of Criminal Appeals has directly passed upon the validity of any law or statute of this State, the Supreme Court shall have power to order such cause to be heard and determined by the Supreme Court. The order last mentioned may only be made within fifteen days after the judgment of the Court of Criminal Appeals has become final pursuant to the rules of said Court of Criminal Appeals. In any cause so transferred to the Supreme Court from the Court of Criminal Appeals, the Supreme Court shall only have power to pass upon the validity of such law or statute of this State and shall not determine any other question.

Fifth. A new section to be numbered 4d of Article VI is hereby added to said Constitution to read as follows:

Court of Criminal Appeals.

Sec. 4d. The Court of Criminal Appeals shall consist of a chief justice and four associate justices. The court shall always be open for the transaction of business. The presence of three justices shall be necessary to transact any business, except such as may be done at chambers and the concurrence of three justices shall be necessary to pronounce a judgment The chief justice may convene the court at any time and shall be the presiding justice of the court when so convened. The concurrence of three justices present at the argument shall be necessary to pronounce a judgment; but if three justices so present do not concur in a judgment then all the justices qualified to sit in the cause shall hear the argument; but to render a judgment a concurrence of three justices shall be necessary; provided, however, that if less than the five justices shall sit at the argument of any cause and it be stipu-

lated that the absent justices may participate in the decision then and in that event the concurrence of three justices shall be sufficient to render a judgment irrespective of whether any one or more of such justices was not present at the argument. In the determination of causes all decisions of the court shall be given in writing and grounds of decision shall be stated. In case of the absence of the chief justice from the place at which the court is held, or his inability to act, the associate justices shall select one of their own number to perform the duties and exercise the powers of the chief justice during such absence or inability to act. Upon the adoption by the people of this section the Governor shall forthwith appoint one person to act as chief justice and four persons to act as associate justices of the Court of Criminal Appeals.

Term of office.

The term of office of each justice of the Court of Criminal Appeals shall be twelve years from and after the first Monday after the first day of January next succeeding their election or selection; provided, that the term of office of the chief justice of said court first appointed by the Governor hereunder shall be and shall continue until the first Monday after the first day of January following the sixth general election next after his appointment and the term of office of two of said associate justices first appointed by the Governor hereunder shall be and continue until the first Monday after the first day of January following the second general election next after their appointment and the term of office of the remaining two associate justices hereunder shall be and continue until the first Monday after the first day of January following the fourth general election next after their appointment. After the appointment of the first chief justice and the first four associate justices of the Court of Criminal Appeals by the Governor and the qualifying of such appointees, vacancies thereafter occurring in the office of justice of the Court of Criminal Appeals shall be filled and successors to such justices so first appointed shall be selected and elected. including the right of any justice to succeed himself, in the manner now provided by section 26 of Article VI of this Constitution for the selection and election of justices of the Supreme Court and filling of vacancies in the office of justice of the Supreme Court.

Salary

The salary of the chief justice of the Court of Criminal Appeals and the salaries of the associate justices of the Court of Criminal Appeals shall at all times be the same as the respective salaries of the chief justice and the associate justices of the Supreme Court. Whenever any justice of the Court of Criminal Appeals is for any reason disqualified or unable to act in a cause pending before it, the remaining justices may select one of the justices of a District Court of Appeal to act pro tempore in the place of the justice so disqualified or unable to act.

Sixth. A new section to be numbered 4e of Article VI is hereby added to said Constitution to read as follows:

Jurisdiction of Court of Criminal Appeals

Sec. 4c. The Court of Criminal Appeals shall have appellate jurisdiction on appeal from the superior courts, on questions of law alone, in all criminal cases prosecuted by indictment or information, wherein an appeal has been taken on or after the forty-fifth day from the adoption by the people of this section. The said court shall also have power to issue, in aid of its appellate jurisdiction, writs of mandamus, certiorari, prohibition and habeas corpus and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of any person held in actual custody pursuant to any writ, warrant, or process in a criminal case or action or for a violation of a criminal statute of this State, and may make such writs returnable before himself or the Court of Criminal Appeals or before any District Court of Appeal or before any judge thereof or before any superior court in the State or before any judge thereof. Said court shall have the power to adopt rules for the regulation of the procedure before said court and for the manner in which appeals may be taken and perfected to said court, provided that until the adoption of such rules appeals may be taken to said court in the same manner that appeals in criminal cases are now taken to the Supreme Court. In all matters arising under the provisions of section 1506 of the Penal Code where an appeal in habeas corpus proceedings is allowed to the Supreme Court or an application for hearing in the Supreme Court is allowed such appeal shall be taken to and such application for hearing shall be made in the Court of Criminal Appeals instead of said Supreme Court. The Court of Criminal Appeals shall hold regular sessions for the hearing of causes at the Capitol of the State, at the City and County of San Francisco, at the city of Los Angeles, and at the city of Fresno, the times to be fixed by an order of said court and special sessions at either of the above named places or at any other place in the State of California as the interest of justice may require at such times as may be prescribed by the justices thereof. The Court of Criminal Appeals shall be a court of record.

The Court of Criminal Appeals shall have appellate jurisdiction on appeal from the judgments of appellate departments of the superior courts in criminal cases where the validity of any law or statute of the State, or any municipal, county or city and county ordinance is directly involved and for a violation of which the case was originally instituted; provided, the validity of such law, statute or ordinance was raised before the appellate department of the superior court and further provided that on such appeal the Court of Criminal Appeals shall not determine any other question except the validity of such law, statute or ordinance.

It shall be the duty of the justices of the Court of Criminal Appeals to report to the Legislature at the opening of each regular session any conflicts between or inconsistencies in the

laws relating to crimes, the punishment of crimes, procedure or evidence in criminal cases, that has come to their attention, and also any proposed changes in such laws which, in their opinion, should be made in the interests of justice.

In any case where the defendant has been convicted of a crime which by law is divided into degrees or which has necessarily included within such crime one or more lesser or other crimes of which the defendant could have been convicted upon his trial the Court of Criminal Appeals, if no other reversible error appears in the record, and if it determines that the evidence was insufficient to justify the conviction and further determines that the evidence was sufficient to justify a conviction of said crime in a lesser degree or to justify a conviction of a lesser or other crime necessarily included within the one the defendant was convicted of committing and for which he could have been convicted upon his trial, may modify the judgment by reducing the conviction to such crime in a lesser degree or to such lesser or other crime. In such event, the judgment shall be affirmed as modified and no new trial shall be had of the cause.

Seventh. A new section to be numbered 4f of Article VI is hereby added to said Constitution to read as follows:

Salaries

SEC. 4f. The salaries of the justices of the Court of Criminal Appeals shall be paid by the State at the times and in the manner that the salaries of the justices of the Supreme Court are paid.

Officers of court.

The clerk of the Supreme Court, the chief deputy clerk of the Supreme Court, and the deputy clerks of the Supreme Court shall respectively be the clerk of the Court of Criminal Appeals, the chief deputy clerk of the Court of Criminal Appeals and the deputy clerks of the Court of Criminal Appeals. The clerk of the Court of Criminal Appeals must perform such duties as are now prescribed by law to be performed by the clerk of the Supreme Court and such additional duties as may be required of him by the rules and practice of the Court of Criminal Appeals. The Legislature shall provide for the speedy publication of such opinions of the Court of Criminal Appeals as such court may deem expedient, and all opinions shall be free for publication by any person. The reporter and assistant reporters of the decisions of the Supreme Court shall be the reporter and assistant reporters of the decisions of the Court of Criminal Appeals. All reports of decisions of the Court of Criminal Appeals shall be published in the same manner and under the same conditions as the reports of the decisions of the Supreme Court, and all provisions of law relative to the publication of the reports of the Supreme Court now in effect or hereinafter adopted shall apply to the publication of the reports of the Court of Criminal Appeals. The Supreme Court and the Court of Criminal Appeals shall each have power and authority to appoint and employ during its pleasure such phonographic reporters, assistants, secretaries, and other employees as it may deem

Reports.

Reporters

necessary for the performance of the duties and exercise of the powers conferred by law upon each of said courts and the members thereof and to determine the duties and fix and pay the compensation of all such officers and employees. Each of the District Courts of Appeal shall have power and authority to appoint and employ during its pleasure a clerk, as provided in section 21 of this article, and such deputy clerks, phonographic reporters and bailiffs and at the salaries as shall be provided by law; and each of the District Courts of Appeal shall have power and authority to appoint and employ during its pleasure such other officers and employees as it may deem necessary for the performance of the duties and exercise of the powers conferred by law upon the said courts and the members thereof and to determine the duties and fix and pay the compensation of all such other officers and employees. All salaries and expenses so fixed and incurred by the Supreme Court or by the Court of Criminal Appeals or by any District Court of Appeal, under the provisions of this section, shall be paid from the funds appropriated for the use of said court when approved by the order or orders of said court and audited by the Board of Control. The State shall supply proper rooms in which to hold the Court of Criminal Appeals and for the accommodation of the officers thereof together with furniture, fuel, lights, and stationery suitable and sufficient for the transaction of business and if such things are not provided by the State the court, or any three justices thereof, may direct the clerk of the Court of Criminal Appeals to provide such rooms, furniture, fuel, lights, and stationery and the expenses thereof certified by any three justices to be correct shall be paid out of the State treasury for which expenses a sufficient sum shall be annually appropriated out of any funds in the State treasury not otherwise appropriated.

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Eighth. Section 10 of Article VI is hereby amended to read as follows:

Removal of justices

Sec. 10. Justices of the Supreme Court, and justices of the Court of Criminal Appeals, and of the District Courts of Appeal, and judges of the superior courts may be removed by concurrent resolution of both houses of the Legislature adopted by a two-thirds vote of each house. All other judicial officers, except justices of the peace, may be removed by the Senate on the recommendation of the Governor; but no removal shall be made by virtue of this section unless the cause thereof be entered on the journal, nor unless the party complained of has been served with a copy of the complaint against him and shall have had an opportunity of being heard in his defense On the question of removal the ayes and noes shall be entered on the journal.

Ninth. Section 18 of Article VI is hereby amended to read as follows:

Eligibility of justice to other office

Sec. 18. The justices of the Supreme Court and of the Court of Criminal Appeals, and of the District Court of Appeal, and the judges of the superior courts and the munici-

pal courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected or appointed, and no justice or judge of a court of record shall practice law in or out of court during his continuance in office; provided, however, that a judge of the superior court or of a municipal court shall be eligible to election or appointment to a public office during the time for which he may be elected, and the acceptance of any other office shall be deemed to be a resignation from the office held by said judge.

Tenth. Section 19 of Article IV is hereby amended to read as follows:

Eligibility of member of Legislature to office

SEC. 19. No Senator or member of Assembly shall, during the term for which he shall have been elected, hold or accept any office, trust, or employment under this State; provided, that this provision shall not apply to any elective office nor to any office which may be filled by election by the people.

Eleventh. Section 23 of Article VI is hereby amended to read as follows:

Qualification of justices

Sec. 23. No person shall be eligible to the office of a justice of the Supreme Court, or of the Court of Criminal Appeals, or of a District Court of Appeal, or of a judge of a superior court, or of a municipal court, unless he shall have been admitted to practice before the Supreme Court of the State for a period of at least five years immediately preceding his election or appointment to such office.

Twelfth. Section 24 of Article VI is hereby amended to read as follows:

Affidavit of completion of cases by judicial officers

Sec. 24. No justice of the Supreme Court, nor of the Court of Criminal Appeals, nor of a District Court of Appeal, nor any judge of a superior court nor of a municipal court shall draw or receive any monthly salary unless he shall make and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains pending and undetermined that has been submitted for decision for a period of ninety days. In the determination of causes all decisions of the Supreme Court, of the Court of Criminal Appeals and of the District Courts of Appeal shall be given in writing, and the grounds of the decision shall be stated.